LAND
Legal Advocates
for Nature's Defence

Comments from Legal Advocates for Nature's Defence on the Draft Impact Assessment Report and Draft Potential Conditions for the Crawford Nickel Project (IAAC Reference No. 83857)

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TO

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These comments are submitted by Legal Advocates for Nature's Defence ("LAND") in response to the call for feedback by the Impact Assessment Agency of Canada ("Agency") on the Draft Impact Assessment Report ("IA Report") and Draft Potential Conditions ("Conditions") for Crawford Nickel Canada's ("CNC") proposed Crawford Nickel Project ("Project").

I. SUMMARY OF CONCERNS

CNC has proposed the construction, operation, decommissioning, and abandonment of an open-pit nickel-cobalt mine and on-site metal mill, located 42 kilometres north of Timmins, Ontario. The proposed Project would operate for approximately 41 years, possessing a mine ore production capacity of 240,000 tonnes per day and a mill ore input capacity of 120,000 tonnes per day.[1]

LAND continues to be concerned that the IA Report and proposed Conditions do not adequately address the significant and direct adverse impacts identified in the Project's Impact Statement.[2] These include, but are not limited to:

- the unavoidable and harmful alteration, disruption, and destruction of approximately 147 ha of fish habitat, including the loss of all headwater streams, ponds, and mainstem channel within the Project Area (predominantly within the North Driftwood River watershed);[3]
- the direct loss of 11,504 ha of vegetation, including important plant species for Indigenous communities, 8,667 ha of wetlands, including rare Hardwood Swamps, and 26 ha of aquatic habitats;[4]
- the removal of 11,785 ha of wildlife habitat;[5]
- noise disturbance to 3,371 ha of habitat, audible by wildlife up to 6km away from the site for a duration of 41 years;[6] and
- irreversible effects for Indigenous governance and decision-making capabilities, including for members of Indigenous Nations.[7]

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[1] Impact Assessment Agency of Canada "Crawford Nickel Project: Draft Impact Assessment Report" (May 2026) at iii, online: (pdf) <iaac-aeic.gc.ca/050/documents/p83857/166440E.pdf> [**IA Report**].
[2] Canada Nickel Company, "Crawford Nickel Project Impact Statement: Summary of the Impact Statement (22 November 2024), online (pdf): <iaac-aeic.gc.ca/050/documents/p83857/160008E.pdf> [**Impact Statement**].
[3] IS at 17.
[4] IS at 56.
[5] IS at 67.
[6] IS at 64.
[7] IS at 93.

There remain a number of outstanding gaps in the IA Report that, in our view, indicate that the section 22 factors of the *Impact Assessment Act ("IAA")* have not been complied with, thereby preventing the Minister from making a properly informed public-interest determination under section 63 of the *IAA*.

In particular, the IA Report does not demonstrate that known, significant, and adverse environmental effects can be effectively mitigated, nor do the proposed Conditions provide any certainty that these effects will be avoided or reduced to an acceptable level. Accordingly, LAND submits that the IA Report must be revised and strengthened before any public-interest determination is made.

II. COMMENTS ON THE DRAFT IMPACT ASSESSMENT REPORT AND POTENTIAL CONDITIONS

LAND's response to the draft IA Report and accompanying Conditions builds on our earlier remarks to the Agency, including our comments on the Impact Statement.[8] Notably, our prior comments and remarks remain outstanding and unaddressed.

1. The Purpose of *IAA* has not been met

The purpose of the impact assessment ("IA") process is to identify, predict, evaluate, and mitigate the ecological, socioeconomic, and cultural impacts of a given project. It is also intended to inform decision-making early enough to avoid harm, and where possible, improve social and ecological conditions before major decisions or commitments to site a new project are made. When done well, IAs provide for a "look before you leap" approach, so that a proponent's claims regarding safety, environmental risk, or levels of impact can be tested and publicly justified.

Over time, the IA processes have also evolved from being just a technical screening for environmental impacts with little public participation or consideration of socio-economic factors, into a more comprehensive process that considers environmental, economic, and social effects on equal footing, requires effective public engagement, and integrates sustainability into its decision-making.[9]

When LAND previously reviewed the IS, we noted that we did not see the statutory purposes of the *IAA*, "to foster sustainability" and "encourage the assessment of cumulative effects," adequately reflected in the Impact Statement.[10] After reviewing the Report and Draft Potential Conditions, we reiterate that these purposes remain absent from the Project's IS.

We submit the gaps in information provided within the IS surrounding potential effects to fish and wildlife habitats prevents the Agency from fulfilling the Act's purpose to "prevent or mitigate significant

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[8] LAND, Response to Crawford Nickel Canada's Project's Impact Statement (2025)
[9] M. Doelle, A.J. Sinclair, The evolution of Canadian environmental assessment practice and literature M. Doelle, A.J. Sinclair (Eds.), The Next Generation of Impact Assessment. Irwin Law (2021), pp. 11-31
[10] *Impact Assessment Act,* SC 2019, c 28, s 6(1) [***IAA***]

adverse effects within federal jurisdiction — and significant direct or incidental adverse effects — that may be caused by the carrying out of designated projects…"[11] For example, the project's footprint is significant, and it is predicted that there will be substantial losses of fish and wildlife habitat, yet the proponent claims effects will be minimal without providing concrete plans to prevent or mitigate significant adverse effects.

RECOMMENDATION NO. 1: The Agency must update the draft IA Report to ensure adverse effects in federal jurisdiction have been prevented and mitigated before proceeding with IA decision-making.

2. Indigenous rights, including free, prior and informed consent

Indigenous nations across Canada have criticized the lack of meaningful consultation on mining projects, have described the regulatory process as rushed and in need of space for Indigenous-led assessments, and have criticized the government regulatory bodies for failing to uphold the principles set out in the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP").[12]

The *IAA* was written with UNDRIP in mind, and its implementation is hardwired into the Act's processes and decision-making framework. The IAA preamble expressly affirms the Government of Canada's commitment to implementing UNDRIP and to working in partnership with Indigenous peoples.

UNDRIP affirms minimum international standards for the survival, dignity, and well-being of Indigenous peoples. It therefore directly informs the interpretation and application of the *IAA*, including the assessment of impacts on indigenous rights, Indigenous knowledge, Indigenous governance, and Canada's commitment to seeking the free, prior, and informed consent ("FPIC"), as provided by Article 32:

> **Article 32**
> […]
> 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

Respecting Indigenous voices and communities– who stand to be most directly affected by changes to the terrestrial and aquatic habitats of culturally significant fish and wildlife – requires the most robust of assessment processes, including processes that are meaningfully attuned to Indigenous laws. There is a critical and overdue need for meaningful Indigenous input and decision-making in IA processes, consistent with reconciliation, trust-building, and nation-to-nation engagement.

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[11] *IAA*, s 6(1)

[12] *See for instance,* CV-25-00751759-0000- Alderville First Nation et al v HMTK in Right of Ontario et al, Notice of Application

When reading through the IS, there was no discussion of how CNC intends to implement UNDRIP, the *United Nations Declaration on the Rights of Indigenous Peoples Act*, nor its principles, including FPIC. At most, UNDRIP and FPIC are mentioned in passing in the chapters of the IS discussing the project's impacts on the different Indigenous nations, but there is no application of UNDRIP's principles or a commitment to implement them.[13]

While the IS made reference to various memoranda of understanding ("MOU") and impact benefit agreements ("IBA") signed with various Indigenous nations, we emphasize that these agreements are not a replacement for FPIC or any other rights under UNDRIP.

We turned to the draft IA Report for clarity on how CNC would implement UNDRIP and principles such as FPIC, but it does not provide these answers. When discussing the process for seeking FPIC, the draft IA Report provides an overview of IAAC's obligations to uphold UNDRIP, and acknowledges that "Indigenous communities consulted may choose to provide statements of consent, non- objection, or non-consent regarding the project or its assessment."[14] The draft IA Report fails to address our previous concerns about CNC's lack of commitment to implement the principles of UNDRIP.

Reading through the Conditions suggests that FPIC will not be respected throughout this project. The conditions rely on "consultation" with Indigenous Nations rather than consent. For example, the language within the following conditions from the Draft Potential Conditions suggests that issues that would impact Indigenous communities would not necessarily be addressed in a manner acceptable to the impacted communities:

- **Condition 3.1:** The Proponent shall develop, to the satisfaction of Fisheries and Oceans Canada and Ontario Ministry of Natural Resources and in consultation with Indigenous groups, and implement, prior to conducting any Designated Project activity requiring the removal of fish habitat, a protocol to salvage and relocate fish in waterbodies. As part of the protocol, the Proponent shall identify opportunities for Indigenous groups to participate in the salvage and relocation of fish including potential traditional use of salvaged fish;
- **Condition 5.9:** The Proponent shall develop, prior to construction and in consultation with Indigenous groups, Health Canada, the Ontario Ministry of Environment, Conservation and Parks, and any relevant authorities and implement during the construction, operation and decommissioning phases of the Designated Project, a follow-up program to verify the accuracy of the impact assessment and determine the effectiveness of mitigation measures with respect to adverse federal effects from the Designated Project on the health of Indigenous Peoples resulting from changes in surface water quality;

[13] *See generally,* IS Chapters 25-28
[14] IAAC, Draft Impact Assessment Report, page 112 [**The Report**]

- **Condition 7.6:** The Proponent shall manage, during the construction, operation and decommissioning phases of the Designated Project and in consultation with Indigenous groups, adverse federal effects to vegetation of Indigenous importance.[15]

This sample of potential conditions for this project suggests that the proponent would be required to consult Indigenous groups on planning, managing, and developing mitigation measures for issues of relevance to these groups, but CNC would not be required to implement or adhere to the feedback provided by Indigenous groups. This means, for instance, an Indigenous community could inform CNC that the mitigation measures with respect to adverse federal effects from the Designated Project on the health of Indigenous Peoples resulting from changes in surface water quality have been ineffective, and that they do not approve of CNC's methods, the follow-up program would not require CNC to make any changes to the mitigation measures it has previously implemented.

We submit that the Conditions must expressly mandate the free, prior and informed consent of Indigenous groups wherever consultation is required. This would ensure Indigenous groups can exercise their governance and decision-making authority on matters that directly affect community health and safety, as well as hunting, fishing, harvesting, gathering, and ceremonial rights. Obtaining consent from Indigenous groups is not a one-time checkbox to approve or deny a project; this consent must be acquired and revisited throughout the entire lifetime of a project, such as the Crawford Nickel Project. The Agency must ensure that the principles of UNDRIP are being honoured by all parties associated with this project, and not just Crown bodies. Engraining FPIC within the conditions for this project is essential, given the adverse effects projected to impact generations of Indigenous peoples surrounding the project site and those downstream.

RECOMMENDATION NO. 2: The IA Report and Draft Conditions must set out an express commitment to uphold UNDRIP and a requirement that CNC detail how it will uphold a rights-based approach. Indigenous peoples must be able to exercise their rights to participate in decisions regarding projects that may have adverse impacts in their territory, and UNDRIP provides the minimum threshold to be met to ensure Indigenous communities are exercising a fair degree of decision-making authority over their lands while also being able to exercise assessment powers stemming from their inherent rights.

3. Impacts to Fish and Fish Habitat

Upon reviewing the IS in 2025, LAND identified a number of concerns regarding the project's potential impacts on fish and fish habitat, flagging uncertainty in management and mitigation measures. Rather than instilling confidence that fish and fish habitat would not be adversely impacted by this project, the draft IA Report reveals uncertainties and underestimated impacts identified by the proponent. In addition to our initial concerns not being resolved, we find the uncertainties flagged by other

[15] *Note: this is not an exhaustive list of conditions concerning the consultation with Indigenous groups.* Draft Potential Conditions, conditions 3.1, 5.9, and 7.6.

government agencies deeply concerning, as fish and fish habitat health are of great significance to the region.

In addition to playing a role in enhancing biodiversity richness and aquatic ecosystem health, fish and fish habitat are culturally significant to the Indigenous communities being directly impacted by this project. The IS acknowledges that Apitipi Anicinapek Nation, Flying Post First Nation, Matachewan First Nation, Mattagami First Nation and Taykwa Tagamou Nation have all identified numerous species of fish within the region that are important for nutrition, as well as transmitting traditional knowledge through fishing practices.[16]

As previously mentioned, this project is anticipated to cause unavoidable and harmful alteration, disruption and destruction ("HADD") of approximately 147 ha of fish habitat, including the loss of all headwater streams, ponds, and mainstem channel within the Project Area.

With loss of fish tributaries, lakes and ponds, members of the public and Indigenous communities are concerned about the health and long-term quantity and quality of various fish populations in the region. This project will cause substantial HADD to the North Driftwood River watershed (70% of the fish habitat is within this watershed), and according to the IS, "…approximately 8 km of the North Driftwood River mainstem channel. However, most (92%) of the potentially affected fish habitat in the North Driftwood River watershed is headwater tributaries and headwater ponds."[17]

The impacts projected for this watershed, as well as the West Buskegau River watershed (predicted to have 29% of affected habitat), and the Jocko Creek watershed (predicted to have <1% of habitat affected), will persist over the entirety of the project's lifespan, with the IS identifying 28 different Project components or activities that have the potential to affect fish health, growth, or survival.[18]

The draft IA Report notes a troubling find by ECCC and NRCan, identifying "a high level of uncertainty in the water quantity modelling, which could influence the alteration of fish habitat. Specifically, habitat alteration from groundwater drawdown and changes to water balance may be underestimated for magnitude, geographic extent, and duration for the change."[19] While the draft IA Report goes on to explain the proponent has proposed to address these uncertainties through a conceptual adaptive water management plan, the specifics of this plan would "...ultimately be decided through Ontario's Environmental Compliance Approval for Industrial Sewage Works required under the *Ontario Water Resources Act*…"[20]

These uncertainties must be resolved before the proponent seeks an ECA for Industrial Sewage Works, to ensure the assessment of a water management plan is effective within the scope of IAAC's assessment.

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[16] IS, Chapter 17 at p. 17.7
[17] IS, Chapter 17 at p. 17.35
[18] IS, Chapter 17 at p. 17.42
[19] IA Report at p. 16, *emphasis added*
[20] IA Report at p. 16

Furthermore, water management plans should be developed in collaboration with Indigenous communities to fulfill the principle of FPIC. Failure to properly care for these aquatic habitats would cause a chain reaction of ecosystem imbalance.

One of the potential impacts to fish and fish habitat cited in the IS is one that would cause a ripple effect across the aquatic habitat: loss of benthic invertebrate communities. The IS states:

> Loss of fish habitat in the headwaters of the North Driftwood River and West Buskegau River watersheds will reduce the total benthic invertebrate community biomass in these two watersheds. Over time, this will likely reduce the amount of benthic invertebrate drift available for fish downstream of the PA. This effect is unavoidable. However, in the North Driftwood River watershed, some of this lost biomass is expected to be offset once a benthic invertebrate community becomes established in the North Driftwood River Diversion Channel.[21]

It is unclear as to what percentage of the lost biomass in the North Driftwood River watershed would be offset from the Diversion Channel, and it is also unclear as to what degree of the benthic invertebrate community in the West Buskegau River watershed will be reduced, as CNC merely notes that the reduction of benthic invertebrate biomass and drift in this watershed is "expected to be lower" than in the North Driftwood River "because only small, headwater tributaries to the west of the mainstem channel will be affected and benthic invertebrate drift from Prosser Lake and other headwater areas will be unaffected by the Project."[22]

The loss of a benthic invertebrate community in an aquatic habitat has ripple effects on the habitat's health. These tiny creatures have a huge role within aquatic ecosystems, serving as bioindicators in their respective habitats.[23] With entire benthic invertebrate communities likely to be wiped out by changes to multiple watersheds in the project area, the picture of the quality of the affected fish habitats remains incomplete.

While CNC has suggested that over time these communities will be restored (at least in the North Driftwood River watershed), there is no guarantee that whatever benthic organisms establish themselves after the Diversion Channel is complete will be the same species (and/or make up of population) as what had resided in the habitat prior to displacement, nor is there any indication as to a timeline of population establishment for benthic invertebrates in these habitats.

As a result, the monitoring of water quality and ecosystem health for fish and other aquatic species (like amphibians who are sensitive to pollutants) will be less robust, and it will be hard to determine how the quality of these habitats will compare to their baselines. We propose that CNC provide more details on how it intends to reduce harm to benthic invertebrate communities, as well as attempt to restore these

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[21] IS, Chapter 17 at p. 17.63, *emphasis added*
[22] IS, Chapter 17 at p. 17.63.
[23] Ottawa Riverkeeper, "Benthic Invertebrates" (version current January 2025)

communities to provide a better picture of the water quality in these habitats during and after the operations of the proposed project.

The draft IA Report does not provide reassurance that these communities will be adequately restored under the proponent's current approach, as the DFO points out major concerns with the Driftwood River Diversion Channel:

> DFO advised that while conceptually the North Driftwood River Diversion Channel ***can*** be designed to count towards offsetting, there are substantial uncertainties and risks associated with the length of the channel including the geotechnical feasibility and degree to which a natural design can be achieved. If the diversion channel cannot support fish, habitat alternatives would need to be established to offset the overall loss of habitat by the project. Details will continue to be refined by the proponent in consultation with Indigenous communities and DFO for any future application under the *Fisheries Act*.[24]

Because the draft IA Report does not provide insight into how exactly the proponent will reduce harm to these benthic communities, stating:

> [T]he benthic invertebrate community would take time to reestablish as organic matter accumulates. As a result, project activities would reduce the availability of benthic invertebrate drift for fish in affected watersheds and influence fish health downstream of the PA until communities are established. The proponent would continue working with DFO during future *Fisheries Act* authorizations to refine the diversion channel design and support benthic invertebrate community recovery.[25]

While the Agency notes that the proponent would continue working with the DFO during future *Fisheries Act* authorizations to refine the diversion channel design, the draft IA Report leaves our concerns about reducing harm to benthic invertebrates and restoring their populations unresolved. There is no clear plan in place, meaning that the DFO cannot currently assess recovery strategies for the projected loss of benthic invertebrate communities.

Given unavoidable HADD associated with this project, the proponent will be required to obtain authorization from the Ministry of Fisheries and Oceans to conduct work, undertakings, or activities that will cause the harmful alteration, disruption, or destruction of fish habitat, pursuant to section 35 of the *Fisheries Act*. Furthermore, section 36(3) of the *Fisheries Act* prohibits the release of "deleterious substances" into waters frequented by fish. Deleterious substances are broadly defined in the Act as anything that would degrade or alter water quality to such an extent that it could harm fish or fish habitat (s. 34(a)).[26]

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[24] IA Report, at p. 18, *emphasis added*
[25] IA Report, at p. 25
[26] *Fisheries Act*, (R.S.C., 1985, c. F-14) ss. 34-36

In our comments on the IS, we expressed concerns about the IS failing to provide a detailed discussion of any *Fisheries Act* permits for drilling, blasting/use of explosives, excavating and grading activities, despite the requirements clearly set out within the *Fisheries Act* to protect fish and fish habitat, and/or compensate for the harm or destruction caused. The IS merely stated that "Canada Nickel will require a paragraph 35(2)(b) Fisheries Act authorization from DFO prior to construction of the Project, an authorization that will require Canada Nickel to design and implement habitat restoration, enhancement, or creation that counterbalance the harmful habitat impacts, including the time lags and uncertainties associated with the habitat offsets."[27] There was no detail provided of what CNC intends to design and implement with the HADD anticipated for approximately 147 ha of fish habitat.

The draft IA Report notes that the proponent has "primarily proposed to create new or enhanced habitat types to offset loss because the creation of the same kind of habitat is not feasible or desirable (most of the impacted habitat provides limited habitat diversity and supports few, tolerant fish species)."[28] The draft IA Report goes on to explain the proposed plan consists of the 7.7-kilometre North Driftwood River Diversion Channel and its floodplain, creation and extension of lakes within the affected watersheds, rehabilitation of collection ponds in the PA at closure, and research initiatives.[29]

LAND is disappointed that the creation of the same kind of habitat is not "feasible or desirable" for the reason of limited habitat diversity and few tolerant fish species being supported. This view of the aquatic habitat is potentially coming from a shifting baseline perspective, ignoring the extractive practices and climate change effects that have been influencing the Northeastern Ontario landscape for decades. Referring to the existing habitat being undesirable is troubling from the perspective of the Indigenous communities that have deep connections to the land and water within the PA and LSA. It is unclear what the "new or enhanced" habitat types would be, and how they would ultimately interact with the surrounding terrestrial ecosystems linked to the fish habitat.

While the draft IA Report discusses these proposed offsetting plans, there is no detailed discussion of potential *FIsheries Act* permits, which prevents a thorough assessment of whether there are sufficient mitigation measures set in place for the fish and fish habitats that would be subjected to unavoidable harm. Furthermore, with IAAC stating that "while habitat loss would be offset, this would not occur in the same time span as when the habitat is lost, and the habitat would not be restored to its original state,"[30] LAND is concerned that the project's activities will have a more severe impact on the local environment than is estimated, and that there will be a significant gap between habitat loss and habitat restoration. LAND recommends the Agency request more details from the proponent on its restoration plan for offsetting fish habitat loss.

[27] IS, Chapter 17 at p. 17.66
[28] IA Report, at p. 17, *emphasis added*
[29] IA Report, at p.17
[30] IA Report, at p. 18

RECOMMENDATION NO. 3: Water quantity modelling uncertainties must be resolved before the proponent seeks an ECA for Industrial Sewage Works, to ensure the assessment of a water management plan is effective within the scope of IAAC's assessment.

RECOMMENDATION NO. 4: Water management plans should be developed in collaboration with Indigenous communities to fulfill the principle of FPIC. Failure to properly care for these aquatic habitats would cause a chain reaction of ecosystem imbalance.

RECOMMENDATION NO. 5: CNC should provide more details on how it intends to reduce harm to benthic invertebrate communities, as well as attempt to restore these communities to provide a better picture of the water quality in these habitats during and after the operations of the proposed project.

4. Impacts to the Arctic Watershed

This project is proposed to drastically alter the land and waterscape within the Arctic Watershed flowing through Northeastern Ontario. When reviewing the IS, several concerns emerged for LAND when considering how this project would alter the health and richness of the Arctic Watershed. The draft IA Report does not address these concerns, and therefore LAND requests that the Agency revisit the concerns set out below, and require CNC to fulfill the requests for additional studies and mitigation strategies.

The IS describes a rich wetland environment within the local study area ("LSA") and project area ("PA"), with all four wetland classes—bog, fen, marsh, and swamp—being present throughout the LSA.[31] Wetlands play a key role in watersheds, and they provide "unique and irreplaceable functions linked to numerous ecosystem services essential for biodiversity conservation, climate change mitigation, and human well-being, and supporting important economic activities such as tourism."[32]

According to the IS, these wetlands contain "large, estimated volumes of peat. Within the PA, a minimum of 33.9 Mm3 of peat is present, while in the LSA, a minimum of 99.7 Mm3 is present. Bogs and Swamps contain the largest amounts of peat, accounting for 28% and 54% in the PA and 20% and 64% in the LSA, respectively."[33] Because this project will result in the drainage and alteration of wetlands in the PA and LSA, there will be a substantial loss in peatlands:

> Site preparation and clearing of wetlands during construction of the Project will result in a predicted direct loss of approximately 8,474 ha of peat-containing wetlands within the Project

[31] IS, Chapter 9 at p. 9.14
[32] Carla S.S. Ferreira, Milica Kašanin-Grubin, Marijana Kapović Solomun, Svetlana Sushkova, Tatiana Minkina, Wenwu Zhao, Zahra Kalantari, *Wetlands as nature-based solutions for water management in different environments*, Current Opinion in Environmental Science & Health, Volume 33, 2023, 100476, ISSN 2468-5844, https://doi.org/10.1016/j.coesh.2023.100476.
[33] IS, Chapter 9 at p. 9.22

> Area. Clearing of peatlands will result in the loss of over 34 Mm3 of peat and a change in peat volumes of 28% in the LSA.[34]

The loss of peatlands is detrimental to curbing climate change impacts, as these wetland features are incredible carbon sinks storing more carbon than "all other vegetation types in the world combined."[35] As previously stated, this project will result in a change in peat volumes of 28% in the LSA. Over a quarter of the peatlands within the LSA will be lost. The IS does not provide any mitigation measures to reduce the loss of these valuable carbon sinks within the Arctic watersheds, nor does it elaborate on a focused restoration process of peatland in the LSA.

Despite the prediction of significant peat loss, the IA Report does not meaningfully assess the scale or significance of this loss within the IS. Instead, the IA Report states, [d]espite project-related wetland loss, wetlands would remain predominant in the local area around the project and would remain regionally abundant.[36] While the proponent has indicated that rehabilitation may restore "some" wetlands within the PA, the Agency acknowledges that the restoration would be "partial at best."[37] Notwithstanding this acknowledged limitation, the Agency concluded that the impacts are likely to be "significant to a low extent" and does not recommend any additional mitigation or follow-up monitoring measures.[38] The IA report therefore fails to distinguish the unique ecological and climate significance of peatlands, including their role as long-term carbon stores and the consequences of their drainage, clearing, and permanent alteration.

In addition to the destruction of peatlands within the Arctic Watershed, the project identifies a loss of a rare vegetation community amidst the site preparation and clearing activities during the construction of the project: Hardwood Swamp communities. The project will result in the direct loss of approximately 3 ha of Hardwood Swamp, which corresponds to approximately 41% of the habitat in the LSA.[39] despite this substantial percentage of Hardwood Swamp habitat being lost in the LSA, the IS states:

> Loss in abundance of potential hardwood swamp rare vegetation communities is expected to be **adverse** and **low in magnitude** since rare vegetation communities' occurrences in the PA and LSA have not been confirmed. No sensitivity to timing is predicted with the duration occurring over the long-term from single and repeated events. Residual effects to potential rare vegetation communities are predicted to be reversible.[40]

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[34] IS, Chapter 16 at p. 16.48
[35] International Union for the Conservation of Nature, "Peatlands and Climate Change" Issues Brief, November 2021 [**IUCN Brief**]
[36] IA Report at 38.
[37] IA Report at 38-39.
[38] IA Report at 39.
[39] IS, Chapter 16 at p. 16.38
[40] IS, Chapter 16 at p. 16.41, *emphasis added.*

With hydrological changes potentially affecting Hardwood Swamp communities through changes in drainage, drier conditions are likely to occur within these communities.[41] LAND is concerned with CNC's determination that loss of potential Hardwood Swamp rare vegetation communities is expected to be low in magnitude because these communities' occurrences in the PA and LSA have not been confirmed. We submit that there should be a study of the occurrence of these rare communities within the PA and LSA, and they should be documented to provide a more fulsome understanding of these vegetation communities within the Arctic watershed.

Notably, the IA Report does not appear to mention Hardwood Swamp communities, nor does it assess the potential loss of this rare vegetation community as a distinct adverse effect. This omission is significant because CNC"s own IS identifies the potential direct loss of approximately 4 ha of the rare Hardwood Swamp habitat, corresponding to approximately 41% of the habitat in the LSA. If these communities are not identified and documented, then their loss as a result of project impacts on the landscape and waterscape will go unnoticed. This undocumented loss would not only be detrimental for the sake of ecosystem health and biodiversity richness, but it would create a shifting baseline for the vegetation communities in the watershed when it comes time to decommission the project site.

LAND submits that the IA Report and proposed Conditions must be complete before any record proceeds for the Minister's decision, including CNC's findings about the impacts to the Hardwood Swamp loss, in addition to the measures required to avoid, mitigate, monitor, and restore any and all adverse effects.

RECOMMENDATION NO. 6: The loss of approximately 8,474 ha of peat-containing wetlands is detrimental to the biodiversity richness within the Arctic Watershed and will result in significant carbon emissions. The proponent must provide a mitigation strategy for reducing the loss of peatlands in the LSA, and also provide a restoration strategy for peat lost.

RECOMMENDATION NO. 7: There needs to be a study of the occurrence of rare communities like Hardwood Swamps within the PA and LSA, and they should be documented to provide a more fulsome understanding of these vegetation communities within the Arctic watershed.

RECOMMENDATION NO. 8: CNC must provide further details on how the potential effects to Hardwood Swamp communities will be mitigated, and how these rare communities will be restored.

RECOMMENDATION NO. 9: The IA Report and proposed Conditions must be revised to provide a complete record for the Minister's decision regarding potential Hardwood Swamp loss, including CNC's own information about the predicted loss of the Hardwood Swamp habitat and the measures required to avoid, mitigate, minotaur, and restore any adverse effects.

[41] IS, Chapter 16 at p. 16.38

5. Impacts to Wildlife and Wildlife Habitat

a. Biodiversity

LAND is deeply disturbed by the draft IA Report's finding that impacts to biodiversity are likely to remain even after mitigation, and the project will *not* contribute to meeting Canada's environmental obligations.[42]

As we previously shared in our remarks on the IS, Canada is a party to the Kunming-Montreal Global Biodiversity Framework (GBF). Thus, Canada has committed to implementing the GBF domestically as a means of halting and reversing biodiversity loss by 2030, and seeking to restore nature by 2050.[43] With CNC projecting an operational timeline of approximately 41 years for the Crawford Nickel mine, Canada, meeting the GBF's goals and targets by 2050 and 2030, respectively, requires that projects which hinder and prevent the meeting of these targets not be permitted to proceed.

With findings from the Agency that any positive impacts of the project are "uncertain" and "not yet demonstrated," the proponent has not done the requisite study nor work to ensure the integrity, connectivity and resilience of the ecosystems in the region where the project is sited will be safeguarded. With the removal of 11,785 ha of wildlife habitat linked to this project, the impacts this project will have on biodiversity within the region are deeply concerning. Various wildlife classes are projected to lose substantial swathes of habitat. For example, amphibians and reptiles will "experience an overall loss of 21% of available habitat in the LSA. This includes 20% loss of upland forest, 22% loss of wetland, and 9% loss of water habitats."[44]

The sheer volume of habitat area that will be lost over the course of this project's operations will directly affect biodiversity in the area as different species–with different sensitivities to change–are displaced from their homes. Biodiversity also becomes threatened through the fragmentation of the remaining habitats in the region, limiting both native wildlife and vegetation species to move/grow freely across the landscape and waterscape.

As previously mentioned, this project will heavily impact wetland ecosystems and is even expected to destroy "rare vegetation communities" (e.g., Hardwood Swamps). Wetlands are rich in biodiversity and play a key role within watersheds to support other ecosystems through filtering water and maintaining water levels. These are not impacts that can be overlooked, nor are they impacts which the *IAA* willingly permits. The Agency is not in a position to accept the draft IA report, nor is the Minister able to make its public interest decision, when the CNC has failed to consider or adhere to the goals and targets within the GBF.

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[42] Draft IA Report, p vi
[43] Canada, "Canada's 2030 Nature Strategy and the Nature Accountability Bill" 2024
[44] IS, Chapter 19 at p. 19.41

RECOMMENDATION NO. 10: CNC has not demonstrated that the project will uphold Canada's environmental obligations, including the targets to protect and restore biodiversity, as set out in the Kunming-Montreal Global Biodiversity Framework. Impacts to biodiversity and species cannot be trivialized and certainty must be provided that adverse effects *will* be prevented and mitigated.

b. Species at Risk

LAND strongly rejects the Agency's suggestion that "For species at risk off federal lands, IAAC looks to Ontario as the primary regulator. Ontario's *Species Conservation Act, 2025*, administered by the Ministry of the Environment, Conservation and Parks" for the "purpose of identifying species at risk and providing for the protection and conservation of the species."[45]

The belief that the *Species Conservation Act, 2025* ("SCA") can serve as a sufficient safeguard for at-risk species is misplaced and deeply problematic to the species in critical need of safeguarding. First, the federal species-at-risk regime is built upon principles of intergovernmental cooperation, not jurisdictional substitution. Effective protection that creates the foundation for species recovery depends upon complementary action by both levels of government – not an abdication of that responsibility. Second, the provincial Minister has already removed the protection of 70 federally-designated species at risk (i.e. 32 migratory bird species and 38 aquatic species) on the basis that they are protected by the federal government.

The Draft IA Report erroneously assumes a provincial role in species at risk protection when key aspects of species protection and recovery have been systematically removed.

RECOMMENDATION NO. 11: The draft IA Report should not rely on the existence of the provincial *Species Conservation Act, 2025,* as evidence that adverse effects on species at risk or biodiversity will be adequately avoided and managed. This Act is deeply inadequate and fails to provide minimum thresholds of protection for at-risk species and the ecosystems they rely on.

c. Boreal Caribou

One particular species at risk has been deemed as culturally significant by all the Indigenous nations consulted for the IS: the boreal caribou (also referred to as woodland caribou). Woodland caribou are disturbance sensitive and require large swaths of unfragmented habitat.[46] Considering the highly disruptive nature that this project imposes on the landscape, with a direct loss of 11,504 ha of land, 8,667 ha of wetlands, and 26 ha of aquatic habitats predicted, there are concerns about the impact this project will have on boreal caribou.

Despite no recent records of boreal caribou within the southern limits of the Kesagami Range, this

[45] Draft IA Report, p 175
[46] IS, Chapter 19 at p. 19.24

project is situated within range, meaning that the federal *Amended Recovery Strategy for the Woodland Caribou (Rangifer tarandus caribou), Boreal Population, in Canada* applies to this project.[47]

As with the previous section discussing species at risk generally, there are concerns that boreal caribou are not being adequately protected through monitoring and mitigation strategies for this project, and that more studies are required to paint a more fulsome picture of boreal caribou interacting with the PA and LSA:

> Apitipi Anicinapek Nation, Flying Post First Nation, Matachewan First Nation, Mattagami First Nation, Métis Nation of Ontario – Region 3, and Taykwa Tagamou Nation recommend additional baseline studies on species at risk, including recovery strategies, potential effects to species at risk from Project activities, recovery goals for the Kesagami caribou range and the need for mitigation measures.[48]

When reading the IS for the mitigation measures being implemented for boreal caribou, there is an absence of concrete plans and measures being proposed. As seen below, the language used is non-committal, with "consideration" and "if required" being used to describe what CNC will implement to address the effect the project will have on boreal caribou:

> Canada Nickel will incorporate the following mitigation measures as it relates to potential Project- related effects on boreal caribou:
>
> - The Wildlife Management Plan will take into consideration Ontario's best management practices for mineral exploration and development activities and Woodland Caribou in Ontario (MECP 2021b).
> - Consideration will be given to the creation of boreal caribou habitat onsite as part of the Mine Development Closure Plan (refer to Appendix F of the Impact Statement for the Conceptual Closure Plan), in conjunction with other priorities identified through engagement activities.
> - Obtain an Overall Benefit Permit under the ESA, if required, for impacts to Category 3 habitat within the PA. Any permit conditions, including compensation requirements, timing windows, and setbacks, will be integrated into the appropriate management plan (e.g., Construction Environmental Protection Plan and Wildlife Management Plan).[49]

LAND submits the lack of concrete plans for mitigating effects to boreal caribou is concerning and lacks acceptable rigour, especially given the habitat fragmentation that will occur through the loss of tens of thousands of hectares of various habitats.

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[47] IS, Chapter 19 at p. 19.7
[48] IS, Chapter 19 at p. 19.7
[49] IS, Chapter 19 at p. 19.7

This concern is not resolved in the IA Report and the accompanying Conditions. While the Agency acknowledges that the Project intersects with the Kesagami Range – a range below the 65% minimum undisturbed habitat threshold, which is considered critical habitat – it still concludes that residual effects to caribou are not anticipated. This conclusion appears to rely on boreal caribou having not been observed in over a generation "so no effects to caribou individuals from the project are anticipated."[50]

LAND submits that this reasoning is inadequate because existing disturbance levels should not be relied on to discount further habitat loss and fragmentation within critical habitat, especially where the Kesagami Range is already below the federal recovery threshold. Moreover, the absence of recent observations does not mean that the Project will have no effect on the habitat, connectivity, and range conditions needed to support caribou recovery.

LAND continues to submit that the proponent and Agency must provide concrete mitigation measures related to potential Project-related effects on boreal caribou, with these measures being made available for public comment.

RECOMMENDATION NO. 12: The proponent must prepare and make available for public comment concrete mitigation measures related to potential Project-related effects on boreal caribou, their habitat and health.

6. Cumulative Effects of the Project

Section 22(1)(a)(ii) of the *IAA* states that an IA of a designated project must take into consideration: "any cumulative effects that are likely to result from the designated project in combination with other physical activities that have been or will be carried out…"[51] Having a thorough cumulative effects assessment is essential to providing a clearer picture of a project's likely impacts, namely the nature, intensity, and spatial and temporal distribution of the project's effects.

The *IAA* does not define "cumulative effects", which allows the Agency to broadly consider the effectiveness of a cumulative effects assessment. To ensure a cumulative effects assessment is thorough and adequately encompasses the past, present and reasonably foreseeable future human activities on the region's environmental objectives,[52] we recommend that the Agency assess the Crawford Nickel Project's cumulative effects within the context of these expectations:

- assess synergetic, compensatory, and additive effects, across spatial and temporal boundaries (e.g., at the ecosystem and watershed level), of all relevant past, present, and reasonably foreseeable future anthropogenic activities and natural processes;
- determine their implications for project assessments; and,

[50] IA Report at 63.
[51] *IAA,* s 22(1)(a)(ii)
[52] Canadian Council of Ministers of the Environment, Canada-wide Definitions and Principles for Cumulative Effects, PN 1541 (2014)

- recommend steps to manage cumulative effects through decision-making on project-level IAs and other measures.[53]

Having a thorough cumulative effects assessment is crucial to assist the Agency in understanding a project's environmental effects, and how to appropriately mitigate these effects to protect environmental, health, social rights and interests.

When reviewing the IS, there were shortfalls and gaps in the determinations provided by CNC for various predicted effects. These gaps include, but are not limited to:

- a yet to be approved *FIsheries Act* approval;
- a yet to be developed Fish Habitat Offsetting Plan;
- claims that industry-standard management practices or standard mitigation measures will be applied–without providing substantiating documentation or detail (as seen with boreal caribou "mitigation measures");
- multiple instances of proponents attempting to minimize the severity of effects, often referring to losses as only a "small proportion" of total habitats or species, for instance.[54]

The gaps and shortfalls in the cumulative effect assessment for this project are not limited to the proponent. Within Annex 4 of the draft IA Report, IAAC highlighted public concerns received during the IS commenting period. Along with LAND, there were numerous concerns expressed about the cumulative effects from past, ongoing, and future activities in the region.[55] When responding to these comments, the report notes that:

> IAAC did not factor changes to valued components due to climate change in its assessment of cumulative effects in each respective cumulative effects section. However, IAAC did consider climate change with respect to effects to the project caused by the environment and to the extent to which the project's effects contribute to Canada's climate change commitments."[56]

IAAC does not explain *why* changes to valued components due to climate change were not included in the cumulative effects assessment. By omitting how climate change has, is, and may impact the various valued components relevant to this project, there becomes an incomplete picture of how climate change combined with mining operations will adversely affect wildlife, the ecosystem, and Indigenous rights.

The "Apitipi Anicinapek Nation's Assessment of Impacts to the Nation's Exercise of Rights" provided in Annex 3 of the draft IA Report provides valuable insight into the uncertainties, information gaps, and

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[53] *Adapted from* Canadian Environment Network, Submission to the IAAC regarding the Draft Policy Framework for Regional Assessment under the Impact Assessment Act (Feb 28 2023)
[54] *For example*, the IS downplays the loss of **rare vegetation communities**. *See* IS, Chapter 16 at p. 16.41
[55] IA Report, Annex 4, comment #23 at p. 169
[56] IA Report, Annex 4, comment #23 at p. 169, *emphasis added*

underestimations of risk associated with this project. In the discussion of cumulative effects, Apitipi Anicinapek Nation ("AAN") highlights the importance of eliminating uncertainties in studies:

> Uncertainty further amplifies cumulative effects. As outlined elsewhere in this report, AAN's experience with other mining projects consistently demonstrates that environmental effects are underestimated and that impacts frequently exceed predictions, even under regulatory compliance. When such underestimation is repeated across dozens of projects within the same watershed and regional landscape, the cumulative outcome is profound and often irreversible.[57]

LAND submits omitting the impacts of climate change on valued components from the cumulative effects assessment underestimates the full spectrum of impacts on these valued components. Therefore, a cumulative effects assessment must be conducted with the consideration of how past, present, and future-climate change linked effects will interact with the project's impacts on the established valued components.

LAND disagrees with IAAC's determination that "...the residual direct or incidental adverse effects of the project, and cumulative effects of these in combination with other physical activities, are likely to be significant to a low extent."[58] With the gaps, uncertainties, and underestimations from the cumulative effect assessments by both the proponent and IAAC, LAND submits the significance cannot be deemed a low extent.

The cumulative effect findings of AAN need to have a greater role in this project's impact assessment. Based on the factors considered by AAN, AAN's assessment of high residual impacts in its cumulative effects assessment is likely a more accurate representation of the cumulative effects associated with this project, and we support AAN's request that the high residual impacts finding be given substantial weight in decision-making.[59]

RECOMMENDATION NO. 13: Any required authorizations and permits accompanying the mining project should have been completed and clearly communicated as part of the IS as they speak directly to predicted environmental impacts of the project and their mitigation. The proponent must prepare and provide all necessary measures and plans for public comment.

RECOMMENDATION NO. 14: Omitting the impacts of climate change on valued components from the cumulative effects assessment underestimates the full spectrum of impacts on these valued components. Therefore, a cumulative effects assessment must be conducted with the consideration of how past, present, and future-climate change linked effects will interact with the project's impacts on the established valued components.

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[57] IA Report, Annex 3 at p. 158
[58] IA Report, at p. 38
[59] IA Report, Annex 3 at p. 158

RECOMMENDATION NO. 15: AAN's assessment of high residual impacts in its cumulative effects assessment is likely a more accurate representation of the cumulative effects associated with this project, and AAN's request that the high residual impacts finding must be given substantial weight in decision-making.

RECOMMENDATION NO. 16: The Agency should carefully review the findings within the "Apitipi Anicinapek Nation's Assessment of Impacts to the Nation's Exercise of Rights" not only for cumulative effects, but for the findings within each section of the report, as AAN has deemed certain impacts to be significantly higher than IAAC's determinations. AAN's overall report must be given substantial weight in decision-making considering this project's substantial impact on AAN's traditional lands, governance, and rights.

7. CNC is not a Model of Carbon-Neutral Mining

Throughout the IA, CNC has promoted its use of carbon capture and storage ("CCS"), via an In-Process Tailings ("IPT") Carbonation technology to permanently fix carbon dioxide (CO2) in solid mineral form within the mine's tailings. CNC claimed that:

> The active carbonation Canada Nickel is undertaking through the In-Process Tailings Carbonation process is a groundbreaking method, as it is one of the only known methods to permanently sequester up to 1.3 million tonnes of carbon dioxide annually, transforming the Crawford Project into a large-scale carbon sink capable of producing net-zero metals.[60]

As we shared in our IS comments, LAND had grave reservations about CNC's reliance on a novel, yet-to-be developed technology for CCS. If CCS is relied on rather than reducing pollution in the first place, there comes an open invitation to simply release climate emissions without a care for consequences to the emitter.

Now, the Draft IA Report expressly recognizes that the project will continue to emit greenhouse gases through 2050 and that the proponent's net-zero objective depends upon both the future development of IPT Carbonation technology and the purchase of carbon offsets to compensate for residual emissions.[61] The Report further notes that Natural Resources Canada has identified significant "uncertainties" regarding the technology's implementation, including the sourcing of sufficient carbon dioxide supply, carbon dioxide delivery methods, and sequestration pricing.[62]

In light of this significant change - and admission that CCS is not a viable option - we therefore ask how the predicted and direct loss of approximately 8,474 ha of peat-containing wetlands within the Project

[60] Impact Statement Summary at p. 69, *emphasis added*
[61] Draft IA Report, p 117
[62] *Ibid*

Area will be offset.[63] The loss of these peatlands will result in a considerable amount of CO2 being released:

> Emissions from drained peatlands are estimated at 1.9 gigatonnes of CO2e annually. This is equivalent to 5% of global anthropogenic greenhouse gas emissions, a disproportionate amount considering damaged peatlands cover just 0.3% of landmass.[64]

By omitting a discussion surrounding the emissions surrounding the draining of peatlands in the PA and instead focusing on a lab-tested, novel technology to trap carbon released from mining operations, CNC effectively greenwashed its effects on climate change and downplayed the emissions associated with the project. This is language that continues to track with the project and we note on the federal government's Major Project Office page, it continues to promote the project as being "90% lower than the global industry average" and its "net-negative carbon footprint" is a model for "future responsible mining."[65] These statements are not only inaccurate, but they misconstrue the outcome of this IA– which ought to ensure a credible process.

RECOMMENDATION NO. 17: The Draft IA Report confirms that the project will continue to emit greenhouse gases through 2050, that the performance of the proposed Carbon Capture and Storage system remains uncertain, and that the proponent's net-zero objective depends in part on the future purchase of carbon offsets. As such, any assessment of the project's climate impacts should be based on demonstrated and reasonably certain outcomes rather than speculative future sequestration benefits.

RECOMMENDATION NO. 18: The Agency must require the proponent to fully quantify and assess the greenhouse gas implications associated with the loss and disturbance of approximately 8,474 hectares of peat-containing wetlands, including the resulting release of stored carbon and the loss of future carbon sequestration capacity. These impacts must be transparently evaluated.

RECOMMENDATION NO. 19: The Agency must reach out to other federal departments and ensure that all project-related communications no longer describe the project as having a "net-negative carbon footprint," producing "net-zero metals," or serving as a model for future responsible mining, as those claims remain outdated, unverified, and uncertain.

III. REQUEST TO THE AGENCY

In closing, we submit that the serious deficiencies and gaps in the information provided in the Impact Statement for the Crawford Nickel Project have not been remedied to the point that the Agency can proceed with the IA Report.

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[63] IS, Chapter 16 at p. 16.48
[64] IUCN Brief
[65] Online: https://www.canada.ca/en/privy-council/major-prought,ojects-office/projects/national/crawford.html

LAND reiterates that the following gaps remain in nonconformance with the *IAA*:

- how CNC intends to uphold UNDRIP and its principles, including FPIC;
- the potential impacts to fish habitats, wildlife habitats, and what mitigation measures are proposed to reduce adverse effects;
- details on how CNC plans on obtaining a *Fisheries Act* authorization and other fish HADD-related permits;
- a more detailed baseline study on boreal caribou, and disclose a detailed mitigation plan for protecting boreal caribou;
- how biodiversity will be protected, and how CNC intends to implement the Kunming-Montreal Global Biodiversity Framework to align with Canada's biodiversity commitments; and
- how CNC intends to reduce CO2 and GHG emissions at all phases of the project, as carbon capture and storage is not a sufficient method to address the climate change impacts of this mining project.

As a result, lacking the requisite basis to confirm compliance with the *IAA*, the Draft IA Report cannot be submitted to the Minister of Environment and Climate Change, who cannot reasonably conclude that the significant adverse federal effects are justified in the public interest, per section 63 of the *IAA*.

Sincerely,

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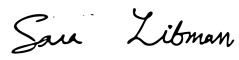
Kerrie Blaise, Founder and Legal Counsel



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Sara Libman, Legal Counsel