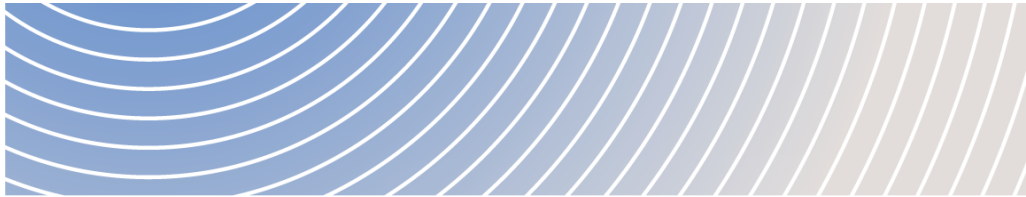


Analysis Report



DESIGNATION REQUEST FOR THE NORTHVOLT SIX COMPLEX
BATTERY RECYCLING PLANT PROJECT IN QUEBEC PURSUANT TO
THE *IMPACT ASSESSMENT ACT*

December 19, 2024



Agence d'évaluation
d'impact du Canada

Impact Assessment
Agency of Canada

Canada

© His Majesty the King in Right of Canada, represented by the Minister of the Environment and Climate Change, 2024.

This publication may be reproduced without permission for personal or internal use, provided the source is fully acknowledged. However, multiple copy reproduction of this publication in whole or in part for purposes of redistribution requires prior written permission from the Impact Assessment Agency of Canada, Ottawa, Ontario K1A 0H3 or information@iaac-aeic.gc.ca.

Catalogue no.: En106-276/2024E-PDF

ISBN 978-0-660-74164-2

The document is also published in French under the title: *Rapport d'analyse – Demande de désignation du projet d'usine de recyclage de batteries du complexe Northvolt Six au Québec conformément à la Loi sur l'évaluation d'impact*

Table of Contents

- Purpose 1
- Context of Request 1
- Project Context.....2
 - Project overview2
 - Project components and activities3
- Analysis of Designation Request4
 - Authority to designate the project4
 - Existing legislative mechanisms5
 - Adverse effects within federal jurisdiction8
 - Direct or incidental adverse effects 13
 - Public concerns 13
 - Adverse impacts on the rights of Indigenous peoples..... 14
 - Other considerations 15
 - Regional and strategic assessments 15
- Conclusion..... 16

Purpose

The Impact Assessment Agency of Canada (IAAC) has prepared this report for the response to the designation request for the Northvolt Six battery manufacturing complex, of which only the battery recycling plant is eligible for designation in accordance with section 9 of the amended *Impact Assessment Act* (IAA).

Context of Request

On June 25, 2024, the Minister of the Environment and Climate Change (the Minister) received a designation request for the entire Northvolt Six battery manufacturing complex proposed by Batteries Northvolt Nord-Amérique Inc. (the proponent), submitted by the group Mères au Front (the requester). In that request, the requester raises concerns about the Richelieu River, fish and fish habitat, and certain species at risk, including migratory birds. On September 25, IAAC's Vice President of Operations, on behalf of the Minister, responded to the requester, stating that two of the three components of the Northvolt Six complex – the battery cell component and assembly plant and the crushing and sorting facility – cannot be designated under subsection 9(1) of the IAA, as the carrying out of these two physical activities has substantially begun in the winter of 2024 (<https://iaac-aeic.gc.ca/050/evaluations/document/159211?culture=en-CA>). Consequently, this analysis report focuses only on the battery recycling plant, referred to as "Revolt" in some other documents in the public domain.

On September 26, 2024, IAAC sent the proponent a letter informing it of the designation request and asking for information on the Northvolt Six complex battery recycling plant project (the project). In addition, IAAC requested advice or input from Environment and Climate Change Canada (ECCC), Fisheries and Oceans Canada (DFO), Health Canada (HC), Transport Canada (TC), Innovation, Science and Economic Development Canada (ISED), Ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs (MELCCFP) du Québec and the Mohawk (Kahnawà:ke, Kanesatake, Akwesasne) and W8banaki (Wôlinak et Odanak) First Nations.

The proponent responded to IAAC on October 16, 2024. IAAC has received advice on the applicable legislative mechanisms and the potential effects of the battery recycling plant project from ECCC, DFO, HC, TC, ISED and MELCCFP. IAAC also received responses from the Mohawk Council of Kahnawà:ke (MCK) and the W8banaki Tribal Council.

Project Context

Project overview

Batteries Northvolt Nord-Amérique Inc. is proposing the construction and operation of a battery recycling plant on the territory of the City of Saint-Basile-le-Grand, Quebec (Figure 1). As proposed, the project aims to recover metals from end-of-life batteries and production residues from the Northvolt Six battery manufacturing complex for reuse in the production of new battery cells for the electric vehicle market.

The battery recycling plant project is located in an industrial zone according to the Vallée-du-Richelieu's Regional County Municipality Development plan and By-Law No. U-220 of the City of Saint-Basile-le-Grand.



Figure 1: Approximate location of the Northvolt Six complex battery recycling plant, identified by the red star

Source: Map created on October 24, 2024 by the Geomatics Services of the Impact Assessment Agency of Canada, for illustrative purposes only.

Project components and activities

The proposed battery recycling plant would occupy approximately 7.2 hectares of flat, undeveloped land in the southeastern portion of the 170-hectare Northvolt Six complex property bordering the Richelieu River (figure 2). Construction is scheduled to start in 2026, with the beginning of operations set for 2028.



Figure 2: Location of the battery recycling plant marked in red

Source: Ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs. Environmental Assessment Registry. Project notice. Batteries Northvolt Nord-Amérique Inc., Revolt battery recycling plant, published on 2024-05-03. Public domain. Consulted on 2024-10-21. <https://www.ree.environnement.gouv.qc.ca/dossiers/3211-14-047/3211-14-047-1.pdf> (French only)

The hydrometallurgical process to be used at the battery recycling plant would enable metals to be progressively extracted from the black mass resulting from the crushing of battery cells (recycling capacity of 45,000 tonnes/year). These metals would be extracted in the form of metal salts and reused in the production of new cells. According to the proponent, the activities resulting from this process would reduce the demand for virgin raw materials, the quantity of residual materials to be disposed of, and the environmental footprint of the produced batteries.

The plant's products would be as follows (production capacity shown in brackets):

- mixed nickel-manganese-cobalt sulfate solution (87,500 tonnes/year);
- lithium hydroxide monohydrate (14,000 tonnes/year);
- sodium sulfate (75,000 tonnes/year);
- graphite (25,000 tonnes/year);
- manganese hydroxide (4,500 tonnes/year);
- copper (1,500 tonnes/year).

The black mass would be transported by truck between the on-site crushing and sorting facility and the recycling plant. Lithium phosphate (800 tonnes/year) and materials that do not meet quality standards would also be transported from the cathode active material manufacturing plant to the recycling plant, where they would be recycled. Products from the recycling process will be used mainly on site, in the adjacent cathode active material manufacturing plant.

Other off-site raw materials and reagents would be transported to the plant, while by-products and residual materials generated by the recycling process would be transported off-site.

The water required to operate the battery recycling plant would be supplied by the water intake of the Northvolt Six complex, while the process effluent would be routed to the discharge pipe of the same complex. The water intake and effluent infrastructures that would be connected to the Richelieu River are part of the authorizations requested for the battery production plant. Process effluent would be treated to meet applicable discharge requirements.

The life expectancy of the battery recycling plant is estimated at between 30 and 50 years. Upon reaching the end of its useful life or ceasing operations, the proponent would shut down and dismantle the recycling plant's infrastructure in accordance with the laws and regulations in effect at the time of closure.

Analysis of Designation Request

Authority to designate the project

Under subsection 9(1) of the *Impact Assessment Act*, the Minister may designate a physical activity that is not prescribed by the *Physical Activities Regulations* and if the Minister is of the opinion, the carrying out of that physical activity may cause adverse effects within federal jurisdiction or direct or incidental adverse effects. In accordance with subsection 9(2) of the IAA, in making the decision on whether to designate the Project, if the Minister is of the opinion that the carrying out of the physical activity may cause adverse effects within federal jurisdiction or direct or incidental adverse effects, he may consider public concerns related to the adverse effects within federal jurisdiction, adverse impacts that the physical activity may have on the rights of Indigenous peoples, and whether a means other than an impact assessment exists that would permit a jurisdiction to address the adverse effects.

The Northvolt Six complex battery recycling plant project, as described in the information provided by the proponent, does not correspond to any physical activity described in the *Physical Activities Regulations*, and is therefore not designated by it.

According to subsection 9(7) of the *Impact Assessment Act*, the Minister may not exercise its power to designate a physical activity if (a) the carrying out of the physical activity has substantially begun, or (b) a federal authority has exercised a power or performed a duty or function conferred on it under any Act of Parliament other than the IAA that could permit the physical activity to be carried out, in whole or in part. Under subsection 154(1) of the IAA, the Minister may, subject to any terms and conditions that the Minister specifies, delegate to IAAC any powers, duties, or functions that the Minister is authorized to exercise or perform under the IAA. The Minister delegated the powers under section 9 of the IAA, including the power to issue a designation Order, to the President. IAAC is of the view that the President may consider designating the Project pursuant to subsection 9(1) of the IAA as the carrying out of the Project has not substantially begun and no federal authority has exercised a power or performed a duty or function that would permit the Project to be carried out, in whole or in part.

Existing legislative mechanisms

The main federal and provincial legislative mechanisms that are or may be relevant to the Northvolt Six complex battery recycling plant project are summarized below.

The battery recycling plant is subject to provincial assessment under the Quebec government's environmental impact assessment and review procedure. Documents relating to this assessment are available on the MELCCFP Environmental Assessment Registry (French only); https://www.ree.environnement.gouv.qc.ca/projet.asp?no_dossier=3211-14-047).

Federal legislative mechanisms

Fisheries Act

As part of the Fish and Fish Habitat Protection Program, DFO examines the effects of projects on fish and fish habitat, ensuring compliance with the *Fisheries Act* and the *Species at Risk Act* (SARA). Through this program, DFO can provide the proponent with specialized information or knowledge to avoid and mitigate the project's negative impacts on fish and fish habitat.

An authorization under the *Fisheries Act* would be required from DFO if the project is likely to result in fish mortality, and/or the harmful alteration, disruption or destruction of fish habitat. The authorization procedure includes consultation with Indigenous groups.

In addition, section 36(3) of the *Fisheries Act*, administered by ECCC, prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulations or other forms of federal legislation.

Migratory Birds Convention Act, 1994

The *Migratory Birds Convention Act of 1994* (MBCA) protects migratory birds, their eggs and nests, wherever they may be. This law prohibits the disturbance or destruction of migratory bird nests and eggs. It also prohibits the discharge of harmful substances into waters or areas frequented by migratory birds, or into a place from which substances may enter such waters or areas.

Species at Risk Act

DFO can provide the proponent with specialized information or knowledge on the assessment of effects on aquatic species at risk and their habitat, under the *Species at Risk Act*, other aquatic species at risk and aquatic invasive species. A permit may be required by DFO for activities likely to have an impact on aquatic species at risk.

Species that are both migratory birds protected under the MBCA and species listed in Schedule 1 of SARA as endangered, threatened or extirpated are protected under both Acts. For these species, a permit may be required by ECCC for activities likely to affect individuals, their residences or designated critical habitat. For some species, inactive nesting and/or roosting sites are protected under SARA.

SARA also includes provisions for other species listed in Schedule 1 of SARA (species that are not migratory birds or aquatic species) and that are likely to be affected by activities on federal lands. These provisions do not apply to the battery recycling plant project, since it is not located on federal land.

Canadian Navigable Waters Act

An application for authorization may be required from TC under the *Canadian Navigable Waters Act* (CNWA) when a project involves navigable waters listed in the schedule to the *Canadian Navigable Waters Act*. The authorization procedure includes consultation with Indigenous communities. The Richelieu River is included in the schedule to this legislation; however, the proponent states that no work in the Richelieu River is planned for the recycling plant project, which would use the water intake and discharge infrastructure built along with the other components of the Northvolt Six complex.

Provincial legislative mechanisms

Environmental Quality Act

The *Environment Quality Act* (chapter Q-2) provides for an authorization system based on the environmental risks associated with the projects to be carried out. High-risk projects are subject to the environmental impact assessment and review procedure (EIARP) and require authorization from the Quebec government. The framework for the stages to be completed, and the list of projects subject to the procedure, are set out in the *Regulation respecting the environmental impact assessment and review of certain projects*. The MELCCFP is responsible for applying this procedure.

The battery recycling plant project is subject to the EIARP. In April 2024, the proponent submitted a project notice to MELCCFP. On April 30, 2024, MELCCFP issued a directive to the proponent to carry out an environmental impact assessment. A public consultation on the issues was held from May 8, 2024 to June 7,

2024, and the results of this consultation are posted on the MELCCFP Environmental Assessment Registry. At the time of writing, the proponent is preparing the impact assessment statement for the battery recycling plant project.

The EIARP provides for several phases, including the admissibility phase for the proponent's Impact Statement, and the environmental acceptability phase for the project, during which the MELCCFP seeks expert advice from various provincial and federal departments and agencies. The MELCCFP mentions that the EIARP also provides for several opportunities for public consultation, some of which are conducted by the *Bureau d'audiences publiques sur l'environnement* (BAPE¹), as well as an Indigenous consultation process, when required. In addition to the analysis report, the minister responsible for the MELCCFP takes into consideration, where applicable, the BAPE report or the results of the Indigenous consultation carried out for the project, in order to submit his recommendation to the Government of Quebec, which then decides whether to authorize the project.

In the event of a favourable decision by the Quebec government (order in council), the proponent may then be required to obtain one or more authorizations from MELCCFP under section 22 of the *Environment Quality Act* before starting work related to the recycling plant. When these authorization requests are at the analysis stage, additional consultations may be held with experts to ensure compliance with the conditions set out in the order in council.

Act respecting threatened or vulnerable species

The *Act respecting threatened or vulnerable species* (ARTVS) applies to threatened or vulnerable plant and wildlife species designated in Quebec. It also specifies that wildlife species designated as threatened or vulnerable and their habitats are governed by the *Act respecting the conservation and development of wildlife*.

Act respecting the conservation and development of wildlife

The purpose of the *Act respecting the conservation and development of wildlife* is the conservation of wildlife and wildlife habitat with a view to sustainable development, and the recognition of the right of all persons to hunt, fish and trap in accordance with the law. In particular, the law governs activities carried out in wildlife habitat.

Cultural Heritage Act

The purpose of the *Cultural Heritage Act* is to promote the knowledge, protection, enhancement and transmission of Quebec's cultural heritage, in the public interest and from a sustainable development perspective. This law also governs archaeological excavations and discoveries.

¹ The BAPE is an impartial government body reporting to the MELCCFP. It enables citizens to obtain information and express their views on the projects entrusted to it. It is important to note that BAPE does not have the power to authorize or reject a project. It makes recommendations to the MELCCFP on the basis of concerns raised during public consultation sessions and in submissions.

Adverse effects within federal jurisdiction

Taking into account the opinions and comments received from the proponent, federal authorities, the Quebec government (MELCCFP), the MCK and the W8banaki Tribal Council, IAAC has identified the adverse effects within federal jurisdiction that the carrying out of the battery recycling plant project may cause.

IAAC is of the opinion that the carrying out the battery recycling plant project may result in adverse effects within federal jurisdiction. However, IAAC is of the opinion that existing legislative mechanisms provide a framework to address the adverse effects within federal jurisdiction the project may cause.

Fish and fish habitat

The requester is concerned about the effects the project could have on fish and fish habitat, particularly with regard to the volume of water pumped from the Richelieu River, the quality of the discharged water (temperature and contaminants), as well as the dispersion of contaminants present in the soil during clearing and construction work into the river. The requester also expressed concern about the adverse effects the project could have on the Copper Redhorse, an endangered fish species listed in Schedule 1 of SARA, and its critical habitat in the Richelieu River.

The MCK expressed concern that the project's effects could lead to contamination and degradation of the Richelieu River and its watershed, affecting fish and fish habitat, particularly species at risk listed on Schedule 1 of SARA, such as the Copper Redhorse, Eastern Sand Darter and Hickorynut. IAAC notes that the Copper Redhorse and Eastern Sand Darter are also listed as threatened or vulnerable under the Government of Quebec's ARTVS. As previously mentioned, the ARTVS specifies that wildlife species designated as threatened or vulnerable and their habitats are governed by the Government of Quebec's *Act respecting the conservation and development of wildlife*.

DFO indicated that the battery recycling plant project would take place near critical Copper Redhorse habitat. DFO also indicated that it had received a request from the proponent for a regulatory review concerning the installation of a water intake and outfall system in the Richelieu River and the potential effects of these activities on fish and fish habitat.

ECCC indicated that, during the construction phase, road building, deforestation and excavation activities could have effects on surface and groundwater quality. During the operating phase, the risk of chemical spills, runoff and industrial effluent being discharged into the Richelieu River would be the main potential sources of contaminants in the aquatic environment.

MELCCFP mentions that the EIARP allows to assess the impacts of a project on the various components of the receiving environment, including the impact on fish and fish habitat (impacts arising from project activities such as withdrawal of water from the Richelieu River, management of runoff, discharge of runoff and process water, work in the riparian buffer zone, the shoreline or the floodplain of the Richelieu River, and management of contaminated soils). The impact assessment statement, which the proponent must submit as part of the EIARP, will include a complete fish habitat characterization to assess the battery recycling plant project's impacts on fish habitat, as well as the effectiveness of proposed mitigation or compensation measures. In the case of items within federal jurisdiction, such as fish and fish habitat, MELCCFP consults DFO. Should the

project be authorized at the provincial level, the proponent will have to submit, for approval, an environmental monitoring program that could include water monitoring and monitoring of fish and fish habitat. Additional mitigation measures may be required from the Government of Quebec to ensure the protection of environmental components.

As described above, the proponent states that no work in the Richelieu River is planned as part of the battery recycling plant project, since it will use the water intake and discharge infrastructure that will be built for the other components of the Northvolt Six complex and that will require authorization requests to both MELCCFP and DFO. The proponent adds that it will take into account the concerns raised by indigenous communities and the public with regard to the Copper Redhorse, in particular by planning the installation of pipelines related to this infrastructure outside the 0–4-meters depth zone that constitutes the essential habitat of the Copper Redhorse in the Richelieu River.

IAAC has reviewed the information provided by the requester, MCK, DFO, ECCC, MELCCFP and the proponent. IAAC is of the view that existing federal and provincial legislative mechanisms administered by other jurisdictions (notably the Government of Canada's *Fisheries Act* and the Government of Quebec's *Environment Quality Act*) provide a framework for addressing the adverse effects the battery recycling plant project may cause on fish and fish habitat.

Aquatic species

The battery recycling plant project is not likely to cause changes to aquatic species as defined in SARA 2(1), other than fish, because the project is located hundreds of kilometers from a marine environment and thus cannot affect marine plants.

Migratory birds

The requester expressed concern about the adverse effects the project could cause on migratory birds through the destruction of wetland and woodland habitat they frequent, such as the following species at risk listed on Schedule 1 of SARA: Least Bittern, Bank Swallow, Barn Swallow, Bobolink, Wood Thrush and Canada Warbler. IAAC notes that the Least Bittern and Bobolink are also listed as threatened or vulnerable wildlife species under the Government of Quebec's ARTVS.

The MCK expressed concern about the disruption the project could cause to wildlife migration, particularly that of migratory birds. The MCK mentioned that the loss and destruction of wetlands and deforestation could affect the habitat of several species, some of which are at risk, such as the Least Bittern.

ECCC mentioned, among other things, that activities related to site preparation are likely to have negative effects on migratory birds, such as the destruction of their habitat and the accidental destruction of individuals, nests and eggs. The *Migratory Birds Regulations (2022)* ensure the protection of migratory birds, their eggs and nests, by prohibiting activities likely to harm them, unless a person has a permit or is authorized to do so by regulations.

ECCC mentions that a permit under SARA may be required for activities likely to affect individuals, residences or designated critical habitat of endangered, threatened or extirpated species that are also migratory birds.

ECCC lists a number of migratory bird species with SARA status (Buff-breasted Sandpiper, Bobolink, Wood Thrush, Bank Swallow, Barn Swallow, Chimney Swift, Least Bittern, Lesser Yellowlegs, Eastern Wood-pewee and Eastern Meadowlark), which appear within a 2-kilometre radius of the battery recycling plant project and overlap with most of those listed by the requester (see above).

MELCCFP stated that the EIARP will make it possible to assess the impacts of the battery recycling plant project on the various components of the receiving environment, including migratory birds. The impact assessment statement to be submitted by the proponent as part of the EIARP will include a profile of the avian fauna and specific mitigation measures to avoid mortality and nest destruction during construction. In addition, MELCCFP specifies that it will consult ECCC to obtain its comments and opinions on this area of federal jurisdiction so that they can be taken into account in the analysis of the project. The proponent confirms that non-negligible adverse changes to migratory birds will be addressed in the environmental impact assessment currently underway.

IAAC has reviewed the information provided by the requester, the MCK, ECCC, MELCCFP and the proponent. IAAC is of the view that the existing federal and provincial legislative mechanisms administered by other jurisdictions (notably the Government of Quebec's *Environment Quality Act*) provide a framework for addressing the adverse effects that the battery recycling plant project may cause on migratory birds.

Indigenous peoples

Physical and cultural heritage and structures, sites or things of historical, archaeological, paleontological or architectural significance

The Mohawk Council of Kahnawà:ke (MCK) has stated that the project will result in the alteration of the landscape, affecting their rights to integrity, enjoyment and use of part of their traditional territory. The community pointed out that the Richelieu River valley has numerous archaeological sites of significance to it and stated that there is potential for Indigenous archaeological finds in the project area, despite the site's industrial history.

According to the directive issued to the proponent by MELCCFP under the EIARP, the impact assessment statement is required to include information on landscapes as well as on terrestrial and submerged archaeological heritage, including known sites and potential sectors determined by an archaeological potential study, for which the proponent is encouraged to involve the Indigenous communities concerned. The Quebec government has initiated discussions with the MCK to set up a consultation process for the entire Northvolt Six complex. The proponent is consulting Indigenous communities to address their concerns as part of the impact assessment for the battery recycling plant project.

The purpose of the *Cultural Heritage Act* is to protect cultural heritage and to regulate archaeological excavations and discoveries.

The proponent has indicated that there are no properties, buildings or constructed structures on the site selected for the battery recycling plant project, nor are there any archaeological sites currently “known”, “classified” or “recognized”.

IAAC has considered the views expressed and is of the view that existing federal and provincial legislative mechanisms administered by other jurisdictions (notably the Government of Quebec's *Environment Quality Act*) provide a framework to address the adverse effects that the battery recycling plant project may cause on physical and cultural heritage and on any structure, site or thing of historical, archaeological, paleontological or architectural significance.

Current use of lands and resources for traditional purposes

Within the Iroquois Confederacy, the Mohawk people are considered the Keepers of the Eastern Door, which means they are responsible for dealing with issues that arise on their traditional territory, extending from the mouth of the St. Lawrence River to the Great Lakes, including the area of the Northvolt Six complex. The Mohawk emphasized their responsibility for the conservation and protection of their traditional territory, including waterways, which also involves maintaining a spiritual connection to the land and their stewardship rights and responsibilities to ensure that the connections between species and ecological health are maintained.

The MCK mentioned that the project would result in the disturbance of flora, including edible medicinal plants, fauna and the habitat of these species, some of which are at risk, affecting the exercise of their hunting, fishing and harvesting rights and interests.

The MCK also raised concerns about contamination and degradation of the Richelieu River and its watershed, which could affect fish, fish habitat and the exercise of their fishing rights. They added that deteriorating water quality would also affect their spiritual bond with water, wildlife (especially turtles) and the exercise of their rights and responsibilities in managing these resources. They pointed out that the Spiny Softshell turtle, a species listed in Schedule 1 of SARA, is of great cultural importance to the MCK. IAAC notes that the Spiny Softshell is also listed as a threatened or vulnerable wildlife species under the Government of Quebec's ARTVS.

Finally, the MCK expressed concern about the project's impact on migratory birds, which are essential to maintaining the community's hunting rights.

The directive issued by MELCCFP to the proponent specifies that the provincial impact assessment statement must document the potential impacts of the battery recycling plant project on resource and land use, as well as on the practice of traditional activities for food, domestic, ritual or social purposes (hunting, fishing, trapping, gathering, use of sites of interest, etc.). This directive also specifies that the MELCCFP Indigenous consultation process for the EIARP is guided by established criteria for analyzing impacts on Indigenous lands and resources used for traditional purposes.

The proponent committed to consulting the MCK and other Indigenous communities likely to be affected by the project as part of the impact assessment it is carrying out for the battery recycling plant project.

IAAC has considered the views expressed and is of the opinion that existing federal and provincial legislative mechanisms administered by other jurisdictions (notably the Government of Quebec's *Environment Quality Act*) provide a framework for addressing the adverse effects the battery recycling plant project may cause on the current use of lands and resources for traditional purposes by indigenous peoples.

Health, social and economic conditions

The MCK stated that it has received no information from the proponent, the provincial or federal Crown regarding the potential benefits of the project for the community. The community is therefore taking a precautionary approach and believes that continued environmental degradation and violations of Indigenous rights will have negative impacts on the health, social and economic conditions of community members.

HC has indicated that there is no information on potential contaminants that could be emitted by the battery recycling plant project activities and that could affect human health. Furthermore, HC mentioned that it had no information on the economic impact of the project, other than to say that it would have an “economic benefits for Quebec and the region” during the operating phase. No potential link has been established between the battery recycling plant project activities and socioeconomic changes likely to affect the mental health and well-being of surrounding Indigenous groups.

MELCCFP emphasizes that the provincial procedure (EIARP) makes it possible to assess changes to the health, social or economic conditions of Indigenous peoples. The proponent confirmed that the impacts of the battery recycling plant project on the health, social and economic conditions of Canada’s Indigenous peoples will be addressed in the provincial impact assessment statement. The directive issued by MELCCFP to the proponent specified that the provincial impact assessment statement must include a section on the project’s potential impacts on health, including social and psychosocial impacts, as well as impacts on the demographic profile and economic situation of the communities concerned, including Indigenous communities. The directive also specified that the assessment of potential health impacts will take into account the concentrations or loads of contaminants (in water, atmosphere and soil) to which the population could be exposed. The impact assessment statement must also describe the economic impacts associated with the construction and operation of the facilities, as well as the anticipated benefits in terms of employment or contract opportunities for local and regional communities, including Indigenous communities.

Having reviewed and considered the comments received, IAAC is of the opinion that existing federal and provincial legislative mechanisms administered by other jurisdictions (notably the Government of Quebec’s *Environment Quality Act*) provide a framework for addressing the adverse effects the battery recycling plant project may cause on the health, social and economic conditions of Indigenous peoples.

Federal Lands

The land for the Northvolt Six complex battery recycling plant project was acquired by the proponent in June 2023. The project is not located on federal land, as defined in the IAA.

Pollution of boundary, interprovincial or international waters

IAAC has reviewed the information provided by ECCC and the proponent. As the battery recycling plant project is located hundreds of kilometres upstream from the marine environment, international or interprovincial waters, IAAC considers that it is unlikely that the project would cause pollution resulting in non-negligible adverse changes to boundary, interprovincial or international waters, as defined in section 2 of the IAA.

Direct or incidental adverse effects

Direct or incidental adverse effects are non-negligible adverse effects that are directly linked or necessarily incidental (indirect) to a federal authority's, exercise of a power (e.g. permit or authorization) or performance of a duty or function that would permit the carrying out, in whole or in part, of a physical activity or designated project, or to a federal authority's provision of financial assistance to a person for the purpose of enabling that activity or project to be carried out, in whole or in part.

The battery recycling plant project as described may require the granting of federal financial assistance or the exercise of the following federal powers:

- An authorization pursuant to paragraphs 34.4(2)(b) and 35(2)(b) or 36(3) of the *Fisheries Act* (DFO or ECCC)
- Authorization under the *Species at Risk Act* (DFO or ECCC)
- Financial assistance from the *Strategic Innovation Fund* managed by ISED. This financial assistance would cover all components of the Northvolt Six complex, including the battery recycling plant.

The carrying out of the battery recycling plant project may cause adverse direct or incidental effects, notably through the granting of financial assistance by ISED for the construction of the recycling plant. Some of these effects fall within federal jurisdiction and are discussed in the sections above. IAAC is of the opinion that the adverse direct or incidental effects related to the attributions described in the preceding sections would be limited or resolved through the due diligence of the responsible federal authorities. IAAC is also of the opinion that the existing federal and provincial legislative mechanisms administered by other jurisdictions (notably the Government of Quebec's *Environment Quality Act*) provide a framework for addressing the adverse direct or incidental effects that the recycling plant project may cause and that are related to the powers described above.

Public concerns

The public concerns of which IAAC is aware regarding adverse effects within federal jurisdiction, or adverse direct or incidental effects that the battery recycling plant project may cause, and which differ from those formulated by the requester can be found in a compilation of issues submitted as part of the MELCCFP's public consultation on the battery recycling plant (French only; <https://www.ree.environnement.gouv.qc.ca/dossiers/3211-14-047/3211-14-047-5.pdf>).

According to the MELCCFP, the elements contained in this compilation must be addressed in the provincial impact assessment statement.

IAAC is of the view that existing legislative mechanisms administered by other jurisdictions (notably the Government of Quebec's *Environment Quality Act*) provide a framework for addressing the public concerns it is aware related to the adverse effects within federal jurisdiction – or the direct or incidental adverse effects – that the battery recycling plant project may cause.

Adverse impacts on the rights of Indigenous peoples

The battery recycling plant project is located on the traditional territory of the Mohawk Nation. The project may also affect the traditional territory of the W8banaki Nation, which is bordered to the west by the Richelieu River. The Mohawk Nation and the W8banaki Nation are signatories to the Oswegatchie Treaty of 1760, which recognizes the treaty rights of Indigenous peoples “domiciled” in the St. Lawrence Valley to settled lands, as well as access to traditional hunting and fishing grounds. The Mohawk Nation of Kahnawà:ke is the closest community to the project (about 37 km southwest).

In January 2024, the MCK filed a lawsuit in Quebec Superior Court against the province of Quebec, Canada and Batteries Northvolt Nord-Amérique Inc. The MCK accuses Quebec and Canada of failing to consult it before promising funding for the Northvolt Six complex, and specifically accuses Quebec of issuing authorizations for wetland backfilling and land clearing to prepare the project site, which is located on the community's traditional territory.

The MCK asserted, in its response to IAAC’s request for information, that the project would have potential adverse impacts on their rights as recognized and affirmed by section 35 of the *Constitution Act, 1982*. The Mohawk Nation's rights include commercial trading and other existing treaty rights stemming from the Oswegatchie Treaty of 1760, jurisdictional and other rights as represented by the Covenant Chain and the Two-Row Wampum, as well as rights recognized in the United Nations Declaration on the Rights of Indigenous Peoples.

MCK mentioned the project's potential impacts on the landscape, the water quality of the Richelieu River and its watershed, wetlands, fauna, flora (including fish and fish habitat, migratory birds and turtles) and ecosystems, which could affect their rights to the integrity, enjoyment and use of part of their traditional territory, their hunting, fishing and harvesting rights, as well as their stewardship rights and responsibilities. Finally, the MCK mentioned that it strongly supports the designation of the entire Northvolt Six complex on the basis of actual and potential adverse impacts on their inherent rights and section 35 rights under the *Constitution Act, 1982*.

The W8banaki Tribal Council expressed its dissatisfaction with the lack of information available regarding the project, as well as the tight deadlines given to the First Nation to submit their comments. Nevertheless, the W8banaki Nation has told IAAC that it wishes the battery recycling plant project to be designated under the IAA and to undergo an impact assessment under that legislation. They believe that the project could have negative repercussions on the W8banaki Nation's Indigenous and treaty rights, and that a designation under the IAA, as well as an impact assessment process, would allow them to receive the necessary information and take it into account to determine more precisely how the project could have an impact.

Laws such as the *Fisheries Act* and the *Environment Quality Act* require consultation with potentially affected Indigenous communities to address their concerns about adverse impacts that the battery recycling plant project may have on their rights. ISED works with other federal entities, including DFO and TC, to provide a coordinated federal approach to consultation. The objective of this coordination is to ensure information sharing between departments and to establish, to the extent possible, a one-window federal approach led by ISED for Indigenous consultations on the entire Northvolt Six complex. This consultation would enable First Nations' concerns to be taken into account and appropriate mitigation measures to be found within the framework of any federal power or duty that might be exercised or performed.

The Quebec government mentioned it has initiated preliminary discussions with the MCK to agree on a consultation process for the entire Northvolt Six complex. The objective is to set up a process that will enable both information sharing and the voicing by the MCK of their concerns, including the potential adverse impacts on their recognized and asserted rights.

In addition, the proponent has informed IAAC of its commitment to consulting with Indigenous communities to address their concerns as part of the provincial impact assessment it is currently carrying out for the battery recycling plant project.

IAAC considered the views of the Indigenous communities that submitted comments, namely the MCK and the W8banaki Tribal Council, as well as information provided by the proponent, federal authorities and MELCCFP. IAAC is of the opinion that existing federal and provincial legislative mechanisms administered by other jurisdictions (such as the *Fisheries Act*, the *Environmental Quality Act* and the EIARP) provide a framework for addressing the adverse impacts that the battery recycling plant project may have on the rights of the Mohawks of Kahnawà:ke and the W8banaki Nation.

Other considerations

Cumulative effects

The MCK expressed concern about the cumulative effects to which the project could contribute for the seven generations to come and pointed out that the territory on which it is located is already heavily impacted by industrial development. The community also mentioned the impacts caused by the direct, cumulative and regional loss and degradation of wetlands, which particularly affect their hunting and fishing rights for species that depend on these environments (habitat and life cycle functions).

MELCCFP mentioned that, as stipulated in its ministerial directive, the proponent must include, in its impact assessment statement, the environmental and social components to be covered by the cumulative effects assessment. The proponent must therefore plan mitigation measures for the protection of wildlife, including aquatic fauna and migratory birds, and their habitats, to limit cumulative impacts during construction, operation, closure and dismantling.

After reviewing and considering the information provided by the MCK and MELCCFP, IAAC is of the opinion that the existing legislative mechanism related to the EIARP and the associated consultation process provide a framework for addressing the battery recycling plant project's contributions to cumulative effects.

Regional and strategic assessments

The battery recycling plant project site is not covered by any regional or strategic assessment under the *Impact Assessment Act*.

Conclusion

IAAC considered the information it received as part of the designation request process for the battery recycling plant project to inform its analysis. IAAC:

- 1) is of the view that the carrying out of the project may cause adverse effects within federal jurisdiction or direct or incidental adverse effects.
- 2) considered the factors in 9(2) of the IAA and is of the view that existing legislative mechanisms, some of which include consultation with Indigenous communities and public engagement, provide a framework for addressing public concerns related to the adverse effects within federal jurisdiction or the direct or incidental adverse effects that may be caused by the carrying out of the Project and adverse impacts that the Project may have on the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*.
- 3) is of the view that there is a means, other than a federal impact assessment, such as the federal and provincial legislative mechanisms (notably the Government of Canada's Fisheries Act and the Government of Quebec's Environment Quality Act) that would permit a jurisdiction to address the adverse effects within federal jurisdiction and the direct or incidental adverse effects that may be caused by the carrying out of the Project.