

July 24, 2023

VIA EMAIL

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Attn: Caitlin Cafaro & Maryse Sciberas

Re: Preliminary Comments from Nibinamik First Nation on the Draft Tailored Impact Statement Guidelines and Plans the Northern Road Link Project

We are legal counsel for Nibinamik First Nation (“**Nibinamik**”) in relation to the Northern Road Link project (the “**NRL**” or the “**Project**”). We are writing to provide a preliminary response to the Impact Assessment Agency of Canada’s (“**Canada’s**”) request for Nibinamik’s comments on the draft Tailored Impact Statement Guidelines and related draft plans posted on Canada’s website (collectively, the “**Draft Guidelines**”).¹

We want to first emphasize that these comments are preliminary in nature. They do not reflect or encompass Nibinamik’s final or full views on the Draft Guidelines or the Project itself. In particular, Nibinamik continues to face challenges related to addressing COVID-19, as well as other community social and infrastructure pressures that have meant they have not yet been able to meet with land-users, Elders, or other traditional knowledge holders about the Draft Guidelines. We trust that Canada will understand this and that no final decisions regarding the Draft Guidelines will be made until meaningful consultation can occur. With that said, Nibinamik understands that Canada has requested comments within 30 days,² and is therefore sharing the following preliminary comments for Canada’s consideration at this time.

¹ Impact Assessment Agency of Canada, “[Northern Road Link Project](#)” project evaluation.

² Letter dated June 21, 2023, from IAAC to Nibinamik First Nation re *Notice of Comment Period on the Draft Tailored Impact Statement Guidelines and Draft Indigenous Engagement and Partnership Plan for the Northern Road Link Project Input Requested by July 21, 2023*.

Nibinamik’s Preliminary Comments on the Draft Guidelines for the Project

As outlined in greater detail in Nibinamik’s July 2022 letter to the Government of Ontario,³ the NRL will have life-changing impacts on First Nations in the region – including Nibinamik. While it will connect Marten Falls First Nation and Webequie First Nation to the provincial road network, the impacts of the Project will not be felt by those two communities alone. Together with the Marten Falls Community Access Road and Webequie Supply Road, the proposed NRL will result in the creation of a new road of over 500 km through an otherwise pristine environment. This is nearly the same distance as building a new road from Toronto to Montreal. To only say that such an activity would only affect people in the two destination cities is absurd.

It is for this reason that for the last 3 years,⁴ Nibinamik has been consistently advocating for a robust impact assessment process for this Project, that is developed in deep collaboration and partnership with all of the Indigenous communities who stand to be impacted by the Project, and the development of the Ring of Fire and related activities that the NRL will usher in. This aligns with the requirements of the *Impact Assessment Act* that, among other things, require Canada to:

- i) partner with Indigenous communities as jurisdictions in relation to impact assessments;⁵
- ii) consider “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;”⁶
- iii) take in account “any relevant” regional assessments;⁷ and
- iv) include a consideration all Indigenous peoples who could potentially be impacted by the Project.⁸

Unfortunately, the Draft Guidelines fall short on all these points.

First, Nibinamik wishes to emphasize to Canada the provisions in the *Impact Assessment Act* that recognize First Nations (as “Indigenous governing bodies”) and provides mechanisms for

³ Letter dated July 8, 2022, from PST to Ontario re *Preliminary Comments from Nibinamik First Nation on the Terms of Reference for the Northern Road Link Project*.

⁴ Letters dated: April 1, 2020 from PST to Canada re *Nibinamik First Nation – Additional Information and Consultation on Marten Falls First Nation’s Proposed Community Access Road Project*; February 26, 2021 from Nibinamik to Ontario re *Nibinamik First Nation’s Preliminary Comments on the Webequie First Nation Supply Road, Marten Falls First Nation Access Road, and the Northern Road Link*; November 3, 2021 to Canada re *Nibinamik First Nation’s Concerns with the Lack of Coordination in the Impact Assessment Agency’s Review of the Webequie and Marten Falls Access/Supply Roads and Regional Assessment for the Ring of Fire*; July 8, 2022, from PST to Ontario re *Preliminary Comments from Nibinamik First Nation on the Terms of Reference for the Northern Road Link Project*.

⁵ *Impact Assessment Act*, SC 2019, c 28, s 1 at s.114(1) [the *Act*].

⁶ The *Act* at s. 22(1)(a)(ii).

⁷ The *Act* at s. 22(1)(p).

⁸ The *Act* at ss. 22(1)(c).

Canada to partner with First Nations, as jurisdictions, for undertaking impact assessments.⁹ The significance of this legislative tool recognizing First Nations' role in impact assessments as not only a group to be consulted with under an Indigenous consultation or engagement plan, but as a decision-making authority over their territory is of profound significance. In particular, Nibinamik has long taken the position that their Aboriginal and treaty rights fundamentally entitle them to not only be consulted about but have a direct say and deep participation in any activities that have the potential to impact their community, homelands, or rights.

While the regulations that would allow Canada to partner with Nibinamik as a jurisdiction are still – inexplicably - under development,¹⁰ Canada cannot use its own delays to avoid adopting an approach in the Draft Guidelines that recognizes First Nations' jurisdiction role in impact assessments. Rather than embracing this approach, the Draft Guidelines reflect the outdated view focused on Indigenous consultation and engagement plans or soliciting input for other Crown government actors to consider. This is entirely unacceptable. At minimum, the Draft Guidelines should be revised with the goal of maximizing the options for First Nations' involvement in jurisdiction / decision-making roles, including to expressly acknowledge the priority of completing the section 114(1)(e) regulations and that should any First Nation complete such an agreement they will be recognized as a jurisdiction for the purposes of the NRL impact assessment with Canada.

Second, Nibinamik has previously written to express concerns regarding the capacity of any proponent to adequately undertake the sort of cumulative effects assessment required for the Project, given it is expressly intended to advance the Ring of Fire resource development.¹¹ The Ring of Fire (and the other road projects advanced by Marten Falls First Nation and Webequie First Nation), are clearly “other physical activities that have been or will be carried out”¹² within the meaning of the *Impact Assessment Act*. Yet, in the past even well-resourced governments like Ontario and Canada have struggled with assessing impacts of this size and scale. Nibinamik repeats their previous concerns regarding both the inadequacy of the cumulative effects framework to consider or address impacts flowing from the Ring of Fire development, as well as concerns about the capacity of First Nations – both the proponent First Nations as well as others who are involved as jurisdictions – to undertake this critical work.

⁹ The *Act*, section 2, definition of “Indigenous governing body” and “jurisdiction”; see also section 114(1)(e).

¹⁰ The *Act*, s. 114(1)(e). Despite the fact that the *Act* has been in effect since 2019 – and repeated requests from various First Nations, including Nibinamik, have been made for Canada to put in place the s. 114(1)(e) regulations– Canada has not introduced these regulations.

¹¹ [Northern Road Link Terms of Reference at ES-ii](#). Letter dated July 8, 2022, from PST to Ontario re *Preliminary Comments from Nibinamik First Nations on the Terms of Reference for the Northern Road Link Project*.

¹² The *Act* at s. 22(1)(a)(ii).

Third, the *Impact Assessment Act* is clear that the assessment “must take into account . . . any relevant assessment referred to in section 92, 93 or 95”¹³ which include strategic and regional assessment such as the Ring of Fire Area Regional Assessment announced by Canada in 2020.¹⁴ Despite this there are numerous sections in the Draft Guidelines where consideration of the regional assessment is optional rather than mandatory (e.g. the Draft Guidelines use the language of “should be informed by” or “should be included”¹⁵). These references need to be revised throughout the Draft Guidelines to be mandatory (e.g. “must be informed by” or “must include” the information and results of the regional assessment) to align with the requirements of the *Impact Assessment Act*.

Fourth, as outlined above, the impacts of the NRL will be felt by all First Nations in the region, including Nibinamik. The *Impact Assessment Act* requires that the assessment “must take into account . . . the impact that the designated project may have on any Indigenous group...”¹⁶ Despite this, the Draft Guidelines use various and inconsistent language when referring how this commitment is being actioned (e.g. “Indigenous peoples”, “each Indigenous community”, “identified Indigenous communities”, etc.¹⁷). Given that the Project proponents are themselves First Nations, the inconsistent language in the Draft Guidelines introduces uncertainty regarding who is required to be engaged with about what.¹⁸ To avoid this uncertainty, the references need to be revised throughout the Draft Guidelines to be clear that all Indigenous communities impacted by the Project are to be included in each of these assessment areas.¹⁹

To be clear, as a remote First Nation themselves, Nibinamik is generally supportive of other First Nations working to connect to the provincial road systems so that they are no longer only accessible by air. Nibinamik recognizes the many benefits that flow from road access, including economic opportunities, employment, lower cost of living, better access to healthcare, etc. It is for this reason that Nibinamik has considered plans for their own road access, through an east-west corridor. Nibinamik is raising these preliminary comments not for the purpose of delaying

¹³ The *Act* at section 22(1)(p), emphasis added.

¹⁴ Government of Canada, “[Regional Assessment of the Ring of Fire Area](#)” (11 February 2020).

¹⁵ The Draft Guidelines at pp. 21, 32, 45, 50, and 111.

¹⁶ The *Act* at s. 22(1)(c), emphasis added.

¹⁷ The Draft Guidelines at pp. 26, 28, 29, 32, 44, 45, 47, 119, 121-124, 126-128, 130-132, 134, 135, 137, 142, 151, and 153.

¹⁸ This concern is compounded by the proponent’s approach to consultation outlined in the Webequie Supply Road project and the Marten Falls Access Road project, which follows a tiered approach to consultation with Indigenous communities where their own communities are deeply engaged with and other First Nations fall into a second-class or second-tier of engagement. See: [Webequie Supply Road Environmental Assessment Terms of Reference](#) at p. 135; and [Marten Falls Community Access Road Environmental Assessment Proposed Terms of Reference](#) at p. 102.

¹⁹ This includes those sections of the Draft Guidelines identifying not only negative impacts on First Nations as a result of the Project, but also those sections identifying potential positive effects or benefits flowing from the Project (if any) to “any Indigenous community,” including Nibinamik.

or preventing their neighbouring First Nations from securing these benefits, but for the purposes of ensuring a robust impact assessment of the Project is undertaken by Canada and that impacts on their community and section 35 Aboriginal and treaty rights flowing from the Project is meaningfully addressed.

As outlined above, Nibinamik may have additional comments to provide on the Draft Guidelines once they have had an opportunity to engage with land-users, Elders, community members and traditional knowledge holders. To facilitate this, we ask that Canada provide a response and updated version of the Draft Guidelines that address these preliminary comments, for Nibinamik's review prior to any final decisions being taken to approve the Draft Guidelines.

Thank you for your attention to this matter. Should you have any questions regarding this letter, please feel free to contact me directly.

Sincerely,

<Original signed by>

Alexandria Winterburn,
Partner, Pape Salter Teillet LLP

Encl. Letter dated July 8, 2022, from PST to Ontario re *Preliminary Comments from Nibinamik First Nation on the Terms of Reference for the Northern Road Link Project.*

cc Nibinamik Chief and Council
Roger Oskineegish, Road Coordinator for Nibinamik First Nation,
<email address removed>

July 8, 2022

VIA EMAIL

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**Re: Preliminary Comments from Nibinamik First Nation on the Terms of Reference
for the Northern Road Link Project**

We are legal counsel for Nibinamik First Nation (“**Nibinamik**”) in relation to the Northern Road Link project (the “**NRL**” or the “**Project**”). We are writing to provide a preliminary response to the Government of Ontario’s request for Nibinamik’s comments on the Terms of Reference (“**TOR**”) that was submitted by Webequie First Nation and Marten Falls First Nation, who are together the co-proponents for this Project, to Ontario for approval under section 6 of the *Environmental Assessment Act* (the “**EA Act**”).¹

In opening, we want to stress that these comments are preliminary in nature and do not reflect or encompass Nibinamik’s final or full views on the TOR or the Project itself. In particular, due to the ongoing effects of the COVID-19 pandemic, and with new variants and recent deaths in the community, Nibinamik has not been able to meet with community members, Elders, or other traditional knowledge holders to discuss their concerns and input on the TOR. Their limited capacity has been focused on ensuring the health and wellbeing of their community during these difficult times. Nibinamik anticipates providing further comments once it is safe for the community to do so. We trust that Ontario will understand the need to accommodate these circumstances and that no final decisions regarding the NRL TOR will be made until meaningful consultation has been able to occur.

¹ *Environmental Assessment Act*, RSO 1990, c E 18.

With that said, Nibinamik understands that Ontario has requested comments within 60 days of the TOR's submission and would like to make the following preliminary comments (outlined below) and initial list of specific gaps/recommendations (attached as Schedule A), for the Minister's consideration at this time.

Nibinamik's Preliminary Comments on the TOR for the NRL Project

The proposed Project would, if completed, be the first all-season road connecting the Ring of Fire development and surrounding First Nations to the provincial highway north of Aroland.² With a daily average vehicle traffic that is “expected to exceed 500 vehicles,”³ the NRL would “link” the community access road proposed by Marten Falls First Nation with the supply road proposed by Webequie First Nation, creating a new road of potentially over 500 km through “pristine” environment.⁴ For comparison, this is nearly the same distance as building a new road from Toronto to Montreal.

To say that this Project will have a life-changing impact on the surrounding First Nations, including Nibinamik, is not overstating its significance. The lands and waters of what is now Northern Ontario have been Nibinamik's Homelands since time immemorial. This area holds the stories of how their community travelled the rivers and waterways to reach their current home in Summer Beaver. It is where their members hunt, fish, and trap to feed their families. It is where they teach their children, bury their Elders, and hold their ceremonies. It is their store, their church, and the very heart and home of their community. A new road, carving through the region will dramatically impact their community—past, present, and future.

It is for this very reason that Nibinamik's position is there must be a robust environmental assessment process for this Project, developed in deep collaboration and partnership with all Indigenous communities who stand to be impacted by the Project and the development of the Ring of Fire and related activities that the NRL will usher in.⁵ Unfortunately, the TOR as it currently stands does not provide the level of detail or clarity required to ensure that this robust process is undertaken or to fulfill the requirements of section 6 of the EA Act. It cannot be approved by Ontario in its current vague, undetailed form.

² NRL TOR, ES-1.3: Rational for the Project: “The Project is an important step in linking the communities, the region and the province in general with the economic opportunities surrounding the Ring of Fire.”

³ NRL TOR, ES-3: Description of the Project [emphasis added].

⁴ NRL TOR, ES-7.2.2.2.1: Baseline Characterization: “the surrounding environment is considered to be a pristine setting.”

⁵ The first, but certainly not the last, of this development is the Ring of Fire, which in and of itself has untold environmental, social, and climate change impacts. The function of the NRL—and the Marten Falls Community Access Road and Webequie Supply Road—to usher in the Ring of Fire and initiate the industrialization of the North is not a hidden, secret agenda. It is plainly spelled out in the Purpose of the NRL TOR (see: NRL TOR, ES-ii: Purpose of the Project).

Section 6 of the EA Act requires that the proponent “shall give the Ministry proposed terms of reference governing the preparation of an environmental assessment.”⁶ It further specifies that this terms of reference “must ... set out in detail the requirements for the preparation of the environmental assessment” or “indicate that the environmental assessment will be prepared in accordance with the [list of] requirements set out in subsection 6.1(2).”⁷ The requirement for a detailed TOR is designed to allow the Minister to have sufficient information to ensure that they are “satisfied that an environmental assessment prepared in accordance with the approved terms of reference will be consistent with the purpose of this Act and the public interest.”⁸

Contrary to these mandatory requirements however, the NRL TOR is clear about only one thing: that there is virtually no aspect of the Project—from routing, to design, location, scope, construction methods, or technology—that is not “subject to change.”⁹ While Nibinamik appreciates that this means the Project is still able to be significantly modified through discussions with the First Nations who will be impacted by the Project, it makes it entirely unclear what project Ontario is being asked to approve. With the TOR essentially a moving target, how can the Minister realistically assess whether anything could be “prepared in accordance with [it]” let alone if it would be in the public interest?

To be clear, Nibinamik is generally supportive of other First Nations working to connect to the provincial road systems so that they are no longer accessible only by air. As a remote First Nation itself, Nibinamik recognizes the important benefits, including access to healthcare and the economy, that flow from all-season road access and have also been involved in planning for an east-west road that would connect their community to the provincial highway. The NRL however, is not only about securing community access to the provincial road network. It is designed to generate further industrial development and literally pave the way for mining, forestry, and mineral development that otherwise would not be possible without the road. These have potentially devastating impacts on the health and wellbeing of Nibinamik’s community and the surrounding environment. Further work—including more robust Indigenous engagement and consultation on critical subjects like routing, traditional knowledge, environmental and social/cultural impacts of this anticipated development—must be undertaken before the TOR can be approved as an adequate “road map” for this future Project assessment.

Nibinamik welcomes the opportunity to continue working with its neighbouring First Nations to develop a TOR that includes the clarity necessary to fulfill section 6 of the EA Act and provides for a robust environmental assessment (including fulfilling the requirements that it be in the

⁶ EA Act, section 6(1) [emphasis added].

⁷ EA Act, section 6(2)(c) [emphasis added].

⁸ EA Act, section 6(4).

⁹ NRL TOR, ES-11: Flexibility to Accommodate New Circumstances: “The Project, as described in this ToR, is based upon a conceptual level of design information, and does not represent the final design, location and scope of the proposed undertaking.”

public interest and uphold the honour of the Crown).¹⁰ Attached as Schedule A is a list of initial recommendations and comments, to begin these discussions about gaps in the TOR that need to be addressed prior to its approval. As outlined above, Nibinamik also intends to provide further detailed comments on the TOR, once the COVID-19 pandemic abates.

We ask that this letter be put before the Minister for his consideration and repeat the request that Ontario make no final decisions on the NRL TOR until there is an opportunity for meaningful consultation to occur, and these gaps in the proposed TOR are addressed. Should you have any questions regarding the above, please feel free to contact me directly.

Sincerely,

<Original signed by>

Alexandria Winterburn

c.c. Ogamakan Michael Sugarhead, Nibinamik First Nation

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¹⁰ Contrary to the proponents' allegation in the TOR that "To date, Nibinamik First Nation has not shown interest in meeting with the Project Team" (TOR, Appendix A, section 4.2.22: Record of Consultation, Nibinamik First Nation), Nibinamik is deeply concerned regarding the NRL and has raised concerns and comments about this Project with the Crown in letters dating back to early 2020. Nibinamik's lack of response to the proponents' outreach—which took place entirely during the COVID-19 pandemic—is an indication of a lack of capacity to respond to matters not directly about the health and wellbeing of their members. It should not be taken by the proponents, or the Crown, as an indication of a lack of interest in the Project or lack of concerns about the impacts of the Project on their community.

Schedule A:

Nibinamik First Nation's Preliminary Comments and Initial List of Gaps/Recommendations on the NRL TOR

The below list provides Nibinamik's preliminary and initial identification of gaps, comments, and recommendations on the NRL TOR. It should be considered preliminary only and does not reflect Nibinamik's final or full comments, questions, or concerns on the TOR.

Nibinamik anticipates providing additional comments, once the COVID-19 pandemic situation allows for meetings and meaningful engagement with their community to occur.

- The Preliminary List of Value Components (“VCs”) and Indicators for Aboriginal and Treaty rights and interests is far too limited and incomplete.¹¹ Further work should be done engaging with Indigenous communities who will be impacted by the Project to identify the Aboriginal and treaty rights and interests and include those communities’ perspectives on their rights as part of this VC. Having this information is critical for a determination of whether the Project is in the public interest, as required by section 6 of the EA Act.¹²
- The “Indigenous land and resource use” VC identifies a focus on areas “intensively and regularly”¹³ used for rights-based activities; however, there is no basis for this distinction. Some areas, like cultural or sacred sites, may only be periodically used but are nonetheless of irreplaceable value. This distinction should be removed or clarified to align with the guidance of the courts that intensity of use is not equal to significance.¹⁴
- The description of Nibinamik First Nation in the TOR includes that the “Summer Beaver Indian Settlement is currently not a reserve and has no statutory basis under the *Indian Act*”¹⁵ which could be interpreted to imply that Nibinamik’s rights or interests in their community lands is less than if it was recognized as reserve under the *Indian Act*. Nothing could be further from the truth. This distinction should be removed or clarified to state that this is provided for and should be used for jurisdictional information only.

¹¹ NRL TOR, ES-4: Preliminary List of Valued Components and Indicators – Aboriginal and Treaty rights and interests.

¹² *AltaLink Management Ltd v Alberta (Utilities Commission)*, 2021 ABCA 342.

¹³ NRL TOR, ES, Table 2-6.

¹⁴ *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*, 2005 SCC 69 at paras 45–47.

¹⁵ NRL TOR, ES, Table 7.1-3: Community Profiles of Indigenous Communities Potentially Affected by or Interested in the Project.

**Schedule A:
Nibinamik First Nation’s Preliminary Comments and
Initial List of Gaps/Recommendations on the NRL TOR**

- Likewise, the TOR repeatedly groups Indigenous communities whose “Aboriginal and or Treaty Rights may be potentially affected by the Project,”¹⁶ such as Nibinamik, together with “stakeholder” interests. Indigenous communities are not public stakeholders. Among other things, Indigenous communities such as Nibinamik have constitutionally protected Aboriginal and treaty rights that stand to be impacted by the Project. Stakeholders do not. Indigenous consultation, rights, and interests should be identified in the TOR distinctly from “stakeholders” to avoid confusion or mistakes in further consultation activities undertaken by the proponents on behalf of the Crown.
- The VC’s also do not include any mention of a GBA+ or women and girls’ specific analysis or criteria. In light of the recommendations of the Missing and Murdered Indigenous Women and Girls National Inquiry (the “**MMIWG National Inquiry**”), this should be distinctly identified as part of a specific VC and assessment process to ensure community safety and assess subjects such as increased risk of human trafficking, risk of violence or assault, etc.¹⁷
 - In addition, the MMIWG National Inquiry final report and Calls to Justice should also be expressly included in the TOR as part of the Community Safety VC.¹⁸
- Likewise, “socio-economic” and “regional and local economy” VCs focus almost exclusively on positive developments associated with the Project;¹⁹ however, there are a number of foreseeable negative impacts on socio-economic conditions including traditional economies, cultural-based economies, and socio impacts identified in the MMIWG National Inquiry. The TOR should be revised to include these negative impacts as measurable requirements.
- The temporal boundaries identified are vague and unclear. For example, there is no preliminary temporal scope identified other than to say that no decommissioning of the Project is anticipated.²⁰ Temporal boundaries for foreseeable impacts of the Project (e.g., mineral exploration activities) can be identified, and should be used/required as guidelines for temporal scope of monitoring mitigation measures, effectiveness of accommodation actions, etc.

¹⁶ NRL TOR, ES-4.2: Identification of Indigenous Communities and Stakeholders.

¹⁷ NRL TOR, ES-4: Preliminary List of Valued Component and Indicators. See also ES-7.1.2.1 Cultural Continuity and Well-Being VC.

¹⁸ NRL TOR, ES-7.4.4.2.2: Background Information and Data Sources for Community Safety VC.

¹⁹ NRL TOR, ES, Table 2-6. See also ES-7.4.2 Preliminary Indicators for the Regional and Local Economy.

²⁰ NRL TOR, ES-6.2.1.4.1: Assessment Boundaries.

**Schedule A:
Nibinamik First Nation’s Preliminary Comments and
Initial List of Gaps/Recommendations on the NRL TOR**

- The cumulative effects assessment is not able to adequately consider the environmental effects and impacts on Indigenous communities flowing from the industrial development activities of the proposed NRL.²¹ As Nibinamik has previously outlined in past letters, it is not honourable for the Crown to expect small, First Nation proponents to complete the level of robust cumulative effects assessment required for roads that have the dual purpose of community access and expressly paving the way for large scale resource development such as the Ring of Fire. Further regional level assessment work is required for this gap to be filled and should be developed in coordination with and supported by the Crown.
 - In addition, the TOR should be revised to include the commitment that the Project will be conducted in accordance with any federal recommendations or guidelines as a result of the Regional Assessment of the Ring of Fire Area being undertaken by the federal Impact Assessment Agency.
- Significantly, the Local Study Area (“LSA”) and Regional Study Area (“RSA”) identified in Appendix D of the TOR are fundamentally flawed by not aligning with the spatial boundaries of the Project or its foreseeable impacts of opening up the north to development. At a minimum, the RSA should include the full length of the proposed road (NRL+ Webequie Supply Road + Marten Falls Access Road) and also the Ring of Fire development (given the express purpose of the Project is to access this development). In addition:
 - S. D.1.1 – Indigenous Use of Land and Resources – LSA and RSA boundaries being tied to environmental and other VC areas is inappropriate for determining a geographic scope of potential impacts to Indigenous communities and their use of lands/resources to exercise rights based or other activities. Both must be expanded to align with a larger area based on watersheds or community impacts (e.g., Regional and Local Economy) rather than arbitrary distances from the proposed corridor.
 - S.D.2.1 – Air Quality – a 5km buffer is insufficient for the RSA. Given the Project is also anticipated to be used for transportation to/from mining activities, an RSA that at minimum encompasses these potential mining areas is needed.
 - S. D.2.2 – Greenhouse Gas Emissions – RSA definition should be provided before TOR approval in order to assess the public interest in proceeding with the Project given the global climate change concerns and national commitments.
 - S. D.2.3 – Noise – RSA definition should be extended beyond 600m for operation given potential ongoing impacts to wildlife species associated with noise.

²¹ NRL TOR, ES-6.7.1: Identifying Past, Present or Reasonably Foreseeable Projects and/or Activities.

**Schedule A:
Nibinamik First Nation's Preliminary Comments and
Initial List of Gaps/Recommendations on the NRL TOR**

- S.D.3.2 – Wildlife and Wildlife Habitat – RSA and LSA areas should be extended for other species in addition to Moose, e.g., Caribou, wolverine, etc. with large habitat ranges (S.D.3.5 – Species at Risk RSA's likewise should be expanded).
- S.D.3.4 – Plants and Vegetation Communities – RSA area should be extended beyond 5km to align with air quality and dust measurements given the Project is anticipated to be used for transportation to/from mining activities.
- S. D.4.3 – Land Use and Recreation – RSA should align with, at minimum, the LSA in the Regional and Local Economy section (S.D.4.1).
- S. D.5 – Cultural Heritage Resources – LSA and RSA should include any area where mobilization activities take place, storage of equipment, camps, or other uses that may or may not be within the 25m or 250m range of the preferred corridor.