



***Delivered by Email***

**Impact Assessment Agency of Canada**

Email: NorthernRoad-RouteDuNord@iaac-aeic.gc.ca

July 24, 2023

To Whom it May Concern,

**RE: Review and Comment on the Draft Tailored Impact Statement Guidelines and Draft Indigenous Engagement Partnership Plan**

---

I am writing as the elected Chief of Kashechewan First Nation ("KFN"). This letter is sent on behalf of myself, the Council, and Nation members of KFN. As Chief of my Nation, it is my duty to protect our Section 35 rights which can be exercised throughout Treaty 9, of which we are signatories. Further, as you are aware, the Northern Road Link Project is located within the James Bay Lowlands which is an extensive peatland complex that is one of the world's most important carbon sinks. Due to this, our involvement in this impact assessment process is critical to ensure the ongoing protection and maintenance of this critical area.

To this end we have reviewed the Tailored Impact Statement Guidelines ("TISG") and the Indigenous Engagement and Partnership Plan ("IEPP") which are meant to provide the proponent(s) with direction and requirements for the preparation of an Impact Statement and outline the opportunities and methods of Crown engagement and consultation with Kashechewan First Nation.

Our review is compiled in table form for the TISG to ensure specific comments are related to specific sections. Comments on the IEPP are contained within this cover letter, below.

**Comments on the IEPP**

The IEPP does not contain any reference to a co-led process for the Northern Road Link impact assessment. Kashechewan First Nation is heavily involved in the Regional Assessment for the Ring of Fire Area and is a strong proponent of that, and other processes within our territory, being co-led. This is further emphasized by our participation as a Plaintiff in the Treaty 9 Co-jurisdiction Case which seeks declaration that Kashechewan First Nation holds decision-making governance authority over land covered by Treaty 9.

While the TISG acknowledges opportunity for co-development of specific sections of the impact statement, where interest is expressed; a true co-led process would involve Kashechewan in the scoping and decision-making for this Project and allow for a greater level of collaboration.



Kashechewan requires further consultation on how this process can move towards greater collaboration, of which aspects may be defined through a community specific consultation plan, or otherwise, in order to recognize KFN's unceded jurisdiction.

We hope that the information described above and in the below review table can inform future drafts of the TISG and IEPP. It is the expectation that future drafts will integrate Kashechewan First Nation suggested amendments.

Sincerely,

<original signed by>

Chief Gaius Wesley



#	Section	Details	Comment
1.	2.2 Qualifications of individuals preparing the Impact Statement  Page 9	“The Agency also expects proponents to demonstrate scientific integrity in their preparation and delivery of the Impact Statement by...”	Both western science and Indigenous science approaches must be equally demonstrated in the preparation and delivery of the Impact Statement.  This section must be updated to reflect this co-led approach. For example, this section may be revised to indicate that the Agency and Indigenous groups expect the proponent to demonstrate a blended approach to scientific integrity which is reflective of both western and Indigenous science in the preparation and delivery of the impact statement.
2.	3.5 Project activities  Page 14	“This will also include an appendix of all the proposed mitigation and follow-up program measures to address adverse effects and potential impacts on the rights of Indigenous peoples.”	Mitigation and follow-up programs must be co-developed with Kashechewan First Nation. This section must be updated to reflect the commitment to co-development.
3.	3.5.1 Site preparation and construction  Pages 14-15	“Anticipated activities during preparation and construction of the project”	Where preparation and construction of the project can result in access restrictions for Indigenous groups, this must be referenced in the Impact Statement.  Therefore, this listing should be updated to require reporting on any restricted access, temporary or permanent, to land or territory that is used/accessed by Indigenous peoples for traditional or cultural activities.
4.	4.1 Purpose of the project, Page 18 and 19	“The proponent is encouraged to consider the perspectives of participants, including future project users (i.e., public, Indigenous communities, governments) in establishing objectives that relate to the intended effect of the Project on society.”	The language within this section should be updated to remove permissive terms. For example: “The proponent <b>must</b> consider the perspectives of participants...” This can ensure that the perspectives of Indigenous communities are integrated.
5.	6.0 Description of engagement with Indigenous communities  Page 25	“The degree of engagement with each Indigenous community will vary and in general, will be proportionate to the evidence provided by Indigenous communities, regarding potential pathways of impact from the Project on Aboriginal or Treaty rights.”	The level of engagement must not be reduced based on the provision of evidence by Indigenous groups. The ability to provide sufficient evidence is often linked with available internal capacity and funding. Therefore, it is recommended that the degree of engagement remain flexible. Language within this section should be updated to reflect a more flexible approach.



#	Section	Details	Comment
6.	6.0 Description of engagement with Indigenous communities  Page 26	"...in accordance with any existing community protocols and/or guidance provided by the Agency, collect available Indigenous Knowledge and expertise and integrate it into its Impact Statement, just as it integrates scientific knowledge;"	Kashechewan requires language throughout this excerpt as well as throughout the TISG and IEPP more broadly to reflect a co-led and collaborative approach. This will require the proponent to adhere to standards for the appropriate use of any shared Indigenous knowledge.
7.	6.0 Description of engagement with Indigenous communities  Page 26	"...cooperate with Indigenous communities to identify preferred mitigation measures to avoid, minimize, offset, or otherwise accommodate for potential adverse impacts on Indigenous peoples or their rights, as well as to optimize the Project's benefits for their communities."	Mitigation measures must be co-developed with Kashechewan First Nation following identification of potential impacts to their rights and interests to respect Kashechewan's unceded jurisdiction. Language within this section should be updated to reflect this requirement for co-development.
8.	6.2 Analysis and response to questions, comments, and issues raised  Page 28	"The analysis should include, but not be limited to, the identification of potential effects and impacts on any applicable valued components, including impacts on the exercise of Aboriginal or Treaty rights, and proposed measures to mitigate or accommodate for adverse impacts, and enhance or optimize positive effects."	Kashechewan First Nation must have equal involvement in the identification of potential effects and impacts on any valued components of importance in order to allow for a co-led approach. Further, there must be collaboration on the selection of appropriate mitigation measures and accommodation, where applicable. Language within this section should be updated to reflect this co-led and collaborative approach.
9.	7.1 Baseline methodology  Page 33	"There is no need for the Impact Statement to provide detailed descriptions of existing features of environmental, health, social or economic components that would not be impacted by the Project as determined by the Agency through engagements with federal authorities, Indigenous communities, the public and interested parties."	Any relevant feature of environmental, health, social or economic components that is deemed to not be impacted by the project must be reported to Kashechewan First Nation for consideration as, in some cases, there can be unanticipated impacts to Kashechewan's rights and interests via exclusion.
10.	7.6 Mitigation and enhancement measures  Page 45	"The proponent is to work with Indigenous communities to develop mitigation measures and align project goals..."	See comment 2
11.	7.6 Mitigation and enhancement measures	"...document specific suggestions raised by each Indigenous community for avoiding, mitigating, or otherwise accommodating the Project's environmental, health, social	Mitigation must be collaboratively developed with Kashechewan First Nation to ensure effective management



#	Section	Details	Comment
	Page 46	<p>and economic effects, including potential effects and impacts on the exercise of rights of Indigenous peoples and:</p> <ul style="list-style-type: none"> <li>• for those mitigation measures intended to address effects of changes to the environmental, health, social and economic conditions of Indigenous peoples or impacts on the exercise of rights of Indigenous peoples, provide a description of the consultation with Indigenous communities regarding the residual effects; and</li> <li>• describe whether and how these measures will be incorporated in the Project design.”</li> </ul>	of potential impacts to Weenusk First Nation rights. Language within this section should be updated.
12.	7.7 Cumulative effects assessment Page 49	“A cumulative effect on an environmental, health, social or economic component of an Indigenous community or the rights of Indigenous peoples, may be important even if the project’s effects to these components by themselves is minor.”	‘Governance’ should be included with “environmental, health, social or economic” when describing the possible cumulative effects of the project on Kashechewan First Nation as governance rights are expressed through Kashechewan’s unceded jurisdiction.
13.	7.8 Extent to which effects are significant Page 52		Interrelated and linked impacts must be considered when evaluating the significance of effects, in partnership with Kashechewan First Nation.
14.	7.8 Extent to which effects are significant Page 52	<p>“consider using the following criteria for residual effects, as appropriate:</p> <ul style="list-style-type: none"> <li>• magnitude;</li> <li>• geographic extent;</li> <li>• timing;</li> <li>• duration;</li> <li>• frequency;</li> <li>• reversibility; and</li> <li>• the environmental, health, social and economic context within which potential effects may occur.”</li> </ul>	The criteria used to characterize residual effects must be developed collaboratively with Kashechewan First Nation, particularly for valued components of importance to Kashechewan First Nation, such as water quality and quantity, wildlife, Indigenous rights, etc. Engagement from the proponent must be explicitly required within this section of the TISG.
15.	7.8 Extent to which effects are significant	“...scope, defined spatially as the proportion of the valued component’s occurrence or population within the project, local and regional study areas that can reasonably be	The current values listed to characterize the scope must be amended to reflect Kashechewan First Nation input as the values, as expressed, are focused on the biophysical



#	Section	Details	Comment
	Page 53	expected to be affected by the predicted effect within 10 years. Characterize the scope of each predicted adverse effect on each valued component as follows:..."	environment and are not representative of Indigenous rights and interests.
16.	7.8 Extent to which effects are significant  Page 53	"...severity, defined as, within the scope, the level of damage to the valued component from the effect that can reasonably be expected; typically measured as the degree of destruction or degradation within the scope or the degree of reduction of the population within the scope. Characterize the severity of each predicted adverse effect on each valued component as follows..."	The current values listed to characterize the severity must be amended to reflect Kashechewan First Nation input as the values, as expressed, are focused on the biophysical environment and are not representative of Indigenous rights and interests.
17.	7.8 Extent to which effects are significant  Page 54	"There are tools that can assist with these predictions and analyses, including multi-criteria analysis, risk assessment, modelling, in addition to seeking out expert and stakeholder input. Effects should be characterized using language most appropriate for the effect (e.g., impacts on the exercise of Aboriginal and Treaty rights and social effects may be described differently from biophysical effects)."	Any multi-criteria analysis, risk assessment and/or modelling completed to understand the effects on Indigenous communities must be collaboratively completed. This will ensure indicators of importance can be categorized, adequate controls can be identified, and the effectiveness of controls can be well understood.
18.	8.2 Atmospheric, acoustic, and visual environment 8.2.1 Baseline conditions  Page 56	"...provide baseline ambient air concentrations for contaminants in the local study area, in particular near key receptors (e.g., communities, traditional land users, wildlife)..."	Key receptor locations for the atmospheric, acoustic, and visual environment must be confirmed with Kashechewan First Nation to ensure consideration of points of interest or key locales related to Kashechewan First Nation Section 35 rights.
19.	8.2 Atmospheric, acoustic, and visual environment  All		In addition to the effects to the standard quantitative measures used to assess the atmospheric, acoustic, and visual environment, the Impact Statement must also describe Kashechewan First Nation perceptions related to the same. Negative perceptions of the Project's contributions to air quality, sound levels, as well as changes to the visual environment, can result in increased avoidance behaviors.



#	Section	Details	Comment
20.	8.5 Riparian and wetland environments 8.5.1 Baseline conditions  Page 63	"...ensure that wetlands assessed for impacts are considered in the context of:..."	Riparian and wetland environments baseline conditions should include considerations of Kashechewan First Nation rights and interests as the James Bay Lowlands are of particular importance to KFN. There should also be consideration of wildlife species present in riparian and wetland areas that are of importance to Indigenous groups. Language within this section should be updated.
21.	8.6 Vegetation 8.6.1 Baseline conditions  Pages 67-68	"The Impact Statement must..." [with regards to baseline conditions of vegetation]	Vegetation baseline conditions should include the overall health and quality of country foods for consideration as quality of country foods in an important indicator for the assessment of Indigenous rights. Language within this section should be updated.
22.	8.6 Vegetation 8.6.2 Effects to vegetation  Page 68-69	"The Impact statement must describe..."	The vegetation effects assessment should require consideration of soil quality from all stages of the project that could impact vegetation growth. There is an existing comment in this list that refers to "...project effects on areas of soil or ground instability". This is insufficient to represent the potential changes to soil that may impact vegetation growth. Please update this listing.
23.	8.6 Vegetation 8.6.3 Mitigation and enhancement measures  Page 69	"...seed mixes to use, the spreading rates and the location of the spreading. Native and indigenous species adapted to the local conditions should be used when the purpose of revegetation is to naturalize or regenerate the area..."	Native and Indigenous species that are adapted to local conditions should be used whenever possible to ensure all revegetation naturalizes and regenerates Project areas. Language within this section should be updated.
24.	8.7 Groundwater and surface water 8.7.1 Baseline conditions  Page 71	"...explain how baseline data was gathered, and modelling developed, at a scale and resolution that allows for the application of results about groundwater and surface water to the assessment of interrelated valued components, notably for fish, birds and other wildlife, their habitat and their health, as well as human health."	Based on the importance of groundwater and surface water to Kashechewan First Nation, the TISG must require consideration of interrelated baseline data for consideration. For example, harvesting rights such as the right to fish, water travel, and stewardship of the environment must be aspects that are discussed. Language within this section should be updated.
25.	8.8 Fish and fish habitat	"Provide baseline measurements of contaminants in fish and aquatic species"	Please include explicit reference to 'fish and aquatic species health' to fully represent a baseline measurement of fish and fish habitat.



#	Section	Details	Comment
	8.8.1 Baseline conditions Page 76		Fish or other aquatic species may have no contaminants present but may have other detriments to health resulting in a reduction in subsistence harvesting.
26.	8.8 Fish and fish habitat 8.8.1 Baseline conditions Page 76	"...for each potentially affected waterbody or watercourse, provide a detailed description of potentially affected fish species and populations (as defined in subsection 2(1) of the Fisheries Act) within the freshwater environment;"	Kashechewan First Nation has many fish species that are crucial to the subsistence harvest which sustains the community. These fish should be identified and described to convey that importance. Language within this section should be updated with the requirement for this information.
27.	8.8 Fish and fish habitat 8.8.2 Effects to fish and fish habitat Page 78	"...describe the anticipated changes in the composition and characteristics of the populations of fish, especially those species of cultural significance to Indigenous communities and provincially or federally listed aquatic species at risk, following modifications to the aquatic environment, including but not limited to:..."	The effects assessment for fish and fish habitat must include consideration of health of species of importance to Indigenous communities. Language within this section should be updated with a requirement for this information.
28.	8.9 Birds, migratory birds and their habitats 8.9.1 Baseline conditions Pages 80-88	"The Impact Statement must..." [with relation to baseline conditions to birds, migratory birds and their habitats]	The baseline conditions for birds, migratory birds, and their habitats should include a description of the health of species of importance to Indigenous Peoples. Language within this section should be updated with a requirement for this information.
29.	8.10 Terrestrial wildlife and their habitat 8.10.1 Baseline conditions Pages 91-92	"Identify wildlife species, other than avian species, of ecological or Indigenous importance...that are likely to be directly or indirectly affected, and describe each species:..."	The baseline conditions for terrestrial wildlife and their habitat must include a requirement for the proponent to report on wildlife health and conditions. Language within this section should be updated with a requirement for this information.
30.	9.2.2 Effects to navigation Page 114	"The Impact Statement must..." [with regards to navigation]	The effects to navigation should be expanded to include consideration of travel routes integral to Indigenous communities including routes to access heritage, cultural sites, harvesting locations, etc. Language within this section should be updated with a requirement for this information.





#	Section	Details	Comment
31.	9.2.3 Effects to employment and overall economy  Page 114	"The Impact Statement must..."	The effects to employment and overall economy must consider how the proponent will include and engage Indigenous Peoples.
32.	10 Indigenous peoples  Page 115	"The Impact Statement must provide information on how the Project may affect Indigenous peoples, as informed by the Indigenous communities involved in the assessment."	<p>There is a Duty to Consult Indigenous communities on how the potential decision related to this Project may adversely impact their rights. The language within this section must be strengthened to reflect the Duty.</p> <p>Suggested text:</p> <p>"The Impact Statement must provide information on how the Project <b>may impact the rights</b> of Indigenous Peoples, as informed by the Indigenous communities involved in the assessment."</p>
33.	10.4 Rights of Indigenous peoples 10.4.1 Baseline Conditions  Page 137-138	"...consider and describe how the information requirements related to physical and cultural heritage, current use, Indigenous health, social, and economic conditions are applicable to the nature and extent of the exercise of rights, including but not limited to..."	While it is noted that the listing in this section 'includes, but is not limited to' the information displayed, the items listed here are predominately related to harvesting rights rather than other Indigenous rights. Kashechewan First Nation reserves the right to identify other Indigenous rights as Indigenous VCs or otherwise as the impact assessment progresses.
34.	10.4.2 Impacts on rights of Indigenous peoples  Page 139	"The proponent is therefore encouraged to share studies with Indigenous communities prior to assessing the impact of the Project on their rights."	The proponent must collaboratively develop studies where Kashechewan First Nation has indicated interest prior to assessing the impact of the project on Kashechewan First Nation's rights. It is also recommended that an adequate time period for comment and discussion be defined with the information being collaboratively developed at the earliest opportunity.
35.	10.4 Rights of Indigenous peoples 10.4.2 Impacts on rights of Indigenous peoples	"...the severity of the impacts on the exercise of rights of Indigenous peoples, as identified by the Indigenous communities."	The Impact Assessment Agency of Canada must collaborate with Kashechewan First Nation to properly contextualize the criteria for severity of impact, including governance, health, and impact inequity as these criteria



#	Section	Details	Comment
	Page 140		are not standardized and require Kashechewan First Nation input.
36.	15.2 Follow-up program monitoring  Pages 153-154		Kashechewan First Nation requires inclusion in the planning and execution of follow-up program monitoring to allow for a collaborative and co-led assessment.