



The Mining Association of Canada | L'association minière du Canada

June 6, 2024

Impact Assessment Agency of Canada
Great Bear Gold Project
55 York Street, 6th Floor
Toronto, Ontario M5J 1R7
Telephone: 416-952-1576
Email: GreatBear@iaac-aeic.gc.ca

Re: MAC Comments on Draft Tailored Impact Statement Guidelines for the Great Bear Gold Project

On behalf of the Mining Association of Canada (MAC), I am writing with comments on the draft Tailored Impact Statement Guidelines (TISG) for Kinross' Great Bear Gold Project located in northern Ontario.

MAC is the national organization representing the Canadian mining industry, comprising companies engaged in mineral exploration, mining, smelting, refining and semi-fabrication. Our members account for most of Canada's production of base and precious metals, uranium, diamonds, metallurgical coal, and mined oil sands. MAC members strive to be responsible operators who are respectful environmental stewards, whose actions go beyond legal compliance. Their commitments are demonstrated through participation in the *Towards Sustainable Mining* (TSM) program, an international mining sustainability standard whereby mining operations evaluate, manage and publicly report on critical environmental and social responsibilities.

On October 13, 2024, the Supreme Court of Canada (SCC) issued its opinion on the constitutionality of the federal *Impact Assessment Act* (IAA). Soon after the SCC released its opinion, the Impact Assessment Agency (the Agency) released interim guidance that communicated its intent to "continue engagement with Indigenous partners, stakeholders and the public, and will continue to seek to work in close cooperation with the provinces on project assessments, with its emphasis clearly on the prevention of adverse effects in federal jurisdiction." Amendments to the IAA have since been tabled as part of the *Budget Implementation Act, 2024*, which attempt to underscore the Act's intent to prevent and mitigate significant adverse effects in federal jurisdiction. Further, in the lead-up to the tabling of these amendments, the Agency articulated an intent make assessments more efficient by "tailoring and scoping assessments more effectively to focus on key federal issues and information requirements".

While the SCC did explain that the federal government may seek information on issues beyond federal jurisdiction as part of federal impact assessment, MAC had expected that the guidance from the court, and the federal statements that followed, would lead to improved tailoring and a focus on potential adverse effects in federal jurisdiction relevant to decision-making. Unfortunately, we reviewed the draft TISGs for the Great Bear Gold Project – the first draft TISGs to be released for a mining project since the SCC opinion – with great disappointment.

mining.ca

We note some minor adjustments have been made to the 2022 TISG generic template, seemingly in response to the SCC opinion and proposed amendments to the legislation. However, the draft TISG for the Great Bear Gold Project are nearly identical to the TISGs that were issued for the Crawford Nickel Project in March 2023, indicating that the SCC guidance has had little influence on the Agency's approach to tailoring. Notably, Section 7.7 (Extent to which effects are significant), similar to Crawford, requires the Impact Statement to "characterize the residual effects, **even if deemed small or negligible**, and cumulative effects, using criteria and language most appropriate for the effect." Characterizing negligible residual effects is not aligned with the Court's opinion that the IAA is to be focused on non-trivial adverse effects, as well as the amendments to the IAA tabled in the *Budget Implementation Act, 2024*, which defines adverse federal effects as "non-negligible".

Further, instead of focusing on key potential for adverse effects in federal jurisdiction specific to the project, the draft TISGs cover nearly every issue captured in the TISG template. For example, Section 8.4 of the draft TISGs for Great Bear requires the Impact Statement to describe historical land use and the potential for contamination of soils and sediments, which does not appear to be a material issue for this project. As explained in the Detailed Project Description, there is no prior development on the project site, and soil contamination is not raised in the Summary of Issues published in September, 2023.

Based on our experience with other projects, we are extremely concerned that the depth and breadth of study requirements for the majority of the issues captured in the draft TISGs will go far beyond what is needed to assess the impacts of this project and determine appropriate mitigation measures for adverse federal effects. While growing expectations related to the scope of baseline studies add significant cost to a project assessment, we are also concerned about the proponent's ability to meet the timelines outlined in Section 1.3 of the draft TISGs, which state:

The proponent must provide the Agency with the information or studies within three years after the day on which a copy of the Notice of Commencement is posted on the Registry. The time limit will include the time required for the review of the Impact Statement and for the proponent to address any deficiencies. On the proponent's request, the Agency may extend the time limit by any period that is necessary for the proponent to provide the Agency with the information or studies. If the proponent does not provide the Agency with the information or studies within the three-year time limit, or within any extension of that time limit, the impact assessment is terminated.

Our understanding is that completing the Phase 2 Impact Statement within a three-year timeframe is challenging as is. When the scope of individual baseline studies is expanded so that multi-year studies are required to meet the guidance provided by the federal departments, a three-year timeline becomes unworkable. Unless appropriately tailored and scoped, the proponent may be required to request an extended time limit to complete the Impact Statement or see their impact assessment terminated. This is counter to the federal government's commitment to ensuring that federally designated projects are approved within a five-year timeframe.

Broadly, MAC recommends that the TISGs for Great Bear be revised to better align with the SCC opinion and to focus on key issues that are relevant to making a decision on the project's potential for adverse effects in federal jurisdiction.

Specific comments on the draft TISGs for the Great Bear project are enclosed.

Sincerely,

<Signature removed>

Pierre Gratton
President & CEO
Mining Association of Canada

Annex: MAC Comments on the draft TISGs for the Great Bear Gold Project

Overall, MAC strongly recommends that the draft TISGs for the Great Bear Gold Project be evaluated to ensure that they are aligned with the SCC opinion on the constitutionality of the IAA. Specifically, the information requirements must be focused on the unique issues of the project that are relevant to the decision on adverse effects in federal jurisdiction.

At a minimum, the following should be addressed in the final TISGs for this project.

Section of draft TISG	TISG Requirement	MAC Comments
Section 1.4: Format and accessibility	<p>The proponent should curate all data collected and analyses performed in such a way that they may be made available to participants or the Agency upon request. The Agency may require specific data sets to support review of the Impact Statement or for the impact assessment.</p> <p>The proponent should be prepared to provide:</p> <ul style="list-style-type: none"> • all biophysical survey data in a well-documented data file which provides information on the site, site visits and individual observations or measurements (georeferenced where possible); • individual results of all laboratory analysis, including methods, standards or references followed, detection limits, controls, and quality assurance and control procedures; 	<p>Given the depth and breadth of baseline studies anticipated, these requirements would be very costly for the proponent. While providing geospatial files for the figures of the Impact Statement is manageable, providing <i>all</i> data georeferenced is a significant request when studies involve multiple years of data across multiple disciplines. It is unclear how fulfilling such a request would add value, as this level of information would not be needed to inform decision-making.</p> <p>MAC recommends that this section be limited to geospatial data for figures included in the Impact Statement.</p>

	<ul style="list-style-type: none"> • socioeconomic data in a well-documented data file; • input and output data from modelling; and • documentation and results of analysis that allow for a clear understanding of analytical methods and for replication of results. <p>These requirements will support of the Government of Canada’s commitment to Open Science and Data and facilitate the sharing of information with the public through the Registry and the Government of Canada’s Open Science and Data Platform. The proponent should contact the Agency to obtain additional direction regarding the format and distribution of the Impact Statement.</p>	
<p>Section 7.7: Extent to which effects are significant</p>	<p>Impact Statement must characterize the residual effects, even if deemed small or negligible, and cumulative effects, using criteria and language most appropriate for the effect.</p>	<p>Given the guidance in the SCC opinion on focusing the IAA on non-trivial issues and the proposed amendments to change the definition of effects in federal jurisdiction to focus on non-negligible adverse effects, it is inappropriate to ask a proponent to document negligible adverse effects within federal jurisdiction.</p>
<p>Section 8.1: Meteorological environment</p>	<p>Impact Statement must provide reference to sources (and unique weather station identifiers) for hourly meteorological data (wind speed and direction, air temperature, dew point temperature or humidity, air pressure, and</p>	<p>It is unclear why the TISGs are asking for this level of detail for climate and meteorological data. In practice, dispersion modelling will be based on regional Environment and Climate Change Canada (ECC) data, as it tends to be the most reliable and provides a longer data record to support the analysis. MAC</p>

	<p>precipitation data) from a minimum of one year to support dispersion modelling that captures the normal variability of meteorological conditions.</p>	<p>recommends that this requirement be revised to align with the common practice of modelling based on ECCC data.</p> <p>Revisions should recognize that listed data such as dew point temperature, humidity and air pressure may not be needed to conduct accurate modelling.</p>
<p>Section 8.4: Topography, soil and sediment</p>	<p>Impact Statement must describe the historical land use and the potential for contamination of soils and sediments. It also requires the proponent to describe any known or suspected soil or sediment contamination with the study area that could be resuspended, released or otherwise disturbed as a result of the Project.</p>	<p>Given that Great Bear is located in a greenfield area, there is no history of contamination in the project area and there is no risk that past soil or sediment contamination could be resuspended, released or otherwise disturbed. The Detailed Project Description discusses the site's history, noting that there has been no prior production from the Property and there are no historic buildings or facilities on the Project site. For these reasons, MAC recommends that this requirement be removed from the TISG.</p>
	<p>Impact Statement must identify areas or ecosystems that are sensitive or vulnerable to acidification resulting from the deposition of atmospheric contaminants.</p>	<p>This is a new element added to the TISG for Great Bear, which does not appear in the TISG for Crawford Nickel. It is a puzzling addition, as this is a gold project (not a smelter) that will use ultra-low sulphur diesel and is not a risk of producing atmospheric contaminants that result in acidification. Further, if it was a risk, it would be in the purview of provincial regulations that the proponent would be subject to. Given this, it is unnecessary to undertake research to identify the areas or ecosystems that are sensitive or vulnerable to acidification caused by atmospheric contaminants. MAC recommends</p>

		that this requirement be removed from the TISG.
Appendix 1 – Additional Guidance, Atmospheric, Acoustic and Visual Environment	The proponent should engage with experts at ECCC to inform the choice of program to conduct regional air quality modelling of acidifying deposition rates.	As noted above, this type of analysis is not appropriate for this assessment given that air emissions from the project will be required to meet Ontario’s air emissions criteria. MAC recommends that this text be removed from the TISGs.
Section 8.6.1: (Groundwater and Surface Water) Baseline Conditions	Describe and illustrate on one or more topographic maps, at appropriate scales, the drainage basins in relation to key project components. On the map(s), identify all waterbodies and watercourses, including intermittent streams, flood risk areas, wetlands, watershed and sub-watershed boundaries, and direction of flow; <ul style="list-style-type: none"> if applicable, indicate the intended locations of the new water crossings and any watercourse diversions, including the potential diversion of the Dixie Creek; 	As explained in the Detailed Project Description, diversion of Dixie Creek is not proposed at this time.
Section 8.5 Atmospheric, acoustic and visual environment	The Impact Statement must identify and address issues related to the quality of the monitoring data and seasonal variability in the baseline survey and determine ambient contaminant concentrations using complete, exhaustive, and representative monitoring data, collected over an appropriate duration and geographic scope.	It is unclear why complete and exhaustive monitoring data would be required for determining ambient contaminant concentrations. Complete and exhaustive monitoring data requires significant time and resources, not only to collect the data but also for data analysis. One year of representative monitoring data would be sufficient to establish a baseline for this project. Air quality is an issue that falls under provincial jurisdiction, which further reinforces the point above that complete and exhaustive data monitoring is beyond what is necessary to assess the project’s effects in federal jurisdiction.

<p>8.5.1: Atmospheric, Acoustic and Visual Environment, Section 8.5.1 Baseline Conditions</p>	<p>The Impact Statement must provide current ambient noise levels at key receptor points around the Project (e.g. communities, traditional land users within or outside the property boundary, sensitive human receptors and wildlife), including the results of a baseline ambient noise survey and permissible noise levels for each receptor.</p>	<p>Given that the project is located tens of kilometres away from the nearest communities and will need to meet provincial noise requirements at much closer receptors, in-community baseline sound measurements are not appropriate for this assessment. MAC recommends that this section be revised to remove examples of key receptor points:</p> <p><i>provide current ambient noise levels at key receptor points around the Project (e.g. communities, traditional land users within or outside the property boundary, sensitive human receptors and wildlife), including the results of a baseline ambient noise survey and permissible noise levels for each receptor.</i></p>
<p>Section 8.6: Groundwater and surface water</p>	<p>The Impact Statement must provide baseline data for relevant physicochemical parameters and chemical constituents for surface water, groundwater and sediment quality, including:</p> <p>relevant chemical constituents may include major and minor ions, total and dissolved trace metals, radionuclides, total mercury, methylmercury, polycyclic aromatic compounds, nutrients, organic and inorganic compounds, or other compounds of potential concern.</p>	<p>It is unclear why the TISG include radionuclides in the list of aspects requiring baseline assessment for water quality, groundwater and sediment quality given that the project area is not located in an area known for surface content or issues related to radionuclides. This issue was not raised in the Summary of Issues published on September 29, 2023, and appears to be a requirement carried forward from the 2022 generic TISG template. While this may appear to be a minor element compared to the other information requirements for the project, sampling for radionuclides is extremely costly and this service is not provided by all labs in Canada, which can lead to delays.</p> <p>MAC recommends that this requirement be removed from the TISGs.</p>

<p>8.9: Birds, migratory birds, and their habitat</p>	<p>The Impact Statement must describe the potential effects of the Project on birds (migratory and non-migratory birds), their nest and eggs, including, but not limited to, from changes to mortality risk, including as a result of collision of birds (migratory and non-migratory) with project infrastructure, buildings, overhead lines, vehicles, railway operations, as a result of light attraction and from indirect effects, such as increased movement of predators or access to hunting.</p>	<p>The project does not propose railway operations. The requirement to describe the potential effects due to collision with rail operations appears to be an oversight and should be removed from the TISG.</p>
<p>8.8: Fish and Fish Habitat</p>	<p>The Impact Statement must describe the use of fish as country foods, bait, or for other traditional purposes, including a description of the particular species of importance including Walleye, Lake Whitefish, Lake Trout, Lake Sturgeon, and other species identified as important by Indigenous Peoples (refer to section 12.2 Current use of lands and resources for traditional purposes) and whether its consumption has cultural importance for Indigenous Peoples, including medicinal use. All sites used in the LSA or historically important sites for the collection of country foods must be identified and mapped, such as important fishing sites.</p>	<p>It may not be feasible to provide a map of all sites used in the LSA or historically important sites for the collection of country foods, such as important fishing sites, for a number of reasons, including the desire of Indigenous peoples involved to keep this information confidential. This requirement also contradicts guidance elsewhere in the document that emphasize the protection of Indigenous knowledge and community consent for how rights and interests are described in the Impact Statement (see Sections 6.1 and 6.3). MAC recommends that the requirement to provide mapped information be removed.</p>
<p>Appendix 1 - Additional Guidance, Atmospheric, Acoustic and Visual Environment</p>	<p>Baseline data should be taken from existing or new long-term monitoring with representative monitoring data, collected over an appropriate duration (multi-year) and geographic scope.</p>	<p>TISG for other Ontario mining projects do not specify multi-year data collection, nor is multi-year data collection consistent with provincial regulatory requirements. As the Great Bear Project is a</p>

		<p>greenfield location without previous development, there are no significant annual fluctuations in baseline air quality expected. One year of sampling should be sufficient. Further, an additional year or more of data would be a significant cost that would likely not provide additional technical value to the assessment.</p> <p>MAC recommends that “multi-year” be removed from the guidance in this section.</p>
--	--	--