

REGIONAL ASSESSMENT OF THE ST. LAWRENCE RIVER AREA
TERMS OF REFERENCE – DRAFT FOR DISCUSSION

PREAMBLE

These terms of reference provide overall direction on the purpose, scope and deliverables of the Regional Assessment of the St. Lawrence River Area and provide a collective common understanding of the Regional Assessment Working Group's duties.

A regional assessment is a planning tool used to assess the potential effects of multiple existing and potential future developments and activities in a specific geographic region which must be taken into account in all designated project impact assessments. The Regional Assessment will enable more effective and efficient future project assessments and other decision-making processes. The establishment of baseline and targeted conditions will help reduce burden from collecting information for project-level assessments and inform scoping.

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1 CONTEXT

On July 29, 2020, the Mohawk Council of Kahnawà:ke (MCK) submitted a request to the Minister of the Environment (Minister) to conduct a regional assessment of an area of the St. Lawrence River, as per sections 93 to 103 of the *Impact Assessment Act* (IAA).

MCK's request highlighted that notwithstanding the project-based environmental and impact assessments which had been conducted in the region, cumulative effects of development had failed to be thoroughly considered. As a result of the lack of consideration of cumulative effects, MCK is of the opinion that current environmental, and socio-economic conditions should not be used as reference points to assess the impacts of future projects. According to MCK, future impact assessments should strive to enhance the environment at the regional scale, and respond to the historic impacts to the rights and interests of the Mohawks of Kahnawà:ke which have already been incurred.

In his response of October 27, 2020, the Minister determined that there is potential merit in conducting such a regional assessment and that further analysis and engagement would be necessary before deciding to move forward. The Minister instructed the Impact Assessment Agency of Canada (IAAC) to initiate an engagement process with governmental agencies, the MCK and other Indigenous peoples, and non-governmental organizations to help define the nature, scope, objectives and outcomes of a potential regional assessment in the St. Lawrence River.

Following this engagement process, on July 15, 2021, the Minister decided to proceed with the Regional Assessment of the St. Lawrence River Area (SLRA) and instructed IAAC to begin the Planning Phase.

On December 17, 2024, the Minister confirmed his commitment to move forward and authorized the IAAC to conduct the SLRA in partnership with MCK and other interested First Nations in the region.

2 DEFINITIONS

“assessment area” means the geographical extent of the Regional Assessment of the St. Lawrence River Area, as set out in section 4.2 of the present terms of reference. All the activities to be analyzed are included within the assessment area.

“assessment priorities” means key environmental, health, cultural and socioeconomic components, which may be affected by targeted physical activities and complementary activities occurring in the assessment area (selected by the Regional Assessment Working Group, as described in section 4.1 of the present terms of reference).

“baseline conditions” means the state of assessment priorities which represents the minimum environmental and/or socio-economic reference conditions against which to evaluate effects of future projects within the assessment area.

“Chief” means an elected or customary leader of a First Nation designated as a decision-maker within the regional assessment process.

“complementary activities” means existing or foreseeable activities and related stressors which are not subject to impact assessments under the *Impact Assessment Act* but may provide additional regional context in the regional assessment's cumulative effects analysis.

“cumulative effects” means changes to the environment or to health, social, cultural and economic conditions caused by interactions of human activities and natural processes that accumulate over time and space.

“effects” means, unless the context requires otherwise, changes to the environment or to health, social or economic conditions and the positive and negative consequences of these changes (s.2 of IAA).

“enhancement measures” means interventions that, if implemented, may have a net positive impact towards achieving the targeted conditions.

“First Nations partners” means First Nations who are represented in the Regional Assessment Working Group.

“IAA” means the *Impact Assessment Act* (S.C. 2019, c. 28, s. 1).

“IAAC” means the Impact Assessment Agency of Canada.

“Indigenous knowledge” means a living set of complex knowledge systems based on the worldviews of Indigenous Peoples.

Indigenous knowledge reflects the unique cultures, languages, values, histories, governance and legal systems of Indigenous Peoples. It is place-based, cumulative and dynamic. Indigenous Knowledge systems involve living well with, and being in relationship with, the natural world. Indigenous Knowledge systems build upon the experiences of earlier generations, inform the practice of current generations, and evolve in the context of contemporary society.

Different First Nations, Inuit and Métis communities each have distinct ways of describing their knowledge. Knowledge holders are the only people who can truly define Indigenous Knowledge for their communities. It is important to note that some Indigenous communities are struggling to maintain their Indigenous knowledge due to ongoing impacts of colonialism.

“Indigenous peoples” is a collective name for the original peoples of North America and their descendants.

“mitigation measures” means measures to eliminate, reduce, control or offset adverse effects within federal jurisdiction, direct or incidental adverse effects or adverse environmental effects, as defined in section 81, and includes restitution for any damage caused by those effects through replacement, restoration, compensation or any other means (s.2 of IAA).

“priority interventions” means targeted actions identified as having a strongly positive impact towards achieving the baseline conditions and targeted conditions established in the Regional Assessment.

“Regional Assessment” means the regional assessment that the minister authorized the Impact Assessment Agency of Canada to conduct pursuant to sub-paragraph 93(1)(a)(ii) of the *Impact Assessment Act*, in the assessment area and which is the subject to these terms of reference.

“Regional Assessment Working Group” means the group established to conduct the Regional Assessment, which will consist of members delegated by each First Nation partner and Impact Assessment Agency of Canada officials.

“Registry” means the Canadian Impact Assessment Registry established under section 104 (s.2 of IAA).

“report” means the final report provided to the Minister and the Chief(s) pursuant to subsection 102(1) of the *Impact Assessment Act* and further defined in the terms of reference.

“study zone” means the appropriate spatial boundaries for describing and analyzing potential effects, including cumulative effects, on each assessment priority. A study zone could extend beyond the boundaries of the assessment area, as it is explicitly tied to each assessment priority being studied.

“sustainability” means the ability to protect the environment, contribute to the social and economic well-being of the people of Canada and preserve their health in a manner that benefits present and future generations (s.2 IAA).

“targeted conditions” means the states of environmental and/or socio-economic conditions of assessment priorities which are deemed socially and environmentally acceptable and against which to assess effects of future projects within the assessment area and future regional conservation and restoration efforts.

“targeted physical activities” means existing or future physical activities and their related activities within the assessment area that are likely to be subject to federal impact assessments or environmental effect assessments as per s. 82 of the *Impact Assessment Act*, as listed in section 4.2 of the present terms of reference.

3 GOAL AND OBJECTIVES OF THE REGIONAL ASSESSMENT

3.1 Goal

The main goal of this Regional Assessment is to gain a deeper insight into the state of the St. Lawrence River within the assessment area¹ by assessing the relationships between targeted physical activities, complementary activities, and the ecosystems within which they operate. In this way, a set of baseline and targeted conditions, which take into account both Indigenous knowledge and modern Western science, can be established to better evaluate the effects of activities. This set of conditions will help to identify strategies for these activities and other efforts to achieve environmental and social gains that improve upon present day conditions in an efficient, collaborative manner.

3.2 Objectives

a) Provide regional context for the assessment area.

- Describe spatial and temporal scope defined in section 4;
- Describe assessment priorities defined in section 4;
- Identify high ecological and cultural value locations currently supporting / sustaining assessment priorities.

¹ Some assessment priorities could have a larger study zone than the assessment area.

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- Describe targeted physical activities and complementary activities and their evolution over time.
- Provide an understanding of the organization of the marine transportation sector in the assessment area and give a thorough overview of the relationships between the current facilities.
- Compile, and review available data, information and knowledge to characterize and establish baseline conditions of assessment priorities in the assessment area or study zones;
- For each Indigenous community that may be affected by targeted physical activities and complementary activities, establish targeted conditions / portraits of land-marine uses and rights practiced;
 - To take into account their unique context, each community will be solicited to develop their respective targeted conditions.

b) Provide an understanding of current positive and adverse effects of targeted physical activities and complementary activities on environmental, health, social, cultural and economic assessment priorities.

- Compile and describe existing information (current knowledge and scientific literature) related to the effects, both positive and adverse, of targeted physical activities and complementary activities in the assessment area on the assessment priorities described in section 4 and on Indigenous peoples, including on the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982* and the *United Nations Declaration on the Rights of Indigenous Peoples*;
- Describe potential effects that may result from malfunctions and accidents related to targeted physical activities.

c) Provide an understanding of cumulative effects in the region.

- Provide an overview of foreseeable and potential future targeted physical activities, including their expected locations in the assessment area.
- Provide a description of areas already identified as highly affected by cumulative effects.
- Identify and analyze potential effects due to the targeted physical activities in combination with the effects of complementary activities (to be selected by the Regional Assessment Working Group as appropriate) that will or may affect the assessment priorities:
 - Select the spatial and temporal boundaries of study zones appropriate for each assessment priority;
 - Describe existing and potential cumulative effects on the assessment priorities caused by the interactions of human activities and natural processes that accumulate over time and space;
 - Describe how climate changes can influence cumulative effects; and
 - Based on the analysis of cumulative effects, identify any assessment priorities and locations that may be of concern / may be below targeted conditions related to these effects.
 - Identify high ecological and cultural value locations currently supporting / sustaining assessment priorities.

d) Identify information and knowledge gaps and opportunities to address them.

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- Identify and analyze information, data and knowledge gaps, focusing on assessment priorities, and any related gaps that may hinder the identification of baseline conditions or the conduct of impact assessments of the targeted physical activities in the assessment area.
- Make recommendations on the methods to fill information and knowledge gaps, to improve the effectiveness and efficiency of impact assessments in the assessment area.

e) Identify and recommend mitigation measures, follow up measures and other approaches including priority interventions and enhancement measures that would benefit assessment priorities².

- Provide an overview of the different successes and lessons learned from other jurisdictions in the implementation of mitigation measures aimed at preventing or reducing effects of similar physical activities.
- Recommend mitigation measures or approaches that are technically and economically feasible which would address potential adverse effects of future targeted physical activities in the assessment area.
- Recommend other feasible measures such as:
 - priority interventions that could have a strong, positive impact on achieving baseline conditions and/or targeted conditions;
 - enhancement measures to create and maximize potential positive effects of targeted physical activities in the assessment area; and
 - precautionary measures that can be applied to address concerns associated with gaps (e.g. additional studies recommended).

Note that even if the Regional Assessment may highlight how complementary activities contribute to cumulative effects in the assessment area, and how they may hinder the achievement of targeted conditions, it cannot make recommendations regarding complementary activities. This ensures that the Terms of Reference comply with the requirements of the Impact Assessment Act and respect federal-provincial jurisdiction.

f) Describe how the findings and recommendations of the Regional Assessment could inform future planning and permitting processes for targeted physical activities in a manner that fosters sustainability and restoration and enhances the effectiveness and efficiency of their impact assessments.

- Describe how to consider, implement or otherwise address the Regional Assessment findings and recommendations to enhance the effectiveness and efficiency of future project-based impact assessments in the assessment area as well as other decision-making processes.
- Share knowledge and data gathered as well as findings of the regional assessment to support the collection of information for project-level assessments and inform scoping.

² Note that the recommendations made may be applicable outside the assessment area.

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- Establish approaches for proponents when undertaking project-based impact assessments to contribute to achieving baseline and targeted conditions, with special consideration of priority interventions and enhancement measures identified through the Regional Assessment.
- If a follow-up program is recommended by the Regional Assessment Working Group, that program should at a minimum, consider and incorporate any new or updated information that becomes available after submission of the Report, to help ensure that the Regional Assessment remains current.

g) Gender-based Analysis Plus

- The Regional Assessment Working Group will assess gender-based analysis plus considerations (i.e., diverse and vulnerable population groups) and make recommendations on the way future impact assessment should account for and address these considerations.

4 SCOPE OF THE REGIONAL ASSESSMENT

4.1 Assessment priorities

Regional assessments assess changes to the environment or to health, social, cultural and economic conditions, and the positive and negative consequences of these changes. They are not limited to adverse effects within federal jurisdiction that may be caused by physical activities. The Regional Assessment Working Group will consider the following assessment priorities that may be affected by targeted physical activities and complementary activities in the assessment area, including changes to:

a) environment:

- Water quality and quantity;
- Air quality and Greenhouse gas emissions;
- Soil and sediment quality;
- Wetlands;
- Wildlife and wildlife habitat, including species at risk, migratory birds, and fish and fish habitat;
- Flora, including species at risk;
- Shoreline integrity
- Sensitive and protected areas (existing and proposed)

b) health, social, cultural and economic conditions:

- Community well-being (health, psycho-social conditions, attachment to the territory, cultural and spiritual aspects, visual landscape);
- River and shoreline uses (occupation, accessibility, security, non-commercial activities); and
- Activities (commercial and recreational fishing, hunting, recreational and tourism activities, transportation).

c) In addition to the elements listed above, changes specific to Indigenous peoples:

- The rights and interests of Indigenous peoples, including the usage of lands for the exercise of rights and traditional activities, within the assessment area and study zone(s).
- Important components that support the exercise of rights and traditional activities including stewardship rights and responsibilities, such as:
 - Access and connection to lands and resources;

- Experience of the Territory;
- Resource quantity, quality, sufficiency and food sovereignty;
- Elements and sites of archaeological, cultural or ceremonial significance;
- Intergenerational transmission, including knowledge, language and culture.

4.1.1

The list of assessment priorities may be modified, if necessary, by the Working Group, following engagement with Indigenous peoples and organizations, the public, and governmental and non-governmental organizations.

4.2 Activities

The Regional Assessment Working Group will focus on activities in the assessment area, and the potential effects of these activities. The cumulative effects analysis will consider the relationship of, and potential interactions between, the effects of targeted physical activities and those of complementary activities.

Non exhaustive list of targeted physical activities (i.e. designated projects or activities on federal lands)

- Port facilities
- Navigational aid structures
- Bridges
- Construction and real estate development
- Dams and reservoirs
- Dredging and sediment management
- Backfilling
- Erosion control infrastructures (e.g. riprap, low walls)
- Wildlife management (compensation projects)

Non exhaustive list of complementary activities:

- Agricultural runoff
- Dams and reservoirs
- Dredging and sediment management
- Backfilling
- Navigation activities³
- Recreational activities
- Water intakes and municipal and industrial discharges, including sewage overflows and treatment plant effluents
- Power generation
- Urban runoff (e.g. road salts)
- Resource harvesting (commercial and recreational fishing, hunting, seaweed harvesting, aquaculture, hatcheries...)
- Erosion control infrastructures
- Shoreline hardening
- Land/riverbank privatization

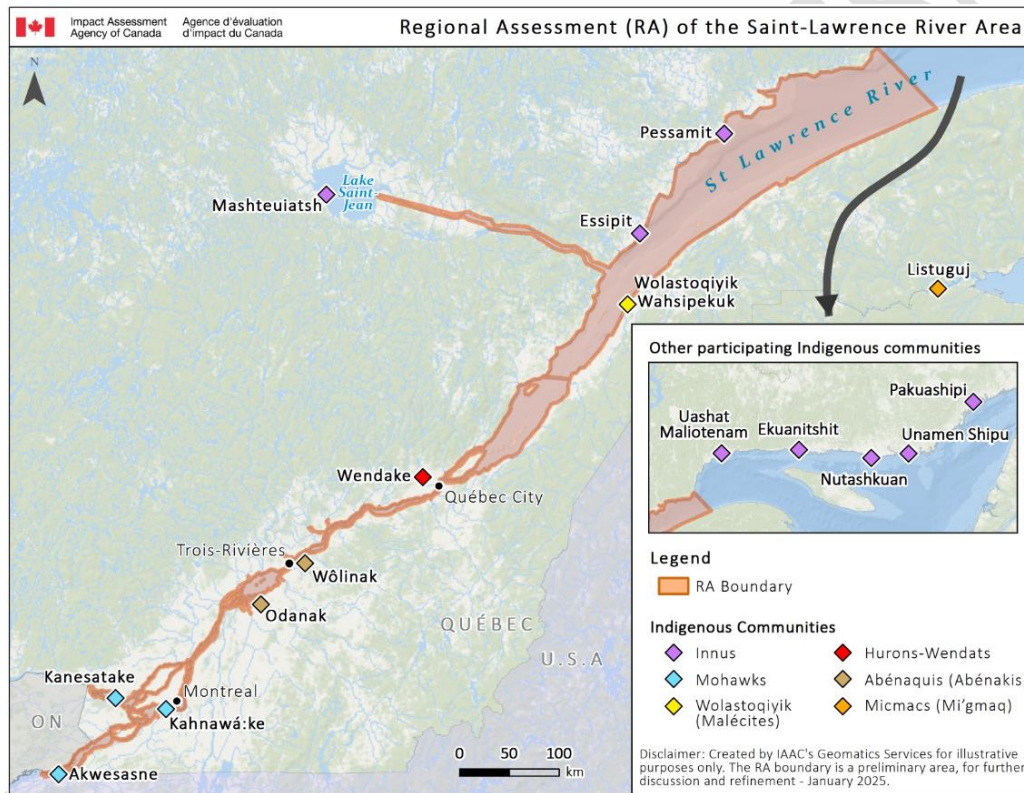
³ Navigation activities include commercial vessels, cruise ships, ferries, fishing boats, and pleasure craft; the location, intensity, noise and/or movement of these various activities can be sources of environmental stress.

4.2.1

The list of activities may be modified, if necessary, by the Working Group, following mobilization with Indigenous peoples and organizations, the public, and governmental and non-governmental organizations.

4.3 Assessment area

The assessment area covers the fluvial portion of the St. Lawrence River and the St. Lawrence Estuary between the Ontario-Québec border and Pointe-des-Monts on the north shore and Cap-Chat on the south shore, and the Saguenay River.



5 STRUCTURE OF THE REGIONAL ASSESSMENT

Regional Assessment Working Group

5.1 A working group will be established to conduct the Regional Assessment in accordance with the IAA and these terms of reference and will be supported by various groups, organizations and experts. See graphic of the structure in Appendix 1.

5.2 The Regional Assessment Working Group will consist of members, delegated by each First Nation Partner and officials from the IAAC, who have diverse expertise or

experience which may be relevant to conducting regional assessments or knowledge of First Nations context. The First Nations currently involved are:

- Mohawk Council of Kahnawà:ke
- Mohawk Council of Kanesatake
- Conseil tribal W8banaki
- Nation huronne-wendat
- Première Nation des Pekuakamiulnuatsh
- Première Nation des Innus Essipit
- Première Nation des Innus de Pessamit
- Première Nation des Innus de Nutashkuan
- Première Nation Wolastoqiyik Wahsipekuk

5.3 To streamline the work of the Regional Assessment Working Group, sub-working groups may be identified.

5.4 The Regional Assessment Working Group may conduct additional studies if they deem necessary, considering suggestions received, applicable timelines, and available resources for the Regional Assessment.

5.5 The IAAC will be responsible for providing the administrative support required for work carried out by the Regional Assessment Working Group for the conduct of the Regional Assessment.

Advisory groups and subject-matter experts

5.6 The Regional Assessment Working Group will seek information and advice from federal authorities, industry, non-governmental organizations, academics, and individuals (both Indigenous and non-Indigenous) on matters relevant to the conduct of the Regional Assessment.

5.7 To achieve its purpose and objectives, the Regional Assessment Working Group can establish a number of advisory groups, from which it will seek information and advice.

5.8 The Regional Assessment Working Group will request experts and knowledge holders, as appropriate, to collaborate and share relevant knowledge and experience and make recommendations to the Regional Assessment Working Group. The role of these advisory groups and subject-matter experts may vary depending on the specific needs, work or expertise required and requested by the Regional Assessment Working Group. This may include:

- Assisting the Regional Assessment Working Group in identifying, accessing, and analyzing information and knowledge that is relevant to the Regional Assessment;
- Identifying and evaluating information and knowledge gaps, and recommending approaches to address them;
- Providing and supporting the consideration of Indigenous and scientific knowledges as equivalent;
- Identifying and analyzing scientific, technical, cultural and socio-economic information as part of the conduct of the Regional Assessment; and
- Supporting the Regional Assessment Working Group in developing its findings and recommendations.

- 5.9 An individual or organization may participate in one or more advisory groups. Subject-matter experts will be identified by the Regional Assessment Working Group. This may be by way of a public call for interest through which interested individuals or organizations will provide information on their relevant expertise, qualifications and affiliations.
- 5.10 Involvement in advisory groups will not restrict any individual's or organization's participation in engagement activities as part of the Regional Assessment.
- 5.11 The composition and activities of these advisory groups may vary depending on the needs, work or expertise required and requested by the Regional Assessment Working Group.

6 INDIGENOUS AND PUBLIC PARTICIPATION

- 6.1. The Regional Assessment Working Group will ensure opportunities are provided to Indigenous peoples and the public to participate meaningfully in the Regional Assessment which includes the sharing of information, knowledge and perspectives which may be relevant to the Regional Assessment, and to bring forward and share Indigenous knowledge, information and perspectives in a collaborative manner.
- 6.2. The Regional Assessment Working Group will engage parties from diverse backgrounds who may have information, knowledge or interests relevant to the Regional Assessment. These parties include Indigenous peoples, the public, industry associations and businesses, environmental and community organizations, research and academic institutions, and any other individuals or groups with information and interests relevant to the Regional Assessment who wish to participate.
- 6.3. The Regional Assessment Working Group will develop and implement engagement plans, by taking into account feedback received from Indigenous peoples and the public. Once completed, these engagement plans will be posted on the Registry and updated regularly by the Regional Assessment Working Group to ensure that participants are aware of planned and upcoming engagement activities.
- 6.4. The Regional Assessment Working Group will take into account Indigenous peoples' preferences to facilitate the inclusion of Indigenous knowledge, such as meetings, community visits and sharing circles. Any Indigenous knowledge that is shared in confidence is considered confidential and will not knowingly be, or be permitted to be, disclosed without written consent in accordance with section 119 of the IAA.
- 6.5. The Regional Assessment Working Group will respect the Indigenous knowledge's original formats and sharing processes, such as songs, stories, and ceremonies, and plan to incorporate Indigenous symbology and toponymy relevant to the assessment area and study zones.
- 6.6. Communication materials posted to the Registry will be provided in both French and English. If needed, all other communication and outreach materials, as well as simultaneous translation services, will be provided in Indigenous languages upon request.

7 PROCESS AND REPORT

- 7.1 The Regional Assessment Working Group will communicate and provide the draft and the final version (digital and hard copies) of its report in French and in English.
- 7.2 The Regional Assessment Working Group will provide summaries of its report in Indigenous languages upon request.
- 7.3 The Regional Assessment Working Group will submit quarterly status reports to the Chief(s) and the Minister.
- 7.4 The Regional Assessment Working Group will hold a public comment period on the draft Regional Assessment report prior to finalization.
- 7.5 The Regional Assessment Working Group will complete the Regional Assessment, including the submission of its Final Report concurrently to Chief(s) and the Minister, within 24 to 30 months (TBC by the Working Group) of the establishment of these Terms of Reference.
- 7.6 The Agency will post a copy of the final report on the Registry and notify Indigenous peoples and the public when it is made available.
- 7.7 The Regional Assessment Working Group may include a digital component as part of its report, such as a Geographic Information System application, to present the information in a way that is best accessible to the public. The Regional Assessment Working Group will clearly identify this information in the report, list its sources, and indicate how it may be obtained.
- 7.8 Subject to provisions of section 7.12, the Regional Assessment Working Group will ensure that the information used to conduct the Regional Assessment is made available to the public.
- 7.9 The Regional Assessment Working Group will take into account and include scientific information, Indigenous knowledge and community knowledge.
- 7.10 Existing information and knowledge include, but is not limited to, that contained in any past or ongoing impact assessments, any information or knowledge provided by government, Indigenous peoples and organizations, non-government organizations, industry, academia and research entities, or the public.
- 7.11 Any Indigenous knowledge that is shared in confidence is considered confidential and will not knowingly be, or be permitted to be, disclosed without written consent in accordance with section 119 of the IAA. Analyses, recommendations and findings based on confidential Indigenous knowledge should be justified and explained in general terms in the final report, so that the public should be able to understand the Regional Assessment Working Group's reasoning.
- 7.12 In its final report, the Regional Assessment Working Group will:
 - describe the process by which the goals and objectives of the Regional Assessment were achieved and identify any outstanding items or shortcomings and recommended follow-up actions;
 - set out how shared Indigenous knowledge was taken into account with respect to the Regional Assessment;
 - include a summary of public and community engagement activities, their outcomes, and how feedback was integrated in the report; and

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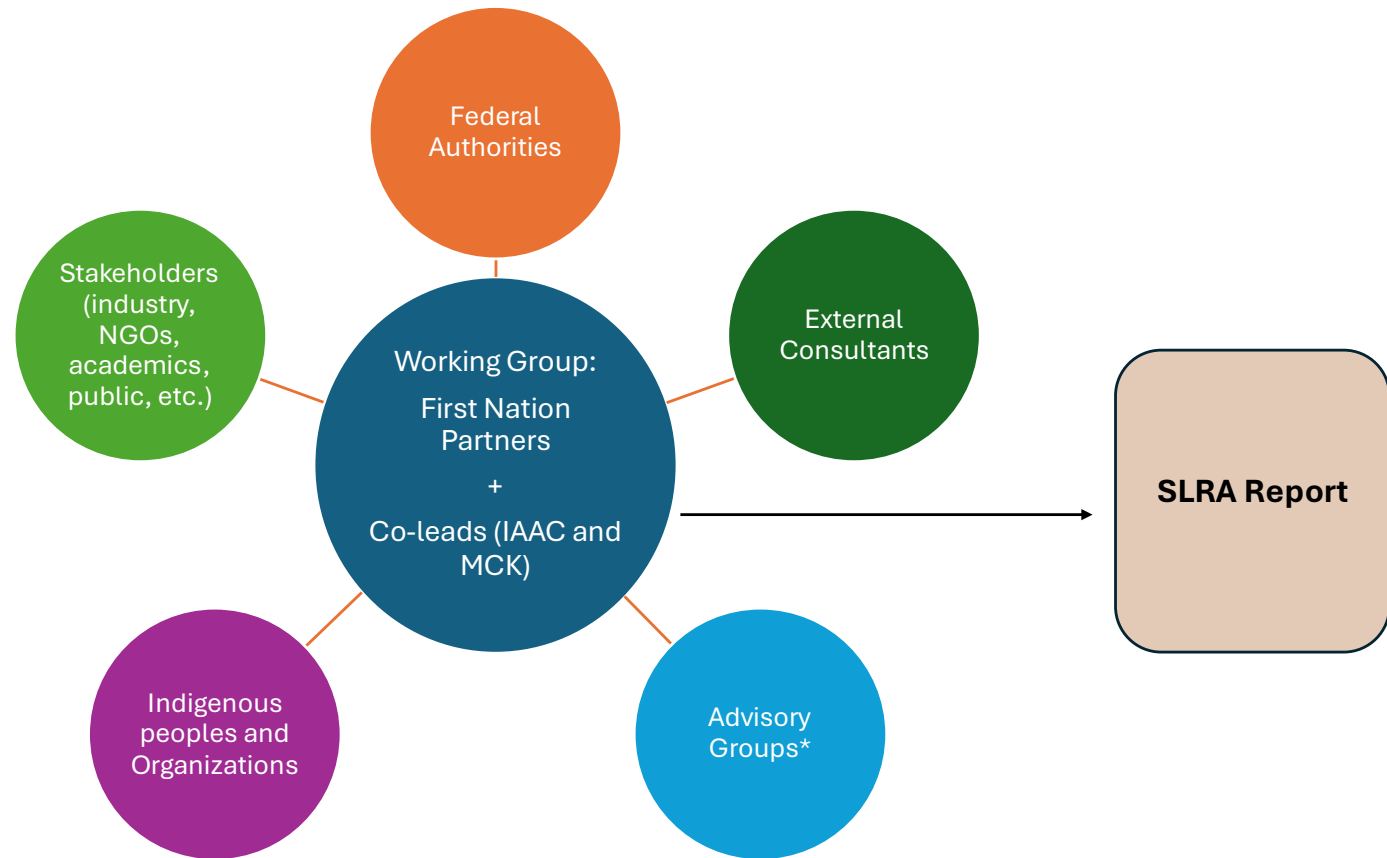
- present recommendations, results and findings as required to meet the goal and objectives of the Regional Assessment.

8 AMENDMENTS

8.1 Other than the changes to the list of assessment priorities and activities, provided for at sections 4.1.1 and 4.2.1, these terms of reference may be amended by way of a written memorandum, executed by and in agreement with the Minister and the Chief(s).

DRAFT FOR DISCUSSION

APPENDIX 1 –



** Advisory Groups are composed of representatives from multiples backgrounds. The specific number of Advisory Groups to be determined.*

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