

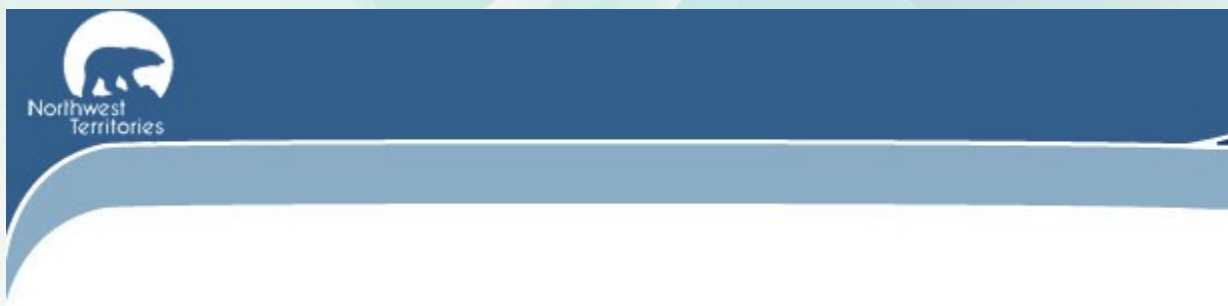


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**Tłıchq All-Season Road Environmental
Assessment and Regulatory Processes –
Lessons Learned**

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SLR Project No.: 209.40742.00000



**December, 2020
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Prepared by
SLR Consulting (Canada) Ltd.
In association with SRM Consulting and NorthWays Consulting

for

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TABLE OF CONTENTS

1.0	INTRODUCTION.....	3
2.0	METHODS	4
2.1	Situational Analysis	4
2.2	Interviews with TASR Project Participants and External Parties	5
	2.2.1 <i>GNWT TASR Project Participants.....</i>	6
	2.2.2 <i>External Parties.....</i>	6
2.3	Review of Lessons Learned from Government Projects in Other Jurisdictions.....	7
2.4	Workshop	10
2.5	Draft Report Validation	10
3.0	SYNTHESIS OF FINDINGS AND LESSONS LEARNED	10
3.1	Whole of Government Approach	11
	3.1.1 <i>Lessons Learned.....</i>	18
3.2	GNWT’s Roles and Responsibilities in the EA Process	19
	3.2.1 <i>Lessons Learned.....</i>	21
3.3	Preparedness for an EA	21
	3.3.1 <i>Lessons Learned.....</i>	23
3.4	Information Requests, Technical Sessions and Public Hearing	23
	3.4.1 <i>Lessons Learned.....</i>	25
3.5	Volume and Quality of Information	26
	3.5.1 <i>Lessons Learned.....</i>	26
3.6	Duty to Consult and Indigenous Engagement	26
	3.6.1 <i>Lessons Learned.....</i>	29
3.7	Communications.....	29
	3.7.1 <i>Lessons Learned.....</i>	32
3.8	Internal GNWT Operational Challenges	32
	3.8.1 <i>Lessons Learned.....</i>	34
3.9	Firewalls	34
	3.9.1 <i>Lessons Learned.....</i>	36
3.10	“Consult-to-Modify” Process	36
	3.10.1 <i>Lessons Learned.....</i>	37
3.11	Post-EA Regulatory Approvals	37
	3.11.1 <i>Lessons Learned.....</i>	38
3.12	Project Timelines	38
	3.12.1 <i>Lessons Learned.....</i>	38
3.13	Treatment of Private vs. Public Sector Proponents.....	39
	3.13.1 <i>Lessons Learned.....</i>	39
3.14	Other Projects Outside of the Mackenzie Valley	39
	3.14.1 <i>Lessons Learned.....</i>	41
4.0	CONCLUSIONS AND RECOMMENDATIONS	42
5.0	ACRONYMS	45
6.0	REFERENCES.....	46

TABLES

Table 1: GNWT TASR Participant Interview Summary.....	6
Table 2: External Parties Interview Summary.....	6
Table 3: Public Registries Searched for Candidate Projects outside of the Mackenzie Valley...	7
Table 4: List of Candidate Projects Selected for Review.....	8
Table 5: Perceived Advantages and Disadvantages of a Whole of Government Approach to EA	13

APPENDICES

Appendix A:	TASR Project Timeline
Appendix B:	Summary of Stakeholder Mapping Analysis
Appendix C:	Stakeholder Mapping: Summary of Key Information Requests (IRs)
Appendix D:	Interview Guide
Appendix E:	Screening of Projects Outside of the Mackenzie Valley

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The Government of Northwest Territories and the SLR Consulting Team acknowledge the efforts of the individuals and organizations who contributed to the completion of the Tłıchq All-Season Road (TASR) Lessons Learned Project. We sincerely appreciate the time taken to prepare for and participate in the interview process. Comments received on the draft report are also gratefully acknowledged.

1.0 INTRODUCTION

The Tłıchq All-Season Road (TASR) Project (the TASR Project or Project) is a major strategic investment in infrastructure for the Government of Northwest Territories (GNWT) and is intended to play an important part in the prosperity and well-being of NWT communities. The Project involves the construction and operation of a 97 kilometre (km) all-season two-lane gravel road beginning at Highway 3 approximately 30 km southwest of Behchokò and extending north to the Community of Whatı. Considered a highway under the Highways Act, the completed Project will include 16 water crossings and will follow a route of existing disturbance created by a winter road alignment that is no longer used. The TASR will cross approximately 17 km of Tłıchq lands while the remaining length will cross territorial lands. The Tłıchq Government had agreed to exchange the 17 km segment of Tłıchq land for an equal area of territorial land to allow for the Project's completion.

The GNWT was the Project proponent. The GNWT was also a decision-maker for the Project, an opportunity afforded by the statutory framework of the Mackenzie Valley Resource Management Act (MVRMA). The Department of Infrastructure (GNWT-INF) led the GNWT's participation in the Environmental Assessment (EA) and regulatory approvals process. Initial applications for land use permits and water licences were submitted to the Wek'èezhıı Land and Water Board (WLWB) in March 2016. The EA for the TASR was initiated by the MVEIRB in July 2016, based on the applications and a Project Description. After referring the project to EA on its own motion, the MVEIRB, developed the Terms of Reference and Adequacy Statement requirements. In January 2017, the GNWT and the Tłıchq Government announced conditional approval of federal funding for the construction of the Project. The federal government will provide up to 25 per cent of eligible Project costs through the public-private partnership (P3) Canada Fund.



The GNWT subsequently submitted an Adequacy Statement Response to the MVEIRB in April 2017; provided responses to information requests (June and July 2017); responded to technical reports; and attended the Technical Sessions hosted by the Review Board in Behchokò from August 15 to 17, 2017 and the Public Hearings in Whatı from November 15 to 17, 2017. The public record was closed on January 20, 2018.

In parallel with the EA process, a contract for the Project was being procured using a P3 approach. It was envisaged that the successful contractor would provide a broad set of integrated services as defined within a Project Agreement, between the GNWT and the contractor, for the delivery of the TASR Project. A Request for Qualifications (RFQ) was issued by the GNWT on March 20, 2017.

Further to this, there were information filings and meetings with all parties to the EA, all of which are available on the Review Board's Public Registry for EA1617-01. The MVEIRB released the Report of Environmental Assessment and Reasons for Decision (REA) on March 29, 2018.

Based on the evidence, the Review Board found that the Project is likely to have significant adverse impacts on the environment. The Review Board recommended measures to mitigate impacts, many of which would result in implementation of adaptive management measures to address those impacts deemed to be significant and adverse. Subsequently, the GNWT Minister of Lands (GNWT-Lands), on behalf of all responsible ministers, released their Decision Letter on October 25, 2018 under section 130 of the MVRMA and after proceeding with a “Consult to Modify” process. The Tłıchq Government also released its decision on this date. Appendix A provides an overall timeline for the EA and regulatory process.

The selection of the preferred contractor was announced on November 13, 2018. The official ground-breaking ceremony for the TASR took place in August 2019.

In the context of the GNWT Cabinet’s approved Project Assessment Policy, the GNWT committed to undertake a ‘Lessons Learned’ exercise to review the Tłıchq All-season Road EA and regulatory processes with the aim of improving future environmental assessment and regulatory performance. The exercise is intended to generate recommendations to improve GNWT participation in EAs and regulatory processes where the GNWT is the proponent, as well as recommendations directed at other participants in these processes. It is expected that many of the recommendations of this Lessons Learned exercise will also be relevant to EA and regulatory processes where the GNWT is not the proponent.

SLR Consulting (Canada) Limited, in association with SRM Consulting Ltd. and NorthWays Consulting (the SLR team) were retained by the GNWT to complete this “Lessons Learned” exercise and prepare a “Synthesis and Recommendations Report” based on an approved research plan. The research plan included the following components:

1. Situational Analysis;
2. Interviews with selected GNWT staff involved in the Project;
3. Interviews with Indigenous governments and organizations; and
4. Interviews with representatives involved in similar government or government agency led project EAs in Canadian jurisdictions outside the Mackenzie Valley, for the purpose of identifying lessons relevant to the Mackenzie Valley.

The SLR team’s methodology was aimed at the identification and evaluation of practices and procedures that yielded beneficial results as well as practices and procedures that did not yield the desired results, with the understanding that what might be considered beneficial or undesirable may be different among various stakeholders. Research results are presented in the context of key themes that emerged. The opinions and observations presented in this report are the authors’ and those of interview participants, and do not represent the GNWT’s views.

2.0 METHODS

2.1 Situational Analysis

A “Situational Analysis” was undertaken to provide the overall context for the approval of the Tłıchq All-Season Road for the EA stage and subsequent regulatory approvals. This situational analysis included a stakeholder mapping analysis to ensure that the appropriate groups were included in the interview process and that an understanding was gained about the groups’ key issues and concerns regarding the TASR. The situational analysis was based on publicly available information from the Wek’èezhìi Land and Water Board’s public registry, the Review Board’s public registry, and Report of Environmental Assessment and Reasons for Decision

(EA1617-01) issued by the Review Board in March 2018. Appendix B provides the results of the stakeholder mapping analysis by identifying the key participants / parties, and their role and involvement in the EA and regulatory processes. Appendix C provides a summary of the Information Requests submitted to the Online Review System during the first and second rounds of regulatory review. Apart from the specific technical issues raised during the EA and regulatory processes, the situational analysis identified 10 areas or initial topics or themes that the SLR Team thought warranted further examination through interviews with Project participants and external parties. These initial topics or themes were:

- Government decision-making and applicable procedures;
- Indigenous engagement / consultation;
- Internal organizational issues;
- “Whole of Government” approach;
- Interactions with parties / intervenors during the EA process;
- EA and regulatory process challenges;
- Lessons learned and effective tools or approaches applied in managing the EA and regulatory process challenges;
- Lessons learned and effective tools or approaches applied to Indigenous engagement / consultation;
- Lessons learned and effective tools for the transition from EA to Project implementation; and
- Other (e.g., private versus public sector led EAs)

These were considered initial topics only, and this list was to be modified and organized into broad “themes” based on interview results.

2.2 Interviews with TASR Project Participants and External Parties

The SLR Team conducted telephone interviews with Project participations and external parties (i.e., GNWT Project team members, external regulatory bodies and Indigenous governments and organizations). The interviews were intended to build on information obtained in the situational analysis, and to gain perspectives on Lessons Learned overall, with a focus on the challenges and successes related the EA and regulatory processes as well as other practices and procedures adopted by the GNWT and other external parties.

Potential interviewees were identified based on the situational analysis and by the GNWT Project manager for this assignment. Interviews were conducted from mid-January to mid-March 2020. Each interviewee was encouraged to participate in the research through an introductory email and follow-up emails from the GNWT Project manager. SLR made up to four attempts to arrange and complete an interview. Tables 1 and 2 provide a summary of the results of the interviews.

Interviews were based on a set of questions that guided the discussion. These questions are provided in Appendix D. Some participants were interviewed one-on-one, while others were interviewed in a small group based on their departmental or organizational affiliation. All questions were not necessarily asked of each interviewee or small group. Rather, a free-flowing discussion took place between the interviewee(s) and the SLR interviewer. The discussion was intended to cover each of the main topics or themes identified as a result of the situational analysis and any other topic or theme deemed important by the interviewee.

Interviews took between 45 and 90 minutes to complete and were generally one hour in duration. All interviews were documented at the time of the interview by hand or on computer in point form, question by question (if possible). Due to a commitment to confidentiality, interview records are held by SLR and are not provided in this report.

Throughout this report, words and phrases in quotations (“ ”) are used. These reflect the terminology used by interview participants or direct quotes from those interviewed; and they are included to add emphasis and reflect the tone of the responses to questions posed during the interviews.

2.2.1 GNWT TASR Project Participants

Thirty-two (32) potential GNWT Project participants were identified and contacted for interviews. Nineteen of the 32 (~60%) completed an interview, while 13 (~40%) either declined or were not responsive to attempts to engage them in the research.

Table 1: GNWT TASR Participant Interview Summary

GNWT Department	Proposed Interviews	Declined / Not Responsive Interviews	Completed Interviews
Education, Culture and Employment	2	1	1
Environment and Natural Resources	7	3	4
Executive and Indigenous Affairs	2	1	1
Finance	2	2	0
Health and Social Services	2	1	1
Industry, Tourism and Investment	1	0	1
Infrastructure	5	2	3
Justice	2	1	1
Lands	5	1	4
Municipal and Community Affairs	4	1	3

2.2.2 External Parties

Thirteen external party contacts including individuals from Indigenous governments and organizations (IGOs), federal government organizations/departments and private sector consultants were identified and contacted for interviews. Nine of the 13 individuals (~69%) completed an interview, while four (~31%) either declined or were not responsive to engagement attempts.

Table 2: External Parties Interview Summary

External Parties	Proposed Interviews	Declined / Not Responsive Interviews	Completed Interviews
Mackenzie Valley Environmental Impact Review Board (MVEIRB)	2	0	2
Government of Canada	3	2	1
North Slave Métis Alliance (NSMA)	1	1	0

External Parties	Proposed Interviews	Declined / Not Responsive Interviews	Completed Interviews
Tłıchǫ Government (TG) and the Community Government of Whatı	2	0	2
Yellowknives Dene First Nation (YKDFN, former staff person)	1	0	1
Wek'èezhıı Land and Water Board (WLWB)	1	0	1
Wek'èezhıı Renewable Resources Board (WRRB)	2	1	1
Consultant to GNWT	1	0	1

2.3 Review of Lessons Learned from Government Projects in Other Jurisdictions

The SLR Team researched and reviewed government or government agency led project EAs in Canadian jurisdictions outside of the Mackenzie Valley, for the purpose of identifying potential

lessons relevant to the Mackenzie Valley. Appendix E provides a list of candidate projects initially considered for this review. Candidate projects were identified through a search of the government public registries identified in Table 3.

Table 3: Public Registries Searched for Candidate Projects outside of the Mackenzie Valley

Newfoundland and Labrador:	https://www.mae.gov.nl.ca/env_assessment/Projects/index.html
Quebec:	http://www.ree.environnement.gouv.qc.ca/index.asp
Ontario:	Pre 24 April 2019 (Former) and from 25 April 2019 (Current) Former => http://www.ebr.gov.on.ca/ERS-WEB-External/ Current in Transition => https://ero.ontario.ca/page/welcome
Manitoba:	https://www.gov.mb.ca/sd/eal/registries/index.html
Saskatchewan:	https://www.saskatchewan.ca/business/environmental-protection-and-sustainability/environmental-assessment/Projects
Alberta:	Historical => https://www.alberta.ca/environmental-impact-assessments-historical-Projects.aspx#toc-0 Current => https://www.alberta.ca/environmental-impact-assessments-current-Projects.aspx FTP of all files on the server: ftp://ftp.gov.ab.ca/env/fs/EIA/
British Columbia:	https://Projects.eao.gov.bc.ca/
Yukon:	https://yesabregistry.ca/
Northwest Territories	Inuvialuit Settlement Region => https://eirb.ca/public-registry/
Nunavut:	https://www.nirb.ca/application?strP=r

In identifying candidate projects, priority was given in the following order:

1. Projects that had government as both proponent and decision-maker;
2. All-season road or highway projects in northern or remote settings;
3. Linear infrastructure projects (e.g., transmission lines, fibre optic cables) in northern or remote settings;
4. Other road (e.g., winter roads), highway or linear projects; and
5. Other government projects.

Ideally candidate projects would have been completed or largely completed within the past five to 10 years and would be of similar size/scope as the TASR; involved multiple Indigenous communities; involved multiple government agencies; and had a public hearing component. Consideration was also given to the availability of key documents on the public registry, available for review. Appendix E provides details regarding the candidate projects identified and the results of their screening by SLR and the GNWT. Table 4 provides the list of projects selected and their rationale for inclusion in this research based on considerations outlined above and discussions held with the GNWT Project manager.

Table 4: List of Candidate Projects Selected for Review

Candidate Project	Rationale
Inuvik to Tuktoyaktuk Highway Project	<ul style="list-style-type: none"> • Project proponents were Hamlet of Tuktoyaktuk, Town of Inuvik and Government of the Northwest Territories • Environmental Impact Review Board (EIRB) made a recommendation for approval to the federal Minister of Aboriginal Affairs and Northern Development Canada (AANDC). • Involved a hearing (i.e., EIRB Panel) • All-season road (138 km) in a northern or remote setting • Located in the NWT in the Inuvialuit Settlement Region, outside the Mackenzie Valley • Involved Indigenous groups and communities in the NWT • Experience with this process and the Panel’s perspectives on the WoG approach, informed the GNWT’s approach to the TASR • Project was completed within past 10 years; (opened November 2017)
Manitoba Hydro - Bipole III Transmission Project	<ul style="list-style-type: none"> • Government agency (Manitoba Hydro) was the proponent • Manitoba Clean Environment Commission and Manitoba Sustainable Development were decision-makers • Linear (1,388 km) infrastructure project • Involved a hearing (i.e., Manitoba Clean Environment Commission) • Involved multiple Indigenous groups • Involved multiple government agencies • Project was completed within past 10 years (July 2018)
Northwest Transmission Line	<ul style="list-style-type: none"> • Government agency (BC Hydro) was the proponent • BC Environmental Assessment Office (BCEAO) was the decision-maker. Project was exempt from review by BC Utilities Commission. • Linear (344 km) infrastructure project • Involved multiple Indigenous groups • Involved multiple government agencies. • Project was completed within the past 10 years (August 2014)

Candidate Project	Rationale
All Season Road Linking Manto Sipi Cree Nation, Bunibonibee Cree Nation and God's Lake First Nation	<ul style="list-style-type: none"> • Government agency (Manitoba Infrastructure) is the proponent • Manitoba Sustainable Development and the Canadian Environmental Assessment Agency are decision-makers. Approval for on-Reserve access roads will be subject to separate approvals by Indigenous Services Canada (ISC). • Proposed all-season two-lane gravel public road (138 km) in a northern or remote setting • Involves multiple Indigenous groups • Involves multiple government agencies. Project also involved a Provincial Technical Advisory Committee (TAC) • Provincial and federal Environmental Impact Statements submitted and are under review by regulators and the public
All Season Road Connecting Berens River to Poplar River First Nation	<ul style="list-style-type: none"> • Government agency (Manitoba Infrastructure) was the proponent • Manitoba Sustainable Development and the Canadian Environmental Assessment Agency were decision-makers. • All-season gravel public road (94 km) in a northern or remote setting of similar scale/scope to TASR • Involved multiple Indigenous groups • Involved multiple government agencies. • Project approved within the past 10 years (June 2017)
Bay d'Espoir to Western Avalon TL 267 Transmission Line	<ul style="list-style-type: none"> • Government agency (Newfoundland and Labrador Hydro) was the proponent • NL Department of Environment and Conservation was the decision-maker • Linear infrastructure project (188 km) in a remote setting • Involved multiple Indigenous groups • Involved multiple government agencies • Project completed within the last 10 years (December 2017)

This component of the research involved review of documents and interviews with representatives of the proponent. The goal was to gain further insight into project challenges and how they were resolved; this included identification of best practices regarding internal and external stakeholder management, and innovative tools and approaches applied.

SLR identified at least one potential contact for five of the six candidate projects. When SLR was unsuccessful locating a project contact, a project email address for general inquiries was identified. SLR sent interview requests to the potential contacts and a general request for an interviewee's name and contact info for the sixth project.

Due to timeframe issues and staff turnover, most of the original interview requests went unanswered or SLR received undeliverable e-mail messages. Two interviews were completed with the initially identified project contacts; both opted to complete written versions of the interview questions. Other potential interviewees declined participation in the interview process however, one of these contacts was identified as the ideal contact for two of the candidate projects. This individual and his colleague submitted materials referring to two of the candidate projects. Another interview was completed by an individual found through a second round of research, as the original contact was unresponsive. This interview was also completed via written submission. A fourth interview was completed following receipt of a response from the general project e-mail identifying an individual and providing contact information. During this initial research, SLR completed four interviews through written submissions regarding five of the six candidate projects.

The original person contacted about the final candidate project expressed they were not an appropriate candidate so SLR undertook a second round of research and identified an appropriate contact. When efforts to reach the second contact were unsuccessful, SLR contacted a general project e-mail address but messages were undeliverable.

All interviews were documented at the time of the interview by hand or on computer in point form, question by question (if possible). In some cases, the government representatives chose to answer the interview guide in writing. Findings from this research are summarized in Section 3.14.

2.4 Workshop

SLR had proposed to design and facilitate a one-day workshop in Yellowknife with GNWT staff aimed at summarizing the results of the situational analysis; the results of telephone interviews; case study research and other information. The goal of the workshop would be to reach an overall vision of how future GNWT projects and the GNWT's involvement in future EAs should be managed, planned and resourced. Workshop discussions were planned to be centered around the key topics or themes that emerged from the research and interviews conducted. Unfortunately, with the COVID-19 crisis and the requirement to follow national and territorial health protocols including restricted travelling to and within the NWT and avoiding large group gatherings, a workshop in Yellowknife was cancelled by the GNWT Project Manager. A virtual workshop may be held at a future date.

2.5 Draft Report Validation

In fulfillment of a commitment by the GNWT to make the report available to interviewees, SLR distributed a draft report to all 27 persons participating in the interview process in late October 2020. Interviewees were asked to review the draft report and identify any factual errors or fundamental misinterpretations of what they shared with the SLR team during interviews. Nevertheless, all comments were welcomed. The time afforded for this review was approximately 30 days. Upon closure of the comment period, the SLR team received a response from 8 interview participants. Their edits and comments have been incorporated into this final report.

3.0 SYNTHESIS OF FINDINGS AND LESSONS LEARNED

The following provides a synthesis of findings of the research undertaken. In most cases, information regarding a topic or theme is presented based on the public record. Perspectives, opinions and observations provided by interview participants are provided where relevant. Lessons learned are summarized for each topic or theme based on the interviews undertaken. These Lessons Learned are those offered by interview participants and are not those of the SLR Team. Throughout this report, certain words and phrases are presented in quotations (“ ”). These reflect the terminology and opinions used by the interview participants, including direct quotes during the interviews; they are included to add emphasis and reflect the tone of the responses to questions posed during the interviews. Where there is reference to “some” interviewees or participants, the comment can be attributed to at least two persons.

3.1 Whole of Government Approach

The GNWT's overall approach to planning and undertaking project assessments is grounded in its Project Assessment Policy 24.03, dated April 13, 2017. The GNWT desires that such assessments be undertaken in a proactive, strategic, coordinated, timely, consistent and effective manner. More specifically, Section 6(1) of the Policy states that:

“The Government of the Northwest Territories’ participation in environmental assessments should be coordinated through the project assessment function in order to provide resource management boards, regulators, proponents, other levels of government, and the public with a whole-of-government approach”.

While the Policy does not define what is meant or intended by a “whole-of-government” (WoG) approach, this approach was more clearly defined by the GNWT with respect to the TASR Project. It is noteworthy that the Project Assessment Policy was adopted in 2017, well into the Analysis Phase of the Project EA and prior to public hearings.

In general, the WoG approach refers to GNWT's intent to plan, seek EA approval, and permit a project as one cohesive government unit, rather than having one GNWT department (in the case of TASR, GNWT-Department of Transportation (DOT), later known as the Department of Infrastructure (INF) acting as prime Developer and having the remaining GNWT departments acting independently during the EA (i.e., departments provide IRs, IR responses, technical documents and presentations directly to the Review Board through the Project Assessment Branch).

While not fully or explicitly documented on the public record, interviews suggested that the decision to use a WoG approach stemmed for GNWT's experience with:

- Inuvik-Tuktoyaktuk Highway (ITH);
- Mackenzie Valley Highway (MVH); and,
- Giant Mine Remediation Project (Giant Project).

SLR did not review minutes of meetings, but interviews indicated that following a discussion by the Project Assessment Senior Management Coordinating Committee (PASMCC), it was decided that the GNWT would adopt a WoG approach, allowing departments to collaborate internally and provide their information directly to the GNWT-DOT/ INF as the Developer (MVEIRB Reasons for EA Decision, 2018). Consequently, at the beginning of the assessment process the GNWT-DOT expressed to the Review Board that the GNWT, as a whole, be considered the Developer (GNWT Participation Letter, 2016; MVEIRB Reasons for EA Decision, 2018).

In its August 11, 2016 letter to the Review Board, the GNWT-Lands provided details regarding its intentions:

“As the developer, the GNWT is automatically a party to the EA; GNWT will not be seeking any additional party status. Government departments such as Lands, Environment and Natural Resources; Industry, Tourism and Investment; Health and Social Services; and Aboriginal Affairs and Intergovernmental Relations; will work directly with the Department of Transportation to ensure that the proposed highway meets all

government criteria for management and mitigation as well as requirements related to Aboriginal consultation and accommodation.

GNWT departments will not put forward information requests or provide a final technical report/intervention to the MVEIRB, other than the work put forward by the developer. GNWT departments will however be available to parties on request. If the Review Board or another party requires information from a GNWT department other than the developer, the Project Assessment Branch (PAB) in the Department of Lands will coordinate the GNWT responses. MVEIRB and parties should direct any requests for information from a GNWT department other than the developer to PAB”

None of the interviews conducted by SLR, nor information on the public record reviewed by SLR indicated that the GNWT did not follow this approach throughout the EA process, from the Scoping phase through to the Decision phase.

Ultimately, the Review Board expressed its belief that the GNWT’s WoG approach resulted in a lack of transparency regarding how the various GNWT departments might have influenced DOT/INF’s position throughout the EA process (MVEIRB Reasons for EA Decision, 2018).

Though not explicitly stated in the Review Board’s REA, there is a belief that the WoG approach might have caused some confusion among the various parties involved in the EA process, in terms of which parties would fulfil their traditional roles and how each party might fulfil those traditional responsibilities and mandates.

Two letters submitted to the Review Board; one on August 11, 2016 by the GNWT-Lands and one on August 17, 2016 by the Tłıchq Government were aimed to avoid any confusion about roles and responsibilities of the GNWT and the Tłıchq Government. The letter submitted by the GNWT- Lands explicitly stated that the GNWT, led by the DOT and including GNWT departments such as Lands; Environment and Natural Resources; Industry, Tourism and Investment; Health and Social Services; and Aboriginal Affairs and Intergovernmental Relations, would act as the proponent during the EA (GNWT Participation Letter, 2016). The GNWT-Lands letter went on to indicate that GNWT departments would not be submitting IRs or providing technical reports to the MVEIRB, other than through work submitted by the GNWT DOT (GNWT Participation Letter, 2016). The letter also explained that the GNWT’s PAB would coordinate GNWT Aboriginal consultation during the EA (GNWT Participation Letter, 2016). The letter submitted by the Tłıchq Government clarified matters further in that although the Tłıchq Government had collaborated with the GNWT-INF up to that point in the EA, the Tłıchq Government should not be considered a proponent or co-developer for the Project (Tłıchq Government Participation Letter, 2016).

In commenting on their perceived implications of the GNWT’s WoG approach in their REA, the MVEIRB noted a preferable approach to an EA situation in which the Developer is a department of government. MVEIRB believed their preferred approach would facilitate the traditional role of some GNWT Departments providing independent technical reviews for the benefit of the parties and the Review Board. Some GNWT participants interviewed commented that the Review Board did not express its concerns about the WoG approach early enough, and that the GNWT was “surprised” to read the board’s critique of the WoG approach in the REA.

A few interview participants suggested that the WoG approach had likely put a strain on the resources of smaller Indigenous organizations, especially with GNWT’s traditional role of providing independent and expert advice as a party to the EA. Countering that perspective, other interviewees thought the WoG approach with GNWT as the Proponent (Developer) was the easier approach that resulted in fair, balanced and transparent decisions. Some also wondered why the Review Board had not sought out its own independent experts during the hearings or used its subpoena powers under the MVRMA to obtain additional information.

Those who questioned why the Review Board had not taken these steps acknowledged that, in general, Review Boards and other regulatory bodies may not always have sufficient funds to provide their own expertise, but also noted that the MVEIRB had hired its own experts for two more recent EAs of private sector Projects (Jay Project and Canadian Zinc road). The concern was expressed by a few external participants about whether the information provided to support the EA process was from the perspective of the Proponent or government experts. A few external interviewees also expressed a concern that the WoG approach does not support the “Co-Management Regime” that has been established in NWT under the MVRMA. No rationale was provided for this assertion.

Another larger picture concern expressed by some interviewees relates to a perceived or real conflict of interest or bias as a result of the GNWT being the Proponent and responsible for approving the Report of EA and the Measures. Perspectives on “firewalling” are provided further in Section 3.9 of this report.

Interview participants shared their perspectives on the advantages and disadvantages of a WoG approach. Table 5 summarizes these advantages and disadvantages as articulated by GNWT participants and external parties in the EA process. It is noteworthy, that these perspectives were informed by both “hindsight” and the Review Board’s Reasons for EA Decision report (2018). The words in quotations (“ ”) reflect the various terminology used by interview participants.

Table 5: Perceived Advantages and Disadvantages of a Whole of Government Approach to EA

Perspective	Advantages	Disadvantages
GNWT Participants	Provides “clarity” on the GNWT’s support for the Project Provides active management of public discussion and debate on policy or technical matters among GNWT departments and/or	Some GNWT department may feel like they have “lost autonomy”, are “not being heard”, or do not have “direct access” to consultants or decision-makers (e.g., Deputy Ministers and Ministers).
	leadership, thereby enhancing government’s “image” “Encourages / forces” a Project Developer to “work with / collaborate / cooperate” with other departments May reduce “friction” between departments as they work towards achieving a common objective Encourages “frank and open	Advances a perception or “suspicion” among external parties that GNWT experts are being “muzzled” May force the “acquiescence of individuals or departments” to the position of GNWT’s Project Developer (i.e., GNWT-INF) or dominant viewpoints Advances a perception among external parties that information being provided has

Perspective	Advantages	Disadvantages
	<p>discussions”</p> <p>Encourages “strategic communications” using “one voice”</p> <p>Allows the GNWT to put forward the “best Project possible” that is in “the public interest”</p> <p>Gives smaller departments with perhaps a smaller role in the Project and EA a “seat at the table”</p> <p>Allows Indigenous governments and groups to work with one GNWT department</p> <p>Ultimately, WoG approach might save government funds</p>	<p>been “filtered”, “watered-down” or “neutralized”</p> <p>May impose barriers to “engagement” by individual departments or access to expertise by non-GNWT EA participants</p> <p>May cause “friction” between departments over disagreements regarding policy or technical matters</p> <p>May require the establishment of “firewalls” that could exclude individuals or departments from decision-making surrounding the recommendations in the REA from the MVEIRB.</p> <p>WoG approach implies that a large EA technical team and “collective decision-making” is required</p> <p>Requires more time and resources to coordinate technical aspects and decision-making among multiple government departments. Adequate time may not always be available (as was the case with the TASR Project).</p> <p>Consultants to the GNWT who reported directly to one particular department may have felt a stronger allegiance to their direct client rather than other government departments.</p>
External Parties	<p>Provides “one voice” to regulatory boards (e.g., MVEIRB, WLWB)</p> <p>Government can put forward “best Project possible”</p> <p>Provided consistency in terms of Project Management and Planning at all stages of the Project</p> <p>Has potential to maximize opportunities for governments to get best internal advice possible</p>	<p>Takes out GNWT’s traditional role of providing independent technical advice to the MVEIRB and other parties during an EA</p> <p>Results in a lack of technical support for parties participating in the EA and Regulatory approvals process</p> <p>Undermines the Co-Management approach for board decisions in NWT</p>

Perspective	Advantages	Disadvantages
	<p>Consultation / engagement with other parties and indigenous groups can be undertaken with “more confidence”. Easier to deal with the Crown’s Section 35 responsibilities</p> <p>This approach allowed for the key players for the TASR Project (Tłıchǫ Government and GNWT) to become aligned during the early phases of the Project.</p>	<p>Puts extra pressures on smaller organizations in terms of fiscal and personnel resources to fully participate in the process to meet their statutory requirements while meeting other work obligations at the same time</p> <p>Results in a lack of transparency regarding how the various GNWT departments might have influenced GNWT-INF’s position throughout the EA process (MVEIRB Reasons for EA Decision, 2018).</p> <p>As a relatively new approach in the NWT, the Whole of Government (WoG) approach might have caused confusion among the various parties involved in the process, in terms of which parties would fulfill their traditional roles and how each party might fulfill those traditional responsibilities and mandates.</p> <p>WoG approach may make it difficult to clearly “decipher or delineate who is speaking and to what issues”</p> <p>May “force” other parties to seek independent expertise if expertise is not made available by government</p> <p>“Stronger, better resourced departments” within government may “take over” internal decision-making process</p>

Most of the GNWT and external participants interviewed acknowledged that a WoG approach is legitimate, and some noted that it had been applied in other cases; most notably, the Inuvik-Tuktoyaktuk Highway Project EA. However, in case of the Inuvik to Tuktoyaktuk Highway Project, the developer’s team included the GNWT-DOT, the Town of Inuvik and the Hamlet of Tuktoyaktuk, but did not formally include any other GNWT department. The GNWT-DOT asserted that the supporting evidence for the Inuvik to Tuktoyaktuk Highway Project, particularly the assessment of project effects, was fully the responsibility of GNWT-DOT and its development partners. This project was ultimately reviewed by a Panel for the Substituted Environmental Impact Review established by the Environmental Impact Review Board (EIRB) in accordance with the Inuvialuit Final Agreement. Here, the Panel deemed all GNWT departments to be part of the “developer” (i.e., if the GNWT is the developer so all departments must be the developer) and hence evidence was examined by the Panel in a WoG context.

GNWT participants expressed their general support for the WoG approach. One GNWT participant characterized the WoG approach as a “fundamental pillar of good governance” and a model that is necessary in the context of devolution and the “growing authority of the GNWT”. External parties were either ambivalent or critical of this approach. Some argued that a WoG approach, particularly in the context of a public review process, cannot be successful without an explicit commitment to transparent and evidence-based decision-making. Other criticisms were

not necessarily focused on the approach itself, but rather on how the WoG approach was implemented by the GNWT on the TASR Project, particularly at the hearing stage. The key criticism here was that the GNWT was not sufficiently transparent, making it difficult to clearly “decipher or delineate who from the GNWT is speaking and to what issues”. There were also comments on the lack of engagement and seeking of concerns around the WoG approach to enable parties to understand the changed “landscape”. Early engagement with the Review Board, Indigenous governments and organizations, and other parties to the EA, beyond letter writing, might have led to modifications to the WoG approach developed by GNWT that could have avoided issues and concerns throughout the EA process. As stated in the Review Board’s REA report “it is not apparent to the Review Board how these departments may have influenced the developer’s position in this EA”.

Another key criticism was with respect to access to expertise by the Review Board, particularly the GNWT-ENR. As stated in their REA document:

“the Review Board has had to rely on other organizations outside of the GNWT which tried to step up and provide information on subjects within the mandate of expert GNWT departments. For example, the Wek’èezhìi Renewable Resources Board and North Slave Métis Alliance provided particularly useful evidence on wildlife that, in effect, helped to partially address the void left by the lack of direct participation of the Department of Environment and Natural Resources as a party to the EA”.

Some external interviewees speculated that more information and greater direct participation by GNWT-ENR in the hearings, as suggested by the Review Board, might have reduced the number or recommended measures and potentially avoided the precautionary measures recommended by the Review Board (e.g., Measures 6.1, 6.2 and 6.3). As a result, some measures might not have had to enter the Consult to Modify process in the end, thus, saving time and money for all parties.

To the contrary, one GNWT participant argued that transparency should not have been an issue at the hearing as the “information being provided and what is being said represented the totality of information available and the government’s official position – period”. One GNWT interviewee noted that “GNWT-ENR could not have had more of a presence at the hearing”, noting the following:

- GNWT-ENR directly participated in the public hearings, seated at the main table;
- GNWT’s consultant delivered a presentation but most of the wildlife-related questions were answered by GNWT-ENR staff; and
- GNWT-ENR staff supplied information when wildlife-related questions were being answered by the consultant.

However, some GNWT participants acknowledged that there were internal GNWT disagreements over key messages and information to be presented to the Review Board. Overall, some GNWT interviewees commented that there was little evidence posted to the public registry or made available to the Review Board during the hearing regarding GNWT-ENR’s or other departments’ contributions to “making the Project better”.

Interviews also suggested that there was a desire on the part of GNWT-INF and GNWT-Lands to post more information on the public registry regarding various departments’ contributions, but that there was indecision on if and what should be posted, and by whom. One participant

indicated that the GNWT had in fact prepared a summary of individual departmental contributions to the Project but overlooked the need to post this on the public registry. This summary was not presented as evidence during the hearing. SLR could not find this summary to confirm its existence.

Some GNWT participants indicated that their department's most positive contribution to the Project was in developing management plans towards the end of the hearing phase and during the Consult-to-Modify process. Despite criticisms during the hearing phase that "there is much work that remains to be done", the extensive work undertaken by GNWT-ENR to prepare, collaborate with co-management groups and gain approvals for a Wildlife Management and Monitoring Plan (WMMP) was raised as an example of GNWT-ENR's positive contribution to the regulatory process.

Some of those interviewed suggested that the shortcomings of the WoG approach for the TASR Project might be attributable to its new and novel nature, with the GNWT (and others) having only a little experience with the approach and applying the "same old internal procedures to a new approach". As an example, upon referral of the Project to EA, GNWT-INF hired and directed a prime consultant to prepare an updated Project Description Report (PDR). Some interviewees suggested that under a WoG approach, a consultant should have "served" and should have been directed by various GNWT departments rather than by GNWT-INF. These interviewees believed a different organizational model was required under the WoG approach.

Interview participants were asked to describe alternatives to a WoG approach. Suggestions that were identified include:

1. Establishing or utilizing independent Development companies to act as Project Developers. This approach was used to develop the Deh Cho Bridge with the GNWT passing enabling legislation (i.e., the *Deh Cho Bridge Act*) allowing it to enter into concession agreements for the bridge project.
2. Establishing or utilizing Crown Corporations to act as Project Developers. This is a common approach used in many other jurisdictions for power and transmission projects (e.g., Manitoba Hydro, Ontario Power Generation, Hydro One).
3. Allowing other organizations such as First Nation governments to act as Project Developers with government capacity funding. This approach is being utilized in Ontario for the Marten Falls Community Access Road Project EA. Here, the First Nation is the proponent and is being funded by the Province of Ontario through a partnership agreement. In the TASR case, the Tłıchq Government clearly indicated that they did not want to be a proponent or a co-proponent. This may not be the case for future projects.

Some of those interviewed argued that a WoG should not be the default approach to all projects where the GNWT is the proponent. Rather, a WoG approach may be best suited to projects that do not involve multiple jurisdictions (Federal, Territorial and First Nations), or where there is widespread and publicly declared support and a cooperative spirit surrounding the project. Further, a WoG approach may not be best suited to projects where there is declared opposition to the undertaking and / or where land claims have not been settled. In these latter circumstances, a WoG approach may serve to increase the risk of judicial reviews and lawsuits, given their "litigious" settings or atmosphere.

Suggestions for improvements to the WoG approach included:

- early engagement and consultation for the proposed WoG approach with organizational charts, Department roles and responsibilities, key personnel, Indigenous consultation, and committee structures;
- having an independent “watch-dog” or “ombudsman” to provide oversight of the EA process within the GNWT to improve fairness and transparency;
- having an independent “facilitator” to assist GNWT-Lands in coordinating the WoG and helping to identify and resolve conflicts; and
- establishing an organizational chart, a Project charter or Project agreement among GNWT departments and internal decision-making bodies that clearly articulate roles, responsibilities and expectations at each stage of the EA and regulatory process.

Some academic research points out that building a WoG system is a “long-term Project that takes time to implement”. New skills, changes in organizational culture, and the building of mutual trust relations need patience. A “reform agent” is required; one that operates “more as a gardener than as an engineer or an architect”. A WoG approach needs cooperative effort and cannot easily be imposed from the top down in any organization (Christiansen and Lægreid, 2007)¹.

3.1.1 Lessons Learned

1. A WoG approach is not necessarily best suited to all projects where the GNWT is the proponent and should not be the default approach for future projects where the GNWT is a proponent.
2. A common understanding among GNWT leadership and departmental staff regarding what a WoG approach means and how it should be operationalized at each step of the EA process might provide greater “buy in” by GNWT departments conducting and participating in EAs.
3. Engagement with the Review Board, the Land and Water Board(s), Indigenous governments and organizations and others regarding what the WoG approach means and how it would be operationalized at each step of the EA process might have resulted in greater mutual understanding of the approach.
4. A WoG approach, particularly in the context of a public review process, cannot be successful without an explicit commitment to greater transparency and evidence-based decision-making both throughout the EA process by the proponent and by responsible ministers following a hearing and Board recommendations.

Some suggestions to achieve a more positive outcome included:

- Tracking how each department contributed to Project development and decision-making, with an emphasis on the data and evidence supplied; and the kinds of issues and concerns that were raised by individual departments, and how they were resolved. This information could be shared on the public registry or presented to the Review Board at a hearing.
- Responding to technical Information Requests from the Review Board and other

¹ Tom Christensen and Per Lægreid, 2007. The Whole-of-Government Approach to Public Sector Reform. Available at: <https://doi.org/10.1111/j.1540-6210.2007.00797>

- parties in an open, transparent and non-adversarial manner.
- Making better use of the Review Board’s public registry to share information and enhance GNWT’s transparency throughout the EA process.

3.2 GNWT’s Roles and Responsibilities in the EA Process

The “Project Assessment Policy 24.03” sets out in broad terms, the various roles and responsibilities of GNWT’s Executive Council and Ministers in the EA process. In accordance with this policy, the GNWT’s Executive Council has the responsibility for referrals of projects to EA under Section 126 of the MVRMA; may approve standards to be applied to project assessments and may approve positions and strategies for project assessments. GNWT ministers may exercise any authority as delegated by the Commissioner in Executive Council. For the TASR Project, the GNWT was both the proponent and decision-maker for this Project, an opportunity afforded by the statutory framework of the Mackenzie Valley Resource Management Act (MVRMA).

Under paragraph 130(1)(b) of the MVRMA, the responsible ministers may adopt the MVEIRB recommendation; refer it back to MVEIRB for further consideration; or, after consulting the MVEIRB, adopt the recommendation with modifications or reject the recommendation and order an environmental impact review of the Project. Alternatively, under paragraph 130(1)(c), the responsible ministers may agree... “to refer the [development] proposal to the federal Minister of the Environment [and Climate Change] for a joint review under the Canadian Environmental Assessment Act, 2012, if the federal Minister and responsible ministers determine that it is in that national interest to do so.”

Upon referral of the TASR Project to EA, the GNWT established an inter-departmental Working Group to ensure that an updated PDR was prepared with the involvement of key government departments in a proactive, strategic, coordinated, timely, consistent and effective manner. In accordance with the Project Assessment Policy 24.03 and PAB practice, this Working Group was led by GNWT-Lands.

Prior to deciding under section 130 of the MVRMA, the GNWT responsible ministers must ensure they have met the duty to consult and, where required, accommodate. In fulfilling this duty, the GNWT responsible ministers were responsible for becoming aware of Indigenous concerns and potential adverse impacts on asserted and established Aboriginal and/or Treaty rights. Because the Project was to be carried out partly on Tłıchq lands, the Tłıchq Government had a separate decision-making authority for the Project pursuant to section 131.1 of the MVRMA.

The PASMCC, chaired by the Deputy Minister of Lands and comprised of Deputy Ministers of most GNWT departments, took on a decision-making role regarding the TASR Project to ensure Project activities were in line with approved ministerial policies, priorities, positions, strategies and standards. The PASMCC was also envisaged to facilitate inter-departmental discussion and cooperation in EA processes. The SLR team was unable to determine the number of PASMCC meetings that included discussion of the TASR Project during the EA process

In addition to the PASMCC, GNWT-INF had established an oversight group for the TASR Project that included representatives from GWT-INF and GNWT-FIN. GNWT-Lands was invited to participate in these meetings on occasion. This oversight group made decisions on Project

² See: https://www.eia.gov.nt.ca/sites/eia/files/content/24.03_project_assessment_policy.pdf

timelines and other measures aimed at expediting Project implementation. One GNWT interviewee noted that these decisions were being made “without input from other departments that had roles to play during the EA”. It was observed that both the roles of the PASMCC and the oversight group were not integrated and that “there was no communication between the two groups”.

The Project Assessment Branch (PAB) coordinates GNWT participation in EAs in the NWT and neighbouring jurisdictions. As one of its roles during EA, in consultation with other departments, the PAB reviews and analyzes the Review Board recommendation in order to provide procedural support to GNWT responsible ministers under the MVRMA, and to GNWT decision-makers under the Inuvialuit Final Agreement. The PAB assists the Minister of Lands with decision-making and Aboriginal consultation responsibilities in relation to reports from the MVEIRB and the Inuvialuit Settlement Region Environmental Impact Review Board.

Interview participants were asked to describe their organization and their mandates and comment on their respective roles and responsibilities in the EA for the TASR Project and other similar projects where a government or department had been a proponent for a project subject to EA (e.g., Inuvik-Tuktoyaktuk Highway EA). Interview participants were also asked about their perspectives on the roles and responsibilities of other parties.

For the most part, the representatives of the GNWT, key regulatory bodies and other parties involved in the TASR Project EA and regulatory processes demonstrated their full understanding on their own department’s / organization’s mandate and role in the TASR EA and regulatory processes, including their own decision-making responsibilities regarding the Project. Several interviewees pointed to the Review Board publications that explain the EA process and their Rules of Procedure, and tools (e.g., memorandum of understanding (MOU), Project Agreement) developed by other organizations (e.g., Northern Projects Management Office (NPMO)) that assisted their understanding of the EA process.

One issue that was raised during an interview was the need to build sufficient time into the GNWT process for legal reviews of documents throughout their development, but most importantly, prior to their submission to the MVEIRB.

While the mandate of the PASMCC is outlined in the Project Assessment Policy 24.03, and its composition, operations and meeting procedures are set out in a detailed Terms of Reference; the mandate, composition and operations of the inter-departmental Working Group were outlined in a TASR-specific Terms of Reference.

The Terms of Reference stated that the primary mandate of the Working Group was to support and advance the TASR Project throughout the EA process to ensure sound, timely, and effective interdepartmental communication and coordination. The Working Group was also to provide advice, as required, to the responsible ministers charged with deciding on the Review Board’s determination, recommendation, or order at the conclusion of the EA. The Working Group did not have a mandate to speak externally as a body representing the GNWT. Overall, the Working Group was to contribute to a comprehensive WoG approach while respecting other departments’ mandates. It was the GNWT’s intent that Working Group members be able to discuss issues extending beyond their own departments’ mandates in a constructive and collaborative fashion, in the spirit of strengthening the GNWT’s participation in the EA and assisting the GNWT in proposing a complete and robust Project.

Many GNWT participants interviewed indicated that, for the most part, the Working Group achieved its mandate and worked well within its Terms of Reference. Key to its success was that the Working Group managed to break down internal “silos” to some extent and minimized overlaps in roles and responsibilities. Nevertheless, some of those interviewed indicated that going into the EA process (and now in “hindsight”), additional clarity on the following issues would have been desirable:

- Who are the responsible ministers and why only them? How is the determination on who is and who is not a responsible minister made? What authority do responsible ministers have in Project decision-making prior to and following the release of the REA?
- What were the mandates and responsibilities of Working Groups and how was their input integrated into the project planning process?
- What are the key steps in the EA process and what are the demands (time, money and human resources) on the departments in each?
- What authority does each department have in the EA process?
- What is meant by a Whole of Government (WoG) approach and how might this approach affect their ability to fulfil departmental mandates?
- Will departments on the Working Group have additional resources to participate?

It is noteworthy, that these types of questions tend to reflect a general lack of understanding of the EA process and GNWT’s practices and procedures among some GNWT and external participants.

3.2.1 Lessons Learned

1. Communication protocols and the authorities among the PASMCC, the inter-departmental Working Group and any oversight group established for a Project should be formalized. Meetings should be guided by a clear agenda and meeting notes should clearly highlight any decisions made.
2. A well-organized inter-departmental Working Group that is established as early as possible in a project’s development (preferably even before EA referral) will facilitate team building and collaborative decision-making. Use of inter-departmental Working Groups should be considered “best practice” in any EA process.
3. The operation of the inter-departmental Working Group benefited from a robust Terms of Reference that defined its mandate, composition, roles and responsibilities, communications and reporting relationships.
4. Efforts to develop departmental workplans and secure financial and human resources to support Working Group activities, plus project management and administrative support are desirable.
5. Greater attention needs to be paid to internal organizational issues going into an EA process.

3.3 Preparedness for an EA

Under subsection 126(3) of the MVRMA, the Review Board has authority to conduct an EA of a development proposal, on its own motion. This authority is notwithstanding any determination on a preliminary screening, even if a preliminary screening has not been commenced or, if commenced, has not been completed, pursuant to subsection 126(4). After review and consideration of the materials on the WLWB public registry and the comments provided on the Online Review System (ORS) regarding the TASR Project, the Review Board decided to refer

the Project to EA on July 21, 2016.

Interviews with some GNWT participants indicated that an assumption was made early in the TASR Project development that the Project would not be referred to an EA. Moreover, referral to EA was highly undesirable. Some interviewees indicated that the prevailing thinking was that “if [TASR] went to EA - the Project was dead”. This thinking was fueled partially by a perceived need within GNWT-DOT/INF and GNWT-FIN to advance the Project quickly to meet P3 implementation schedules. Substantive discussions regarding timelines with the Review Board staff only happened once the Project was referred to EA. One GNWT interviewee indicated that the Review Board committed to maintaining “tight timing” for what was characterized as a “simple and easy” EA process. One interviewee acknowledged that in “hindsight” similar projects by the GNWT had recently undergone an EA (i.e., Inuvik-Tuktoyaktuk Highway) in the Inuvialuit Settlement Region (i.e., outside of the Mackenzie Valley) and one was undergoing EA at the time (i.e., the Mackenzie Valley Highway), which was referred directly to EA by the GNWT. Another interviewee indicated that a review of the CEAA 2012 Designated Project List (which the Review Board has used as a guide in the past) would suggest that an EA would be required for the construction and operation of a new “all-season public highway that requires a total of 50 km or more of new right of way”.

In this context, it is uncertain if formal consideration was given to taking a strategy of “going straight to EA” as an opportunity afforded by the MVRMA, and if so, what the rationale was for not taking this route. The MVRMA allows for Projects to be referred directly to EA before land use permit or water licence applications are submitted, an approach that skips the effort of preparing the initial application to a land and water board.

Nevertheless, under the working assumption that referral to EA was not likely, GNWT-INF proceeded to prepare a PDR, a water licence and land use permit application to the WLWB. Interviews suggested that the GNWT’s intent was to prepare “as thorough of a PDR as possible” using internal resources to the greatest extent. Active support and close collaboration with the Tłıchq Government and their collaboration in Project development and PDR preparation was seen by some GNWT participants as an additional reason why a referral to EA was considered unlikely.

Interviews with GNWT participants indicated that “in hindsight” the Project could have sought referral to EA upon submission of a “basic land use permit application” or requested direct referral without a water licence and land use permit application. By “going straight to EA”, much less effort would likely have been invested in the 2016 application to the WLWB, the Project would have benefited from the input received during the EA scoping process, and it would have become easier to adapt the Project to the input received during scoping.

Some of these observations are supported by the letter outlining the Review Board’s reasons for referral to EA (July 21, 2016) where they stated:

“The Board would like to acknowledge the considerable effort and good works the GNWT, with assistance from the Tłıchq Government, has undertaken as part of its land use permit and water licence application. In particular, the Board commends the effort to plan for mitigation of potential impacts caused by the road Project. The Board believes that these initiatives and the detailed Project Description Report will prove beneficial in focusing the scope of the environmental assessment and contribute to an effective and timely environmental assessment”.

Some GNWT interviewees speculated that a “going straight to EA” strategy might have prompted the GNWT to organize itself better to deliver its desired WoG approach. Further speculation was that this strategy might have resulted in earlier involvement of external technical consultants to support the EA (i.e., prior to scoping and the finalization of the Terms of Reference). Interviewees also suggested that the “thorough” PDR initially submitted to the WLWB was assumed to be sufficient if “repackaged” and submitted as an updated PDR for EA purposes. Under this working assumption, some GNWT interviewees suggested that little or no effort was placed on identifying risks to budgets and schedule, gaps in knowledge or addressing uncertainties.

3.3.1 Lessons Learned

1. Time and money could have been saved if the GNWT conducted a “regulatory risk assessment” early in the Project development to determine how best to navigate the EA and regulatory processes and whether a “going straight to EA” strategy offered the best outcome.
2. Early engagement with the Review Board and “probable” parties to the EA process about the timing, scope, benefits, and approvals strategy would have initiated a transparent approach that could have followed the project throughout the approvals process. This would have been well received and allowed for some discussion about challenges which would have been helpful for the “regulatory risk assessment”.

3.4 Information Requests, Technical Sessions and Public Hearing

In May 2017, the Review Board asked parties to provide written Information Requests outlining their questions and clarifications related to the GNWT’s PDR and Adequacy Statement Response. SLR reviewed Information Requests submitted to the Online Review System during the first round (due by May 29, 2017) as well as subsequent rounds submitted by the North Slave Métis Alliance (July 14, 2017).

The focus of the Information Requests varied due to the differences in roles and responsibilities of parties participating in this process, however, several subjects were clearly of prime interest to the parties. Species at Risk, including many requests about Barren Ground Caribou and Boreal Caribou, as well as avian Species at Risk were among the most common subjects (MVEIRB Complied ORS Information Requests, 2017; NSMA Information Requests 2017). Requests about general impacts and mitigations concerning other large mammals such as bison and moose as well as general fish and wildlife were also common (MVEIRB Complied ORS Information Requests, 2017; NSMA Information Requests 2017). Most Information Requests focusing on Species at Risk and wildlife came from the North Slave Métis Alliance (NSMA) and the Wek’èezhii Renewable Resources Board (WRRB). Other requests generally related to potential socio- economic impacts to local communities, including employment benefits, traditional harvesting, substance abuse and changes for vulnerable populations (MVEIRB Complied ORS Information Requests, 2017; NSMA Information Requests 2017). For the most part, socio-economic Information Requests came from the MVEIRB and community governments. Information Requests not covered by the aforementioned subjects (wildlife and Species at Risk; socio- economics) tended to be from the federal government departments seeking additional information on mitigation and management plans to supplement information provided in the PDR (MVEIRB Complied ORS Information Requests, 2017; NSMA Information Requests 2017). Worth noting is the fact that most of the IRs aligned well with the Valued Components identified as the focus of the EA in the Terms of Reference. These included: fish

and fish habitat, caribou, wildlife and species at risk, traditional use, culture and heritage resources, economic well-being and stable and healthy communities (MVEIRB Terms of Reference, 2016).

As far as who was involved in the process, Information Requests were submitted by the NSMA, (57 IRs); the MVEIRB (21 IRs), the WRRB (14 IRs), Environment and Climate Change Canada (ECCC) (13 IRs), NRCan (7 IRs) and the NPMO (1 IR).

Interviews with some GNWT participants indicated that the number of Information Requests and the information requested was “not unexpected”; however, the fact that they served to expand the scope of the assessment was “unexpected”. In a few cases, the responsibility for responding to an Information Request was unclear (e.g., food security). There was general agreement among GNWT participants that the preparation of responses was a time-consuming and resource

intensive activity. Some responses required careful consideration at the Working Group or vetting by the PASMCC. One GNWT participant felt that credible responses required additional study that could not be accommodated in the Project schedule.

In August 2017, the Review Board staff hosted technical sessions in Behchokq for parties to seek clarification on responses to Information Requests and to discuss outstanding issues and concerns. The hearing phase of the EA review commenced in September 2017 and culminated in three days of public hearings in Whati in November 2017. Closing arguments were submitted by parties in December 2017 and the public record was closed on January 20, 2018.

Information on the public record suggests that the GNWT-ENR had acted independently of the GNWT as Developer regarding the need for a WMMP. Following the technical sessions in September 2017, GNWT-ENR provided independent technical advice to GNWT-INF and parties to the EA through the public registry. In a letter dated October 16, 2017, the Minister of GNWT-ENR determined that, in accordance with the Wildlife Act, the Project is likely to satisfy the criteria requiring a WMMP. GNWT-ENR required the Developer submit a WMMP for the GNWT-ENR Minister’s approval at least 60 calendar days prior to construction of the Project. The letter advised the Developer of the following: the WMMP must address Developer commitments to mitigate impacts as well as any wildlife-related measures directed towards the Developer that may be contained in the Review Board’s REA; the revised WMMP will be posted for public review for 30 calendar days and, based on public comments, GNWT-ENR may require further revisions to the WMMP; and that GNWT-ENR will provide the Developer a written notice of approval, conditional approval or rejection of the WMMP within 30 calendar days of receipt of the final WMMP.

The Review Board’s REA provided extensive commentary regarding the GNWT’s performance at technical sessions and the public hearing, particularly with respect to the availability of expert testimony and provision of technical information or evidence. This commentary was largely provided in the context of the Review Board’s perspective on the WoG approach. The following provides a sample of the Review Board’s observations that are not related to adequacy or quality of information or the evidence presented but rather GNWT’s performance as a party in the EA process. The key observation from the Review Board was:

“The Review Board observes that the expertise of ENR was missed in the conversation about wildlife, which is central to the concerns of Aboriginal groups and the public in relation to this Project. In this EA, the

Review Board has had to rely on other organizations outside of the GNWT which tried to step up and provide information on subjects within the mandate of expert GNWT departments. For example, the Wek'èezhì Renewable Resources Board and North Slave Métis Alliance provided particularly useful evidence on wildlife that, in effect, helped to partially address the void left by the lack of direct participation of the Department of Environment and Natural Resources as a party to the EA”.

Effectively, the Review Board “lost sight” of what wildlife expertise the GNWT-ENR might have provided to the EA, because it was shared internally with GNWT-INF rather than through direct participation as a party or intervenor in the EA. As a result, the Review Board relied on others for information and evidence it considered important to the proceedings.

Another issue that was raised was the lack of linkage of the EA Process with the Project construction by the private-public partnership following completion of the EA Process and EA approval. Some of those interviewed, indicated that there was a lack of understanding regarding the role of the company and the partnership in the EA process. This concern was borne out by significant compliance issues that have been documented after receiving regulatory approvals by the WLWB. Interviews did not focus extensively on the GNWT’s performance at technical sessions or the public hearing; however, the following observations were provided by one TASR Project participant:

- The GNWT had a large team with a designated team lead from GNWT-INF. Best practice in terms of conducting daily debriefs and managing team morale do not appear to have been followed rigorously.
- Insufficient effort was placed in the preparation for the technical sessions and public hearing. While the GNWT staff came to these forums with good knowledge of the content and some witness training was provided, their delivery could have been improved with more training.
- There were occasions during the hearing when GNWT’s consultant offered strategic advice, when the intervention of a lawyer might have been more appropriate. For example, a lawyer might have been able to provide better context to the MVEIRB for the evidence about to be presented by the GNWT. Similarly, intervenor positions changed during the EA and the MVEIRB did not always enforce its Rules of Procedure, which a lawyer experienced with hearings could have identified and better used to the Project’s advantage.

3.4.1 Lessons Learned

1. The EA review process involves the presenting of evidence, issuing of Information Requests, preparing intervention responses and making closing arguments that require the GNWT to be organized and provide thorough and timely input based on careful consideration by both the Working Group and the PASMCC.
2. Participation in technical sessions and public hearings requires substantial effort to prepare evidence and for witness training.
3. GNWT’s participation in technical sessions and public hearings requires coordination and leadership. Strategic advice is required from legal counsel or a “hearing manager” familiar with the Review Board’s Rules of Procedure. Providing such leadership from internal resources (rather than by an external consultant) is considered best practice.

3.5 Volume and Quality of Information

At the outset of the EA process, there was a general perspective by the GNWT and the MVEIRB that there was a surplus of technical information available to the Review Board (MVEIRB Terms of Reference, 2016). The MVEIRB stated in the final Terms of Reference document that:

“The Tlıcho All Season Road EA is unique in the volume and quality of material submitted to the Review Board (2016). The evidence currently on record provides the Review Board with a good understanding of the Project and an indication of issues that have the potential to result in significant adverse environmental impact(s). This amount of information and detail is not typically available at the outset of an EA”.

Ultimately, several GNWT and most external TASR Project participants interviewed agreed that despite the Review Board's initial evaluation of the volume and quality of information available, the EA was hampered in several ways by the limited baseline data for some key lines of inquiry. The Review Board's Reasons for Decision report clearly indicated that there was limited information on current use of the alignment by caribou or bison, species of fish in the streams, and human activity on the existing trail. This led to heavy reliance on assumptions and extrapolation to complete the updated PDR, which ultimately failed to convince intervenors and the Review Board. Again, some interviewees speculated that this was another contributing factor to some of the precautionary measures recommended by the Review Board.

3.5.1 Lessons Learned

1. An assessment of data gaps should be made early in Project planning and a plan to fill those gaps should be developed prior to formally entering the EA process.
2. The quality of information and the evidence provided to the Review Board during an EA process will be tested. The Developer should never assume that its data and evidence is sufficiently robust to withstand public scrutiny.

3.6 Duty to Consult and Indigenous Engagement

The GNWT has a legal duty to consult and, where required, accommodate Indigenous Governments and Organizations (IGOs) whenever it considers carrying out a government decision or action that has the potential to adversely impact an asserted or established Aboriginal and/or Treaty right. The GNWT responsible ministers had a legal duty to consult on the TASR Project, given that:

- a) The GNWT is carrying out an action (i.e., the Minister of the Department of Lands is the minister with the delegated authority for environmental assessment decisions under section 130 of the MVRMA for Projects wholly on territorial lands; the Department of Infrastructure is the developing department);
- b) The GNWT has knowledge, real or constructive, of asserted or established Aboriginal and/or Treaty rights of Tłıchǫ Government, Dehcho First Nations (DFN), North Slave Métis Nation (NSMA), Northwest Territories Métis Nation (NWTMN), and Mountain Island Métis (MIM);
- c) During the TASR EA process the Akaitcho Dene First Nations (ADFN), including Yellowknives Dene First Nation (YKDFN) asserted of possible impacts from the TASR Project on their asserted or established Aboriginal and/or Treaty rights even though the TASR Project is located outside of their asserted territory; and

- d) The GNWT action has the potential to have an adverse impact on asserted or established Aboriginal and/or Treaty rights of the IGOs described in (b).

As there was a federal responsible minister for this Project (i.e., Minister of Natural Resources Canada), potential adverse impacts to asserted or established Aboriginal and/or Treaty rights that fall within the sole jurisdiction of Canada's responsible minister were assessed by Canada. The NPMO led the federal consultation assessment. GNWT-Lands reviewed the federal government's assessment and GNWT's PAB coordinated with Canada on consultation efforts throughout the EA process.

The Project is in the North Slave region of the Northwest Territories, wholly within the Wek'èezhii and Mqwhì Gogha Dè Nııtlèè areas under the Tłıchq Agreement. Within this area there are numerous IGOs that asserted or established Aboriginal and/or Treaty rights. Upon the referral of the TASR Project to EA, GNWT wrote letters to all IGOs with asserted or established Aboriginal and/or Treaty rights that could potentially be impacted by the Project. An analysis undertaken in accordance with the GNWT Consultation Resource Guide (2014) and discussions between GNWT-INF and the GNWT-Executive and Indigenous Affairs Department determined the following are rights-bearing IGOs with asserted or established Aboriginal and/or Treaty rights that could potentially be impacted by TASR:

- Tłıchq Government (TG);
- Akaitcho Dene First Nation (ADFN);
- Mountain Island Métis (MIM);
- Dehcho First Nations (DFN);
- Northwest Territory Métis Nation (NWTMN); and
- North Slave Métis Alliance (NSMA).

Some interviewees speculated that the GNWT- Executive and Indigenous Affairs Department "did not expect the YKDFN to assert their rights in this case". In any case, it was widely acknowledged by most GNWT and external parties interviewed, that insufficient effort was placed towards early and ongoing engagement with Indigenous groups other than the Tłıchq Government, particularly the YKDFN and the NSMA. One interviewee indicated that the lack of initial consultation with the YKDFN was a major issue that put the TASR Project in the spotlight for this organization. Further to this, the Review Board's letter outlining the reasons for referral to EA (July 21, 2016) expressed its view that direct consultation between the GNWT and the NSMA is appropriate and the Review Board encouraged the GNWT to carry out such direct consultation with the NSMA.

In general, the GNWT relied on, to the extent possible, the existing consultation and accommodation mechanism of the EA process as the primary means of consulting with Indigenous groups and collecting information on potential adverse impacts of the Project on asserted and established Aboriginal and/or Treaty rights. This involved a scoping exercise; input on the terms of reference; information requests to parties to the EA; technical reports and closing submissions; as well as participation in technical sessions, workshops and public hearings. The Review Board acknowledged that fulfilment of Part 5 (Mackenzie Valley Environmental Impact Review Board, Interpretation and Application) of the MVRMA can also satisfy crown consultation obligations; however, the Review Board indicated that it is not their role to make determinations on the existence of or strength of any Aboriginal rights. The Review Board's stated that it was their primary interest to conduct the EA and encouraged early and meaningful engagement with IGOs.

With this understanding, there was a broad consensus among those interviewed that the GNWT's early engagement, collaboration and "relationship building" with the Tłıchq Government (and visa versa) was a positive contributing factor towards the government's support and the ultimate approval of the TASR Project. Early in the development process (i.e., prior to the formal EA process) the GNWT-INF and the Tłıchq Government collaborated extensively on key aspects of the Project such as alternative routing and inputs to the PDR regarding traditional knowledge and socio-economic matters. The Tłıchq Government engaged with its communities on these and other issues. At that time, the contribution of the Tłıchq Government was welcome by the GNWT-INF to garner support for the Project. Interviews with GNWT participants considered the Tłıchq Government as a "co-developer" during these early stages. Ultimately however, the Tłıchq Government participated in the EA as a party, and consistently stated its support for the Project throughout the EA process. Early, meaningful and sustained engagement, and relationship building were seen by all GNWT and external participants as "best practice".

Overall, interviews with TASR Project participants confirmed that all parties fully understood that the GNWT and the federal government both held a legal duty to consult and, where appropriate, accommodate an Indigenous rights holding organization with respect to the planning and approval of the TASR Project when there was the potential to adversely affect an asserted or established Aboriginal and/or Treaty right. For the TASR Project, there were two separate consultations. Firstly, the GNWT-INF led the consultation on the initial regulatory applications. Secondly, the GNWT-INF led further consultations on the Project once the EA started. However, external EA participants suggested that the differences between these two consultations were not clear to them. Some GNWT staff interviewed were also not clear on this distinction.

Nevertheless, through the initial consultations, the GNWT was able to avoid or mitigate several potential Project impacts to asserted or established Aboriginal and/or Treaty rights by making changes to the Project design prior to the EA process in collaboration with the Tłıchq Government. During the Project EA, concerns were heard from IGOs regarding: boreal and barren-ground caribou; fish; species at risk; migratory birds and other wildlife; impacts to culture and heritage resources and the transmission of Traditional Knowledge; and social impacts resulting from new all-season access to the Community of Whatı. Through the second set of consultations, the GNWT was able consider these issues in its EA documentation and present evidence at the public hearing.

Post-REA release, prior to making their decision under section 130 of the MVRMA, the responsible ministers sent a letter to the IGOs asking that they respond to the following:

"Are there any specific activities or components of the Project, which, after considering the recommended measures, developer's commitments, and other content in the REA, you may identify as still having the potential to adversely affect your asserted or established Aboriginal and/or Treaty rights?"

If so, please specify the nature of any and all outstanding concerns regarding potential adverse impacts, and which asserted or established Aboriginal and/or Treaty rights you see as being potentially affected, in your response letter - including any concerns you raised at any point previously in the EA that remain outstanding in your view; and

Please specify what additional steps you would recommend to address the potential adverse impact.”

Only NSMA responded with any concern, indicating that they were uncertain whether they had any outstanding concerns due to insufficient capacity and that funding specific to the TASR regulatory process will need to be provided to assess whether the Wildlife Management and Monitoring Plan addressed NSMA's concerns.

Interviews with GNWT participants indicated that the approach that the GNWT took to fulfil its duty to consult and accommodate through the EA process was reasonable.

SLR did not find any evidence, either on the public record or through its interviews, that IGOs attempted to frustrate the approach that the GNWT took to fulfil the duty to consult and accommodate. Rather, interviews undertaken by SLR indicated that the IGOs also fulfilled their legal obligation to take a good faith approach and respond to the consultation opportunities provided by the GNWT and the Review Board through the EA process. The public record shows that they openly and clearly expressed their concerns and submitted important evidence to the Review Board regarding potential impacts to their asserted or established Aboriginal and/or Treaty rights. This not only enabled the Review Board to make its recommendations but also allowed the GNWT to adequately discharge its duty to consult and accommodate.

3.6.1 Lessons Learned

1. Roles and responsibilities for undertaking Section 35 consultations need to be clear and formalized to ensure consistent leadership and to avoid overlaps.
2. An early and detailed review of the existence of, or strength of, any Aboriginal rights potentially impacted by the TASR Project helps in the understanding of impacts and could help avoid excluding potentially interested IGOs from the EA process.
3. Early and meaningful engagement with IGOs plus the completion of the EA process under Section 5 of the MVRMA are important elements that serve to satisfy government consultation obligations.
4. Early engagement and collaboration with the Tłicho Government during the early stages of Project development was an extremely positive contributing factor towards building support for the TASR Project and its ultimate approval.
5. Relationship building with the Review Board, Land and Water Boards, Indigenous governments and organizations, and key stakeholders, through formal or informal means, within or outside of the EA process is considered a “best practice”.
6. Post-REA efforts to confirm IGO's positions with respect to the fulfilment of the government's duty to consult and accommodate are important steps necessary to give the responsible ministers confidence that their duty to consult and accommodate have been adequately fulfilled.

3.7 Communications

Internal GNWT Communications

In accordance with its “Project Assessment Policy 24.03” the GNWT's Executive Council has the responsibility for referrals of Projects to EA under Section 126 of the MVRMA; may approve standards to be applied to Project assessments; and may approve positions and strategies for Project assessments. GNWT Ministers may exercise any authority as delegated by the Commissioner in Executive Council.

Projects requiring EA are taken to PASMCC that is chaired by the Deputy Minister of Lands and is comprised of Deputy Ministers of most GNWT departments. The role of the PASMCC can vary from project to project but is primarily related to making decisions regarding Project assessment activities and responses in line with approved ministerial policies, priorities, positions, strategies and standards, and ensuring inter-departmental discussion and cooperation in EA processes. In addition to the PASMCC, GNWT-INF had established an oversight group for the TASR Project that included representatives from GWT-INF and GNWT-FIN.

Upon referral of the TASR Project to EA, the GNWT established an inter-departmental Working Group to ensure that an updated PDR was prepared with the involvement of all key government departments in a proactive, strategic, coordinated, timely, consistent and effective manner. This Working Group was heavily supported by GNWT-Lands.

There is general agreement among GNWT participants that both a Working Group and the PASMCC are required in any project assessment, but that the additional layer of the GNWT-INF and GNWT-FIN oversight group was questionable. However, interviews with GNWT participants revealed that their operations were problematic in several ways. The following are key observations made by the GNWT participants interviewed:

- A communications gap developed between members of the Working Group and those of the PASMCC. Some working group members relied on internal reporting and communication procedures (e.g., briefing notes) that would take long to prepare and did not always reach the Deputy Ministers when decisions were necessary to keep the EA process moving.
- Some GNWT participants complained that the PASMCC met infrequently and did not pay attention to the TASR Project's "day-to-day" issues that required decision-making or senior direction.
- Communication and continuity was hampered to some extent by personnel turnover at the working level and the Deputy Minister / Minister levels.
- Some members of the Working Group may have failed to "keep upper levels in the loop" regularly, perhaps not recognizing that an issue had emerged that required senior direction. Conversely, the PASMCC may not have clearly communicated its positions and decisions "down the line" to working level staff (e.g., "how the WoG approach would play out at a hearing").
- In the context of a WoG approach, a substantial effort was required to coordinate a large GNWT team, and to bring issues to the Working Group table for discussion and resolution. In many cases, this process took longer than anticipated or desired. One GNWT interviewee characterized the operation of the Working Group as being plagued by "paralysis by analysis".
- Some departments represented on the Working Group were not well prepared for participation due to a lack of understanding of the EA process, timelines/next steps and what was expected of them at each step.
- GNWT-INF having access to, and directing an external consultant was seen by some GNWT interviewees as unfair and inconsistent with the WoG approach. As such, disagreements at the Working Group level emerged that were left unresolved and created animosity among departmental representatives and between some departmental representatives and the external consultant.

Intergovernmental and Multi-Stakeholder Communications

Inter-governmental communications were initially focused on the GNWT and the Tłıchq Government through the Tłıchq Roads Steering Committee (Steering Committee) formed in 2010. Together, the Tłıchq Government and GNWT assessed the feasibility, desirability and implications of realigning the Tłıchq winter road system to provide improved community access. In May 2013, the Steering Committee resolved to pursue development of an all-season road.

During the EA process, communications regarding the TASR Project between the GNWT and Indigenous governments and organizations continued formally through the MVEIRB process and informally through well-established communication channels (i.e., ongoing work with co-management boards). The GNWT and the Tłıchq Government also participated on occasion in the NPMO's TASR Project-specific Inter-departmental Working Group established for federal departments. A GNWT participant observed that coordination between the NPMO and the GNWT's Project Assessment Branch with respect to IGO consultation went "smoothly".

Communications and coordination among federal government departments was led by CanNor, through the NPMO. The NPMO coordinates the participation of federal departments in the regulatory review process, and publicly tracks the progress of Projects to bring transparency, timeliness and effectiveness to the regulatory system. In fulfilling this role, the NPMO utilizes its network of federal Deputy Ministers, Assistant Deputy Ministers and Directors General Committees along with specifically mandated northern committees

including a TASR Project-specific Inter-departmental Working Group, Resource Development Advisory Groups and Territorial Project Committees. SLR was not able to interview individual federal government departmental representatives, but was directed to CanNor as the coordinator of the federal government's involvement in the TASR Project EA. There were no comments regarding the role or function of the NPMO by any GNWT or other external parties interviewed.

Interviews with the GNWT and external parties indicated that the Tłıchq Government took a proactive role in preparing for the TASR Project to promote economic development and prepare to mitigate social and cultural impacts. Their approach was to maintain effective communications among all Tłıchq communities and among staff in various internal departments. The Tłı chq Government created an inter-agency Working Group for all Tłıchq communities; formed a Working Group on housing with the GNWT; created the Tłıchq Region Economic Development Working Group; and initiated a comprehensive tourism strategy for the Tłıchq region. Many GNWT and external parties credit this proactive and inclusive approach as helping to deliver "the best Project possible".

Similarly, the Whatı Inter-agency Committee was formed in 2013, included the Tłıchq Government and various authorities (e.g., the RCMP). This committee is credited as positively contributing to the early identification and resolution of issues related to community preparedness. Issues such as emergency response, social programs, and community and lands concerns were brought to this committee on a monthly basis. The committee's effectiveness is demonstrated by the desire of many to continue this community forum into the future to facilitate coordination amongst agencies as the TASR Project is constructed and operated.

Looking into the future and as required by Measure 14-3 in the MVEIRB's REA, the GNWT committed to leading a Working Group similar to the GNWT's Inuvik Tuktoyaktuk Highway Corridor Working Group (ITHCWG). The TASR Corridor Working Group (TASR CWG) is

comprised of the territorial and federal governments, First Nations governments, Métis and other Indigenous groups, co-management Boards, TASR contractor and consultant; and was established in May 2019 to be an overarching forum for the collaborative resolution of a wide range of issues that may emerge during Project construction and operation. The TASR CWG is intended to help the Developer improve its management of the Project, to adaptively reduce or avoid adverse impacts.

The Tłıchq Government reported that the following additional Working Groups have been formed and are active in supporting the TASR Project:

- Commercial Working Group
- Fisheries Working Group
- Health and Well-being Working Group
- Cultural Heritage Working Group
- Behchokq Inter-agency Working Group

3.7.1 Lessons Learned

1. A well-organized inter-departmental Working Group with Terms of Reference and consistent membership should be established as early as possible in a project's planning phase (before application submissions / EA referral) to facilitate team building and collaborative decision-making. The use of an inter-departmental Working Group should be considered as a "best practice" in any EA process.
2. Some level of engagement with probable parties to an EA could have been undertaken to provide feedback on the need for and composition of external Working Groups, committees and to discuss opportunities for improved inter-governmental communications.
3. During an EA process, regular communications, through well-defined lines and means of communication among Working Group members and between the Developer, the Working Group, the PASMCC and any Project-specific oversight group is critical to success.
4. Regular communications among the parties in an EA process, whether formal or informal, bi-lateral or multi-lateral, are valuable.
5. Well-organized inter-governmental Working Groups aimed at information sharing; collaborative planning and decision-making; and issue identification and resolution should be considered as a "best practice" in any EA process.

3.8 Internal GNWT Operational Challenges

A substantial portion of the interviews undertaken with GNWT participants focused on the challenges faced by GNWT departments during the EA process. Key observations from the interviews undertaken with GNWT were:

- Insufficient time was taken to organize and structure the various GNWT departments to deliver an updated PDR and participate in the EA process in the context of a WoG approach. Other than participating in Working Group meetings, most departments did not "do anything differently" internally but proceeded in a "business as usual" manner. Some interviewees reported that this resulted in uncertainties as to what issues needed to be communicated to Deputy Ministers and when, and some overlapping responsibilities, particularly regarding decision-making on technical matters and coordination of

Indigenous consultation. This also resulted in balancing several current departmental priorities with new responsibilities associated with the TASR Project. The need for effective internal workload planning was raised by many GNWT interviewees. One GNWT participant noted that “producing a DAR [Developer’s Assessment Report] versus reviewing a DAR is a new line of business”.

- The scope and scale of the TASR Project EA was underestimated by all GNWT departments. The referral to EA was seen as a large change in the overall delivery of the TASR Project in a timely manner. Some felt that EA completion was a “moving target” that continuously challenged departmental expertise and capacity.
- The referral to EA by the Review Board was also seen as an issue in relation to the timing of federal funding and the establishment of a public-private partnership to build the TASR, once approved. These matters were largely out of the control of the GNWT but added to the time pressures facing the EA process.
- Changes in leadership among Deputy Ministers and project management at GNWT-INF (i.e., due to periodic personnel changes and departmental amalgamations during the EA process) resulted in a loss of continuity and “corporate memory”.
- Some departments acknowledged that they lacked experience and knowledge of the EA and the regulatory process. This lack of knowledge was in some cases:
 - technical (i.e., what needed to be studied, how and to what detail?); and
 - procedural (i.e., what are the key steps in the EA process and what are the expectations of departments at each step?; and how do review boards operate, what are the Rules of Procedure and what is the role of the public registry?)

For example, one interviewee commented that their department did not have the capacity to attend all meetings nor follow the EA process closely. Their lack of understanding of EA and what issues might come up was acknowledged as leading to the participation in the GNWT Working Group by individuals without the appropriate skill sets.

- One department reported difficulties in engaging other divisions within their own department when their expertise was required.
- Some departments acknowledged that they lacked confidence and the new skills (e.g., negotiation, mediation, conflict resolution) necessary to function effectively in a changing organizational culture that emphasized a WoG approach. A few GNWT participants indicated that they lacked training or did not have access to simple project management tools (e.g., those used to prepare project schedules, and to track progress and spending).
- Difficulties in securing the financial and human resources (staff and consultants) to meet expectations regarding Project timelines. One interviewee suggested that Deputy Ministers and others involved in contracting did not appreciate the full cost of an EA process.
- Many interviewees commented that the TASR EA was just one of their responsibilities. Most GNWT participants were “juggling several files and several Projects outside of the TASR Project”. Moreover, other government initiatives and studies relevant to the TASR Project and that required attention by GNWT staff were ongoing during the EA process.
- There appears to have been “trust issues” between the Boards and the GNWT. Some interviewees attributed this to what they perceived as the “adversarial nature of the approvals process” and/or the GNWT staff’s lack of understanding of the co-

management approach that Boards follow in making decisions.

- There were also significant timing challenges for accessing long term funding for the TASR Project related to completing the approvals process and hiring contractors to build the Project.

3.8.1 Lessons Learned

1. Early project planning should be rigorously carried out in terms of meeting the requirements for a Working Group. In other words, “Plan Your Work and Work the Plan”. Key considerations are:
 - Ensuring adequate personnel and fiscal resources are available from each department;
 - Addressing competing workload priorities;
 - Establishing reporting structures and communications protocols within departments and with other government groups and committees;
 - Identifying major tasks and milestones and keeping an active schedule; and
 - Providing project management training.
2. Where external consultants are retained, clarity is required as to their scope of work, who they report to and who has the “final say” if there are disagreements between the consultant and the GNWT subject matter expert.
3. Formal project management procedures need to be implemented to support major infrastructure projects with Project Agreements (or Project Charters), permitting risk assessment, resource requirements, schedules and deliverables and cost estimates.
4. Training of GNWT staff on technical requirements for an EA and regulatory approvals is required.
5. Consider developing an internal registry of projects that have been through the EA process, including a list of key issues addressed; examples of best practices; process timelines; technical support requirements; Traditional Knowledge and Indigenous community requirements; and engagement and consultation methods. This registry, along with training described above, would help GNWT personnel develop an understanding of the current and evolving EA process in NWT, and provide an up-to-date road map for new projects at the early stage of project planning.

3.9 Firewalls

The MVEIRB noted, in commenting on their perceived implications of the WoG approach taken by the GNWT-INF, that an alternative approach could be taken when the Developer is a government department. The MVEIRB pointed to the Giant Mine Remediation Project EA, where the federal and territorial governments were joint Developers led by the federal government (MVEIRB Reasons for EA Decision, 2018).

However, a GNWT interviewee clarified that although GNWT-ENR participated in the Giant Mine Remediation Project EA as part of the proponent team, only one division within GNWT-ENR participated directly in the assessment process. None of the other GNWT departments commented. On the federal side, as this occurred pre-devolution, only one division within CIRNAC participated as the developer. Divisions that later devolved to GNWT, such as Waters, and divisions that remained with CIRNAC, such as CARD, did not provide any input into the

project. The Giant Mine Remediation Project model was basically one GNWT division and one CIRNAC division as the proponent with no internal review from within the GNWT or within CIRNAC. (However, other federal departments participated as parties to the Giant Mine Remediation Project EA). In this case, both the territorial and federal governments chose to implement formal internal separation (“firewalling”) of departmental interests as the Developer from potentially conflicting departmental public responsibilities (MVEIRB Reasons for EA Decision, 2018).

This MVEIRB’s view of “firewalling” was not shared by some of the GNWT or external parties interviewed. Several interviewees indicated that “firewalling” should be limited to the Decision Phase of the EA process after receipt of the Review Board’s Reasons for Decision report. Here, the intent of having firewalls is to avoid a perception of bias or that the Developer (and supporting technical experts) might try to influence the responsible ministers during the Decision Phase.

While, several interviewees emphasized the importance of having an effective “firewall” in place at the Decision phase of the TASR EA process to avoid conflicts or perception of bias, a few others had strong feelings that the “firewall” should have been in place at the Analysis phase of the EA process to allow for individual GNWT departments to provide expert advice as necessary. The approach taken to firewalling would be linked to the WoG approach that was designed and implemented by GNWT.

In the case of the Giant Mine Remediation Project EA, individuals from federal departments at the regional level that provided technical expertise to the Developer and evidence to the Review Board were “firewalled” from their respective responsible ministers during the Decision Phase.

One GNWT interviewee indicated that GNWT analyzed considerations around decision-making and identified no legal requirements for any formal separation (i.e., firewall) to allow the GNWT to fulfill its roles as Developer and approver of the TASR Project. Nevertheless, some “firewalls” were implemented during the Decision Phase of the EA. The GNWT described its approach to “firewalling” in the Decision Phase in a letter to the Review Board. The approach was described as follows:

“The GNWT Minister of Lands will sign the final decision letter responding to the Review Board’s recommendation and REA on behalf of all responsible ministers (RMs) under section 130 of the MVRMA. The Department of Infrastructure and its Minister, as the department leading the GNWT in the role of Developer, will not participate in this decision-making process. During the decision-making process, and until the decision letter has been received by the Review Board, the GNWT is implementing an internal firewall between the Departments of Infrastructure and Finance (and consultants working for those departments) and the staff of other departments who will assist in the RMs in the section 130 decision-making process. This includes any regulatory discussions that pertain to any measures included in the REA [Report of the Environmental Assessment and Reasons for Decision]”.

In addition, some individuals were also “firewalled” where personal ties to others might have been an opportunity to influence decision-making regarding the TASR Project.

Overall, “firewalling” was considered by many interviewees as a legitimate and necessary tool to support independent decision-making by responsible ministers, rather than a tool to deliver information or evidence from independent experts to the Review Board.

Regarding the views of the Review Board in their REA, some GNWT interviewees indicated that a “lack of capacity” and the “size of government” were the key factors that constrained the GNWT’s ability to provide independent expertise to the Review Board through more robust “firewalling” as understood by the Review Board.

3.9.1 Lessons Learned

1. Firewalling is a legitimate tool to support independent decision-making by responsible ministers.
2. In public communications about a project where the GNWT is a proponent or the Developer, the government should clearly separate its various roles. In particular, the GNWT should reinforce the message that the GNWT responsible ministers will, as part of the larger group of ministers, and fulfill their statutory roles based solely on relevant evidence provided through the appropriate process.
3. Looking into the future, the GNWT could consider developing a model where firewalls during the EA process allow for participation by individual departments to act as technical experts throughout the process.

3.10 “Consult-to-Modify” Process

Under sections 130 and 131.1 of the MVRMA, the Tłıchq Government and GNWT Minister of Lands, must consult with the Review Board before a decision to modify any part of the Board’s recommendations in its REA. This consultation is an element of the EA decision making process set out in the MVRMA and is not related to Aboriginal consultation requirements which may arise when proposed development activities affect Aboriginal or treaty rights. To support transparency, the Review Board indicated that all relevant correspondence and materials will be posted on the public registry, including the Review Board’s response to the proposed modifications, considering any issues raised by parties and the public. On June 22, 2018 the Tłıchq Government and the responsible ministers initiated the “Consult-to-Modify” process with the Review Board for the TASR Project as a continuation of the EA process. On October 25, 2018, the responsible ministers provided the Review Board with their final wording of measures modified by the responsible ministers (Measures 6.1, 6.2 and 6.3) and as modified by the Tłıchq Government (Measures 5.2, 5.6, 8.1, 9.1 and 9.2). As part of the Consult-to-Modify process, the responsible ministers needed to:

- make decisions regarding which Measures required modification;
- consult with IGOs regarding the REA and adverse impacts on asserted and/or Treaty rights (this included consulting IGOs on the proposed modifications to the measures, including the Tłıchq Government’s proposed modifications);
- craft and discuss the proposed wording with relevant IGOs and the Review Board; and
- provide the Review Board with the final wording and rationale for those Measures modified by the responsible ministers.

Interviews with GNWT participants indicated that the Consult-to-Modify process was a time-consuming and difficult process but an “important” one, because it was seen as a final opportunity to ensure that the spirit and intent of the measure was not modified but that the measure could actually be implemented. Some GNWT participants offered the following

observations:

- not all GNWT participants in the inter-departmental Working Group were involved in identifying which Measures should be subject to modification. Rather only responsible minister departments were involved at this stage; and
- the role (if any) of the inter-departmental Working Group during the Consult-to-Modify process was not clear.

Some GNWT participants indicated that going forward, the GNWT might need to communicate more broadly (beyond posts to websites and public registries) and on an ongoing basis how the GNWT, and its P3 contractor, are complying with commitments made during the EA process and how they are implementing measures recommended by the Review Board following the Consult- to-Modify process.

3.10.1 Lessons Learned

1. The Consult-to-Modify process will be a time-consuming and difficult process but is an important one to undertake. It is a final opportunity for the GNWT to ensure that the measure can be implemented.
2. Transparency regarding the efforts of the GNWT and the P3 contractor towards compliance with EA commitments and Measures approved by the responsible ministers is necessary to build trust and confidence.

3.11 Post-EA Regulatory Approvals

Like the Consult-to-Modify process, some GNWT participants commented that the process taken to develop and approve a post-EA Wildlife Management and Monitoring Plan (WMMP) was a time-consuming and difficult process. The WMMP underwent numerous iterations from its initial draft submitted in 2016 (as part of the GNWT's water licence and land use permit application to the WLWB) to a final version approved in 2019. As the final approving authority, GNWT-ENR wished to have WLWB approval of the land use permit and water licence precede that of GNWT-ENR approval of the WMMP to ensure GNWT- ENR was able to capture the WLWB approval requirements. This proved more difficult to achieve than first thought partly because of changes to Section 95 of the *Wildlife Act* regulations that came into force on July 1, 2019. In correspondence (August 21, 2019) between GNWT-ENR and the WLWB, GNWT-ENR noted that "this is a brand-new process for ENR and we acknowledge there are lessons to be learned from this process that will need to be improved for future WMMP approval processes".

Some GNWT participants noted that post-EA, there was no longer a formalized WoG approach, and it was unclear if and how GNWT departments should provide input into the Project if not requested by the developer to review documents prior to regulatory submission. For the TASR Project, GNWT-ENR was afforded the opportunity to review most of the post-EA regulatory submissions and submit comments to GNWT-INF. For most plans in the post-EA package ENR provided comments in a spreadsheet and INF responded to those comments, noting how changes were incorporated or explaining why the recommendations were not accepted. However, post-water licence and land use permit approval – there was no formal system in place for GNWT-INF to provide GNWT-ENR with plans/amendments for ENR's input. On occasion GNWT-INF sought GNWT- ENR's input.

3.11.1 Lessons Learned

1. Clarity about roles and timing is required with respect to the review and approval of Wildlife Management and Monitoring Plans among GNWT-ENR, the WLWB and the WRRB.
2. A plan is needed for how the GNWT transitions from EA to the regulatory to implementation phases of a Project to maintain continuity in relationships and lines of communication

3.12 Project Timelines

Information regarding internal timelines set for EA completion was not available for SLR's review, but there was general agreement among the GNWT participants interviewed that the TASR Project EA timelines set internally were unrealistic (given past experience) and driven largely by the need to advance procurement in a P3 contracting process. Most thought that the thorough PDR prepared by the GNWT as submitted to the WLWB would allow them to shorten the time to prepare an updated PDR, complete the EA process and meet P3 contracting timelines.

Some of the GNWT participants interviewed indicated that their department had little input into internal Project timelines. Establishing internal EA process timelines in a collaborative manner might have helped some departments plan for the deployment of their human resources to meet EA process expectations.

The formal EA process took from July 21, 2016 when the TASR Project was referred to EA and the Scoping phase began, to October 29, 2018 when the Consult-to-Modify process was complete. This is a total of 27.75 months with 10.75 months attributed to activities of the Review Board and parties (MVEIRB, EA-1617-01). For context, the EA process for the Prairie Creek All-Season Road³, a project of similar scope and size, took from May 22, 2014 to October 9, 2018, thus a total of 53.25 months, with 13.75 months attributed to activities of the Review Board and parties (MVEIRB, EA1415-01).

3.12.1 Lessons Learned

1. Internal EA Project timelines need to be realistic and based on agreed upon workplans aimed at achieving specific EA milestones, considering regulatory practices and procedures.
2. Collaboration amongst GNWT departments in establishing internal EA process timelines can help the various government departments participating in an EA in planning the deployment of their human resources.
3. Development of more detailed environmental and socio-economic management plans earlier in the EA process and their presentation as evidence at a hearing would reduce the level of effort in the Decision Phase.
4. Participation in the Decision Phase will require time for negotiation and agreement building with relevant parties and regulatory agencies. Planning and active management is need for participation in this phase. With an acknowledgement of

³ The project consisted of the construction, operation and closure of a 180 km all season access road from the Prairie Creek Mine (km 0) to the Liard Hwy (km 180). The route is currently winter only but has not been used since 1982.

seasonal constraints in the north, greater flexibility in setting construction schedules is desirable in order to allow these negotiations and agreement building processes to conclude.

3.13 Treatment of Private vs. Public Sector Proponents

Interview participants were asked whether they felt that there is a level playing field between Projects that are assessed in the private sector versus those of the public sector. Opinions varied considerably, however there was an acknowledgement that the MVRMA does not differentiate between private and public sector led Projects.

Some of those interviewed asserted that expectations of government proponents by regulatory boards and Indigenous governments and organizations are significantly higher than for private sector proponents. They expressed a feeling that people outside of government expect government to “be all and do all” and are perceived as having “deeper pockets”. Views were also expressed that the TASR Project was treated quite unfairly and at times the expectations by the EA process were too high considering this was a Project that was supported by the Tłıchq and considered to be for the public good. There was the concern that the process was too confrontational for this type of infrastructure project and it is best to find ways to develop more cordial and positive organizational relationships and communications. Those interviewed acknowledged that government proponents carry a public interest mandate to mitigate impacts while private sector proponents do not have that type of imperative. An example cited was that habitat offsetting measures were a consideration on the TASR Project but not for other private sector Projects. SLR has not verified this assertion. Others observed that people think that governments have the internal financial and human resource capacity to conduct highly technical studies, prepare EAs and deliver evidence to Review Boards without the acknowledgement that governments operate in a competitive environment for scarce resources.

On the other hand, a few GNWT participants commented that Review Board and Land and Water Boards work hard to maintain their independence and credibility; and, generally treat public and private sector proponents equally and consistently from project to project. One GNWT interviewee stated that the Review Board’s Rules of Procedure help support fair and transparent procedures for all applications, but often these are not well understood by applicants. One GNWT interviewee stated that regulatory bodies in the north generally “recognize the realities of who they are dealing with and tend to accommodate their needs to the extent possible”.

3.13.1 Lessons Learned

1. All GNWT staff involved in EA should be familiar with the Review Board’s Rules of Procedure and any Project-specific directives issued by the Review Board.

3.14 Other Projects Outside of the Mackenzie Valley

The SLR Team researched and reviewed government or government agency led project EAs in Canadian jurisdictions outside of the Mackenzie Valley, for the purpose of identifying potential lessons relevant to the Mackenzie Valley. For the most part, there were few recent project examples that were of a similar scale and nature to that of the TASR Project, where the proponent or Developer was government. Among the cases identified, the Developer was either a crown corporation, agency or utility (BC Hydro, Newfoundland and Labrador Hydro) operating at “arms- length” from the Provincial government. Exceptions to this were the roads being

developed to provide all-season access to First Nation communities in Manitoba and the Inuvik Tuktoyaktuk Highway (HWY 10).

In the former case, the proponent was Manitoba Infrastructure, a Provincial government's department responsible for the development of transportation policy and legislation, and for the management of the province's infrastructure network. To meet these responsibilities, the department delivers a wide range of programs and services that play a critical role in sustaining the contributions of the transportation sector (among other infrastructure related responsibilities). In this case, Manitoba Infrastructure was both the project proponent and responsible for the Crown's duty to consult.

With respect to the Inuvik Tuktoyaktuk Highway, the Developer included the GNWT's Department of Transportation (DOT), the Town of Inuvik and the Hamlet of Tuktoyaktuk. While GNWT-DOT (now Department of Infrastructure) was a department within the GNWT, the Developer team did not formally include any other GNWT department. The supporting evidence for the Inuvik to Tuktoyaktuk Highway Project, including the assessment of project effects, was fully the responsibility of GNWT-DOT and its development partners. In this case, the Panel chose to accept evidence only from the GNWT as the Developer.

Those interviewed regarding projects outside of the Mackenzie Valley or providing written responses expressed a variety of challenges faced by the Developer. In most cases, these comments were generalized to avoid specific criticisms of a specific organization. These challenges included:

EA Preparation and Review

- Challenges in applying “standardized guidelines” from review bodies to an all season-highway project (i.e., a non-oil & gas, non-mining project). For example, Manitoba Infrastructure found it a challenge to present rationales within the EIS as to why they did not meet each specific item specified within the guideline (especially in terms of data collection) that satisfied all of the federal experts and some stakeholders.
- Developers had to tender baseline environmental studies to collect needed information at significant cost. In the case of wildlife studies, needed to begin years in advance of beginning to prepare EA documentation and well in advance of initiating contact with review agencies.
- Difficulties in responding to a review agency's requests for information (IRs). In some cases, the information requested could be seen as a “nice to know” and not a “need to know”. There was little recognition that proponents incur significant cost without any certainty that the project would be approved. This posed a big risk for project planners.
- In some cases, review agency staff disagreed, and sometimes external reviewers were not familiar with the project, asking for cost prohibitive studies that did not apply or should not be required given the impact of the project.

Long Timeframes

- Project planning, EA and regulatory processes, including the requisite engagement and consultations, took a long time to complete. Being adaptable, accepting of change and planning accordingly helped to mitigate risks to project approval and implementation.

- All levels of government including Indigenous government and organization leaderships and staff changed over time (focus, staff, key contacts were changing). This resulted in a loss of continuity, relationships and unrecorded history.
- EA and environmental legislation were changing over the course of the project, and as such the focus/leanings/ requirements of review agencies were also changing. Adaptation was a challenge.

Stakeholder Engagement and Duty to Consult

- In these non-GNWT projects where the Developer was both the project proponent and represented the Crown, it was very difficult for IGOs to understand roles and responsibilities at various stages of the EA and regulatory approval process. Members of the public and many Indigenous communities saw the project as a “done deal”. Understandings and perspectives on issues of “engagement” vs “consultation” and “consultation” vs “consent” and were a communication challenge throughout the EA process.
- There is often a trend whereby communities who were very engaged and expressed many concerns during the EA process fail to engage much at all once the project has received approval and construction has begun.

3.14.1 Lessons Learned

The following are some of the “Lessons Learned” from all the cases reviewed. These “Lessons Learned” were offered by those interviewed or providing written responses.

Long Timeframes

1. Plan for long time frames. Proponents must be adaptable, accept change and plan accordingly.
2. For large complex projects, EAs and regulatory processes, the Developer’s organization should consider significant reallocation of staff to focus more people on the project. In support of this, it may be necessary to hire multiple contractors, temporary staff and engineers. Consideration needs to be given to “internalization vs externalization” of the Project Management function (i.e., hiring a prime consultant to develop the EIS who then manages *many* sub-consultants or keeping the project management function internal to the Developer’s organization).
3. Submitting copies of the draft EIS to review agencies (unofficially) and the directly affected communities as each chapter is completed helped to keep these parties informed and provide meaningful opportunity for comment. This was done also in the hopes to streamline the assessment process and avoid multiple rounds of conformity iterations and information requests. While this helped the review agency, it did not help the communities as leadership were too busy to review and some did not have capacity for this review and they did not have any program funds to allocate in to hire external consultants to assist them and funds from EA regulatory processes was not yet in place.

Stakeholder Engagement and the Duty to Consult

4. Large linear projects may involve many Indigenous and non-Indigenous communities that require engagement (e.g., over 40 Manitoba Hydro’s Bipole III

Transmission Project). This will require an extensive engagement program that may go beyond the capacity of the Developer.

5. Developers need to begin discussing the project with directly affected Indigenous and non- Indigenous communities from the very beginning of a project. Although community sentiment may change over time, maintaining a record of information presented, comments received, and decisions made as a result of that information is important.
6. Building relationships, understanding and communication takes time and multiple trips to each community to present, discuss and obtain feedback for inclusion into project planning & EA and (ideally) throughout project construction and operation.
7. Effective communications are keys to success. It is vital that all parties meet regularly and address concerns as soon as possible. A combination of communication techniques (e.g., in-person meetings, teleconferences, Working Groups) proved to be successful.
8. Development of a “Communications Management Plan” was helpful to deliver well-planned, open, appropriate, and consistent information about the project, with coordinated announcements with external parties and Cabinet. Having dedicated communications staff was important.

Transition from EA and Permitting to Project Implementation

9. Consideration is needed regarding how best to transition a project from EA and permitting to implementation in order to maintain relationships and lines of communication.
10. Having a carryover of environmental staff from EA to implementation has proven to be an important tool with respect to understanding commitments, requirements, context of regulatory requirements, engagement with regulators, tracking of commitments, etc.
11. Creative non-Project related solutions may be required. For example:
 - Communities affected by Manitoba Hydro’s Bipole III Transmission Project expressed a desire for compensation/benefits. Manitoba Hydro later came up with a comprehensive approach called the Community Development Initiative (CDI). The CDI allots annual funds through a program to Indigenous and non-Indigenous communities along the transmission line route to be used for developments within the community (i.e. parks, playgrounds etc). Funds allotted are based on population and proximity to the project components (e.g. transmission line, converter stations). The CDI committed to 10 years of funding but is subject to review following that time.
 - Organization of community monitors to support project implementation and environmental compliance was necessary to address a large turnover of environmental monitors within many communities. This was addressed through the establishment of a broad monitoring committee who then hired the requisite number of experienced staff (e.g., environmental monitors, communication monitors and a TK monitors).

4.0 CONCLUSIONS AND RECOMMENDATIONS

Following the completion of the EA and regulatory processes for the TASR Project, the GNWT committed to undertake this ‘Lessons Learned’ exercise with the aim of improving future EA and regulatory performance. This exercise was intended to generate recommendations to improve

GNWT participation in EAs and regulatory processes where the GNWT is the proponent, as well as recommendations directed at other participants in these processes.

Most participants in this “Lessons Learned” review commended the GNWT for taking a bold step forward. They look forward to timely follow up and to seeing the results of this study implemented in future projects.

This study has identified a variety of “Lessons Learned”, the key ones being:

1. A “Whole of Government” (WoG) approach is not necessarily best suited to all projects where the GNWT is the proponent and should not be the default approach for future projects where the GNWT is a proponent.
2. A WoG approach, particularly in the context of a public review process, cannot be successful without an explicit commitment to greater transparency and evidence-based decision-making.
3. Developers need to plan for long time frames. They must be adaptable, accept change and plan accordingly.
4. Greater attention needs to be paid to internal organizational issues going into an EA process. Formal project management procedures need to be implemented to support major infrastructure projects with Project Agreements (or Project Charters), permitting risk assessment, resource requirements, schedules and deliverables and cost estimates.
5. The use of inter-departmental and inter-governmental Working Groups should be considered “best practice” in any EA process.
6. Roles and responsibilities for undertaking Section 35 consultations need to be clear and formalized to ensure consistent leadership and to avoid overlaps.
7. Early and meaningful engagement with IGOs plus the completion of the EA process under Section 5 of the MVRMA are important elements that serve to satisfy Aboriginal consultation obligations. Regular communications among the parties in an EA process, whether formal or informal, bi-lateral or multi-lateral, are valuable.
8. The quality of information and the evidence provided to the Review Board during an EA process will be tested. The Developer should confirm that enough data and evidence is available to support the project and withstand public scrutiny.
9. Firewalling is a legitimate tool under specific circumstances to support independent decision-making by responsible ministers.
10. A plan is needed for how the GNWT transitions from EA to the regulatory to implementation phases of a Project to maintain continuity in relationships and lines of communication.

Based on the results of this study, the following recommendations are respectfully put forward to the GNWT:

1. The GNWT should review and revise its Project Assessment Policy in light of this “Lessons Learned” review, giving further clarity to the application and operationalization of a Whole of Government approach and other approaches relevant to future EAs and regulatory processes in which the GNWT is a proponent or Developer.
2. The Project Assessment Branch, in collaboration with other GNWT departments involved in EAs should work towards incorporating lessons learned from the TASR Project and other projects into a set of “Best Practices” to guide the GNWT’s involvement in future EAs and regulatory processes where it is a proponent. This

should address key aspects of preparing and participating in EAs (as the two are different), including items such as referrals to the Review Board; internal organizational structures; internal and external communications and Working Groups; stakeholder engagement and IGO consultation approaches; allocation of internal resources; procurement techniques, typical schedules, deliverables and others. This would effectively be a “toolbox” for future GNWT infrastructure or other projects that the GNWT is the proponent. This could help maintain continuity and consistency in the GNWT’s approaches to such matters well into the future

3. GNWT management and staff should receive training regarding the management and technical requirements of the EA and regulatory process, particularly with respect to co- management processes and board style of decisions under the MVRMA. This is important given staff turnover and the long timeframes for EA processes.
4. Other participants in EA and regulatory processes in the NWT are encouraged to undertake similar “Lessons Learned” reviews to improve their own performances. They should be afforded the opportunity to contribute to the development of the GNWT’s “best practices”.

5.0 ACRONYMS

AANDC	Aboriginal Affairs and Northern Development Canada (now Indigenous and Northern Affairs Canada)
ACAR	Aboriginal Crown Consultation Assessment Report
ASR	Adequacy Statement Response
ADFN	Akaiicho Dene First Nations
Canada	Government of Canada
CIR	Crown-Indigenous Relations
DFN	Dehcho First Nations
DFO	Fisheries and Oceans Canada
EA	environmental assessment
ECCC	Environment and Climate Change Canada
ENR	Environment and Natural Resources
GNWT	Government of the Northwest Territories
IGOs	Indigenous Governments and Organizations
FMP	Fisheries Management Plan
INF	Department of Infrastructure
INAC	Indigenous and Northern Affairs Canada
MVEIRB	Mackenzie Valley Environmental Impact Review Board
MVRMA	<i>Mackenzie Valley Resource Management Act</i>
MIM	Mountain Island Métis
NRCan	Natural Resources Canada
NSMA	North Slave Métis Alliance
NWT	Northwest Territories
NWTMN	Northwest Territory Métis Nation
PAB	Project Assessment Branch, Department of Lands, Government of the Northwest Territories
the Project	Tłıchǫ All-season Road Project undergoing environmental assessment
REA	Report of Environmental Assessment and Reasons for Decision for Tłıchǫ All-season Road Project (EA1617-01)
RM	responsible minister, pursuant to the <i>Mackenzie Valley Resource Management Act</i>
TASR	Tłıchǫ All-season Road Project
TG	Tłıchǫ Government
YKDFN	Yellowknives Dene First Nation
WMMP	Wildlife Management and Monitoring Plan
WLWB	Wek'èezhìi Land and Water Board
WRRB	Wek'èezhìi Renewable Resources Board

6.0 REFERENCES

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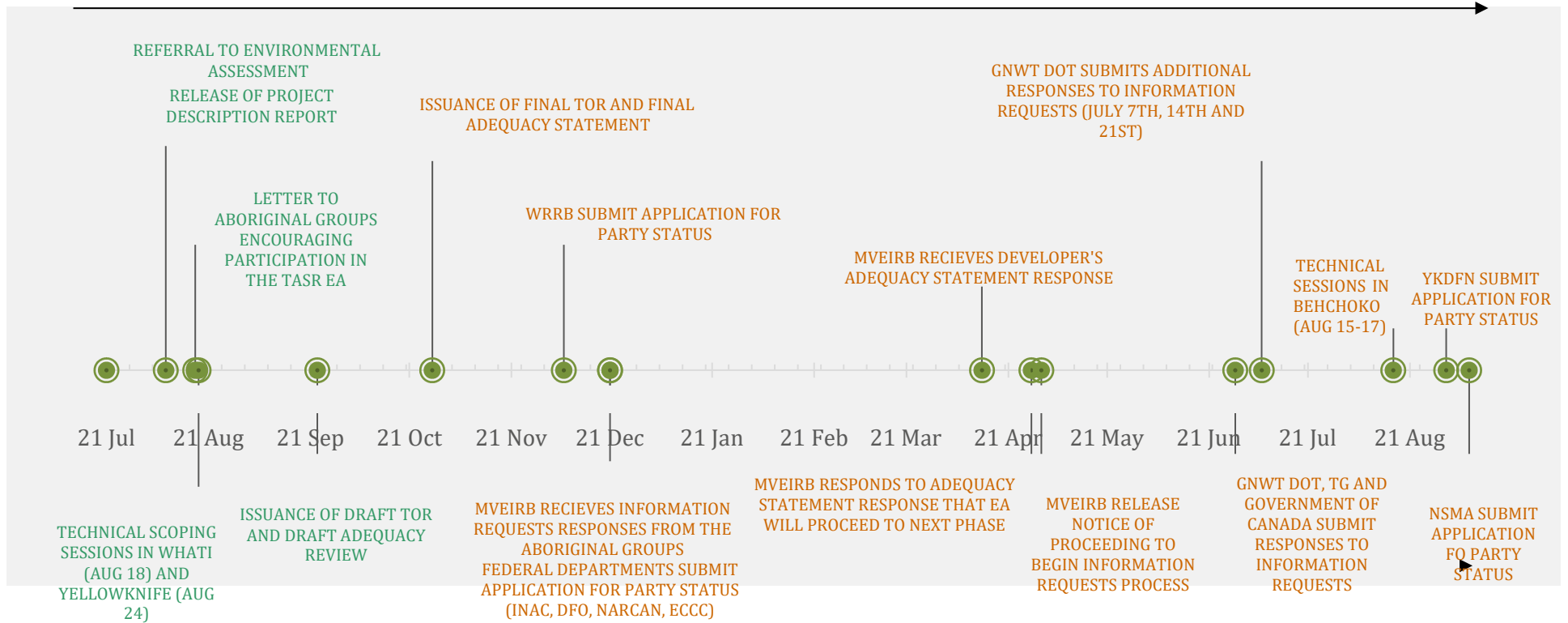
Appendix A: TASR Project Timeline

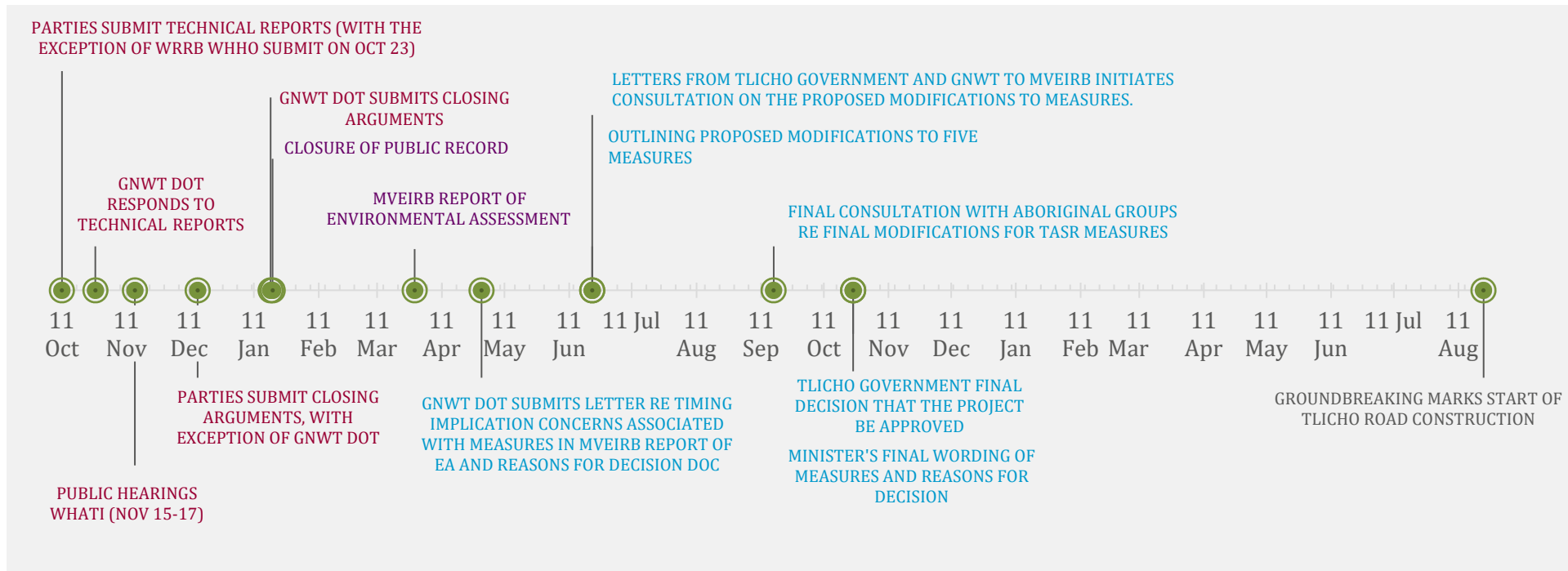
GNWT Event ID: 0000003532
Lessons Learned Tłıchq All-Season Road
December 2020
SLR Project No.: 209.40742.00000

APPENDIX A: TASR PROJECT TIMELINE

The following TASR Project Timeline has been organized according to the following EA Phases. Please note that the timeline is presented in colour.

- **Scoping:** Time Duration: July 21, 2016 to October 28, 2016.
 - Activities Summary: MVEIRB referred the Project to an EA. Scoping continued with the completion of the final Terms of Reference and Adequacy Statement issued by the Review Board to the Developer. The Developer submitted an Adequacy Statement Response to the Review Board.
- **Analysis:** Time Duration: October 28, 2016 to early September 2017.
 - Activities Summary: Completion of Technical Sessions and discussion of outstanding issues.
- **Hearing and deliberations:** Time Duration: September 14, 2017 to March 29, 2018.
 - Activities Summary: Technical Report preparation, engagement with parties to the EA and the Developer to the submission of closing arguments. Closing of the public record. Completion of the MVEIRB's Report of Environmental Assessment, including recommended Measures and Suggestions.
- **Decision:** Time Duration:
 - Responsible ministers Decisions, including
 - Consult-to-Modify: March 29, 2018 to October 25, 2018
 - Activities Summary: Decisions made by responsible ministers (RMs). Consult- to-Modify process initiated. Consultation undertaken with Indigenous Governmental and Organizations (IGOs). Agreement reached on final wording of Review Board's recommended Measures. Final Decision Measures issued by the responsible ministers and Tłıchq Government.
- **Construction:** Time Duration: Ground-breaking on August 23, 2019 to present day.





Appendix B: Summary of Stakeholder Mapping Analysis

GNWT Event ID: 0000003532
Lessons Learned Tłıchq All-Season Road
December 2020
SLR Project No.: 209.40742.00000

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
GNWT - DOT	<p><i>The Developer/Proponent</i></p> <p>GNWT - Department of Transportation (presently the Department of Infrastructure)</p> <ul style="list-style-type: none"> • Party Status • Goal: To improve the prosperity and well-being of NWT communities by making the strategic investment in infrastructure for an all season road connecting Highway 3 near Behchokq to Whati 	<p>As the lead Developer / Proponent, involved in all Project stages. The DOT was assisted by a consultant, Golder Associates Ltd., who were involved in preparing the Adequacy Statement Response (ASR), responding to Information Requests (IRs), and preparing and giving evidence at the Public Review Hearing.</p>
GNWT – Various Departments	<p>GNWT - Department of Lands</p> <ul style="list-style-type: none"> • Supporting proponent role to DOT as part of Whole of Government Approach. • Holds jurisdiction over territorial lands in the NWT. Administers applicable permit or license application forms. • Plays a role in promoting and supporting effective land use planning for public lands in the Wek'èezhì Management Area. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Various GNWT departments were provided the opportunity to review the draft PDR, in the Fall of 2014, Spring 2015 and Winter of 2016. Comments were incorporated in the final PDR. <p>Scoping/Analysis/Hearing/Decision:</p> <ul style="list-style-type: none"> • Coordinated non-DOT GNWT responses or requests for expert advice to the appropriate stakeholders, via Project Assessment Branch. • Contributed internal technical information to GNWT DOT on relevant areas of expertise. • Led Aboriginal consultation during the EA and on behalf of the responsible ministers departments. • Provided EA process advice.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
	<p>GNWT - Department of Environment and Natural Resources</p> <ul style="list-style-type: none"> • Supporting proponent role to DOT as part of Whole of Government Approach. • Together with co-management partners, has jurisdiction over wildlife issues, including final authority in approval of Wildlife Management and Monitoring Plans (WMMPs) under the <i>Wildlife Act</i>. • Holds jurisdiction over timber cutting on Territorial lands and is responsible for applying the <i>Forest Management Act/Regulations</i>. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Various GNWT departments were provided the opportunity to review the draft PDR; in the Fall of 2014, Spring 2015 and Winter of 2016. Comments were incorporated in final PDR. <p>Scoping/Analysis/Hearing/Decision:</p> <ul style="list-style-type: none"> • Contributed internal technical information to GNWT DOT on relevant areas of expertise.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
	<ul style="list-style-type: none"> • Under the <i>Forest Protection Act</i>, ENR's Forest Management Division is authorized as a Forest Supervisor and can issue directions to prevent forest fires. • ENR approves Type A water licences and Type B water licences, where a hearing has been held. ENR is also responsible for inspections and enforcement of those licences and conducting the analyses to enable boards to set securities for water licences, which the department then holds. 	
	<p>GNWT - Prince of Wales Northern Heritage Center</p> <ul style="list-style-type: none"> • Responsible for facilitating Archaeological investigations as they are permitted under the <i>Archaeological Sites Act/Regulations</i>. Archaeological permits. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Reviewed a conceptual Project description of the Tłıchq winter road realignment for comment, by Kavik AXYS (2008). • Various GNWT departments were provided the opportunity to review the draft PDR, in the Fall of 2014, Spring 2015 and Winter of 2016. Comments were incorporated in final PDR.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
Tłıchq Government (see also Tlıcho communities below)	<ul style="list-style-type: none"> • Party status. • Acts as intervener, or party, to the EA proceeding with the role of providing input to the process at the points established by the MVEIRB in its work plan. • Upon completion of the EA process by the MVIRB, has the role of exercising decision-making authority and statutory powers in accordance with section 22.2.29 of the Tłıchq Agreement and section 131.1 of the Mackenzie Valley Resource Management Act. • As a portion of the Project is on Tłıchq lands, has the responsibility and capacity to mitigate various potential impacts. As such, many of the mitigations for adverse impacts are proposed by, and will be implemented by, the Tłıchq Government (rather than by the GNWT DOT). 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Given the opportunity to review the draft Project Description Report (Early 2016). • TG and GNWT together submitted the Land Use and Water License applications for development of the proposed Tłıchq All Season Road. <p>Analysis:</p> <ul style="list-style-type: none"> • Participated in Information Requests and technical session processes. • Submitted Technical Report. <p>Hearing:</p> <ul style="list-style-type: none"> • Participated in Public Hearing processes. • Submitted Closing Arguments. <p>Consultation Re Measures:</p> <ul style="list-style-type: none"> • Entered into the Consult-to-Modify process with the Review Board

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
		<ul style="list-style-type: none"> • Consulted with the responsible ministers from the GNWT and Government of Canada as part of their analysis of the MVEIRB's Report of EA regarding whether the Report of EA addressed potential adverse impacts of the proposed Project on asserted or established Aboriginal and/or Treaty rights. • Proposed modifications to the measures recommended in the EA Decision document, • Undertook review of the MVEIRB EA Decision document and subsequently submitted a letter recommending the Project, subject to implementation of the measures and proponent commitments, be approved (Oct 2018). <p>Note: The Tlıcho Government does not conduct Aboriginal consultation on behalf of the GNWT nor the Federal government.</p>
<p>Tłıchq Communities [Behchokò, Whati, Wekweèti, Gamèti]</p>	<p>Considered Affected Communities due to their proximity to the proposed Project location and therefore consulted due to the potential for the local citizens to be affected by the proposed Project.</p> <p>Community Governments of Whati and Behchokò also included as part of consent requirements concerning the PDR's plan to deposit construction related waste at either the Whati and/or Behchokò landfills.</p>	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Were consulted and included on discussions regarding the possibility of an all-season road to Whati on multiple occasions over the years by many parties including all levels of government (2008 and on) (e.g., Consulted by GNWT DOT and TG during early 2016 Community Consultation Tour) • Elders and harvesters in Behchokò and Whati were engaged in a Traditional Knowledge Study between November 2013 and 2014, to inform early DPR development as part of MOU between TG and GNWT. <p>Scoping/Analysis:</p> <ul style="list-style-type: none"> • Were invited to review EA documents during drafting stages and to participate in IRs.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
Mackenzie Valley Environmental Review Board (MVEIRB)	<ul style="list-style-type: none"> A co-management board responsible for the environmental impact assessment process in the Mackenzie Valley therefore has statutory powers in accordance with section 22.2.29 of the <i>Tłıchq Agreement</i> and part 5 of the <i>Mackenzie Valley Resource Management Act</i>. 	Lead Review Board with the legal responsibility for the EA of the Project as a co-management Board in the Mackenzie Valley. This included early engagement in the pre-application processes to review draft Project documents submitted to the WLWB. The

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
		MVEIRB referred the Project to EA on its own motion and continued to lead the EA through all stages following referral.
Wek'èezhì Renewable Resources Board (WRRB)	<ul style="list-style-type: none"> • Party status. • Exercises powers and authorities under the Tłıchq Agreement, with primary powers including wildlife management, commercial activities related to wildlife, forest management, plant management and protected areas. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Were sent a conceptual Project description of the Tłıchq winter road realignment for comment, by Kavik AXYS (2008). <p>Scoping:</p> <ul style="list-style-type: none"> • Were given the opportunity to review the draft Project Description Report (PDR). <p>Analysis:</p> <ul style="list-style-type: none"> • Participated in Information Requests and technical session processes. • Submitted Technical Report. <p>Hearing:</p> <ul style="list-style-type: none"> • Participated in Public Hearing processes. • Submitted Closing Arguments. <p>Post EA:</p> <ul style="list-style-type: none"> • WRRB must either be consulted or review and decide or recommendation on any "management actions" relating to the management of wildlife, forests, plants, or protected areas • Issued an approval of the Wildlife Management and Monitoring Plan (WWMP) prior to final approval by GNWT-ENR.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
Wek'èezhii Land and Water Board (WLWB)	<ul style="list-style-type: none"> • The legally recognized management authority for land and water use decisions within the area known as Wek'èezhii. • Carries out preliminary screenings of development proposals to judge adverse environmental impacts or public concern, which may lead to the MVEIRB carrying out an environmental assessment or environmental impact review. 	Pre-Application: <ul style="list-style-type: none"> • Were engaged throughout the drafting of the PDR (early 2016). • Received the GNWT's DOT's land use permit and water license application in regard to the TASR in March 2016. Post EA:

Participants / Intervenor	Role / Perspective	Involved in Project Stages (and how)
		<ul style="list-style-type: none"> Issues a Type B Water Licence and a Type A Land Use Permit
<p>Government of Canada – Northern Projects Management Office</p>	<p>Canadian Northern Economic Development Agency (CanNor) - Northern Projects Management Office (NPMO)</p> <ul style="list-style-type: none"> The coordinating agency for federal participation in the Tlıchq All Season road EA. Responsible for coordinating the input of federal departments to the EA process, conducting Aboriginal consultation on behalf of the Federal Crown, track Aboriginal consultation issues related to federally mandated responsibilities and closely monitor the EA process in that context. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> Federal Government was given a presentation from the GNWT DOT and Tlıchq Government to familiarize them with the TASR Project <p>Pre-Application:</p> <ul style="list-style-type: none"> NPMO Distributed the draft PDR materials to key federal departments (Early 2016). Were given the opportunity to review the draft Project Description Report (Early 2016). NPMO initiated Aboriginal consultation on behalf of the Government of Canada <p>Scoping/Analysis/Hearing/Decision:</p> <ul style="list-style-type: none"> NPMO coordinated federal responses or requests for expert advice to the appropriate stakeholders, NPMO led Aboriginal consultation during the EA and on behalf of the Federal responsible ministers departments. NPMO consulted with IGOs as part of the Government of Canada’s analysis of the MVEIRB’s Report of EA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
	Indigenous and Northern Affairs Canada <ul style="list-style-type: none"> • Party status. 	Pre-Application: <ul style="list-style-type: none"> • Were sent a conceptual Project description of the Tłıchǫ winter road realignment for comment, by Kavik AXYS (2008).

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
	<ul style="list-style-type: none"> To act as the consolidated federal decision maker under section 130 of the <i>Mackenzie Valley Resource Management Act</i> (MVRMA). 	<ul style="list-style-type: none"> Federal Government were given a presentation from the GNWT DOT and Tłıchq Government to familiarize them with proposed Project. (Early 2016). <p>Analysis:</p> <ul style="list-style-type: none"> Participated in Information Requests and technical session processes.
	<p>Canadian Northern Economic Development Agency (CanNor) - Northern Projects Management Office</p> <ul style="list-style-type: none"> To coordinate the input of federal departments to the EA process, track Aboriginal consultation issues related to federally mandated responsibilities and closely monitor the EA process in that context. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> Distributed the draft PDR materials to key federal departments (Early 2016). Were given the opportunity to review the draft Project Description Report (Early 2016).
	<p>Fisheries and Oceans Canada</p> <ul style="list-style-type: none"> Party status. To provide specialist advice on potential impacts from the Project to fish and fish habitat relating to commercial, recreational and Aboriginal fisheries. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> Federal Government were given a presentation from the GNWT DOT and Tłıchq Government to familiarize them with proposed Project. (Early 2016). <p>Analysis:</p> <ul style="list-style-type: none"> Participated in Information Requests and technical session processes. Submitted Technical Report. <p>Hearing:</p> <ul style="list-style-type: none"> Participated in Public Hearing processes. Submitted Closing Arguments. <p>Decision:</p> <ul style="list-style-type: none"> Participated in the Government of Canada’s analysis of the MVEIRB’s Report of EA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
	<p>Natural Resources Canada</p> <ul style="list-style-type: none"> • Party status. • To provide specialist advice on permafrost related aspects. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Federal Government were given a presentation from the GNWT DOT and Tłıchq Government to familiarize them with proposed Project. (Early 2016). <p>Analysis:</p> <ul style="list-style-type: none"> • Participated in Information Requests and technical session processes. • Submitted Technical Report. <p>Hearing:</p> <ul style="list-style-type: none"> • Participated in Public Hearing processes Submitted Closing Arguments. <p>Decision:</p> <ul style="list-style-type: none"> • Fulfilled role of Responsible Minister Department. • Provided concurrence to CIRNAC regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
	<p>Environment and Climate Change Canada</p> <ul style="list-style-type: none"> • Party status. • To provide the MVEIRB with specialist advice based on ECCC's mandate in the context of the <i>Canadian Environmental Protection Act</i>, the pollution prevention provisions of the <i>Fisheries Act</i>, the <i>Migratory birds Convention Act</i> and the <i>Species at Risk Act</i>. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Were sent a conceptual Project description of the Tłıchq winter road realignment for comment, by Kavik AXYS (2008). • Federal Government were given a presentation from the GNWT DOT and Tłıchq Government to familiarize them with proposed Project. (Early 2016). <p>Analysis:</p> <ul style="list-style-type: none"> • Participated in Information Requests and technical session processes. • Submitted Technical Report. <p>Hearing:</p> <ul style="list-style-type: none"> • Participated in Public Hearing processes. • Submitted Closing Arguments.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
		<p>Decision:</p> <ul style="list-style-type: none"> • Not a Responsible Minister’s Department • Were consulted by CIRNAC as part of the Government of Canada’s analysis of the MVEIRB’s REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.
<p>Akaitcho Dene First Nation (ADFN)</p>	<ul style="list-style-type: none"> • Required group to consult as part of GNWT and Government of Canada’s Duty to Consult with IGOs with asserted or established Aboriginal or Treaty Rights that encompass the proposed Project area. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Were contacted via letter (May 21, 2015, June 12, 2015, November 29, 2015) from GWNT DOT repeatedly inquiring whether ADFN would like any additional info regarding the proposed TASR or if they had any comments/concerns. A final consultation letter was sent on March 29, 2016, as notification that the TASR application package would be submitted in the following days. At the WLWB application submission date, no response was received. <p>Analysis:</p> <ul style="list-style-type: none"> • Were consulted during the EA phase via invitation letters notifying of the Project and requesting that the IGO participate in the MVEIRB process. <p>Decision:</p> <ul style="list-style-type: none"> • Were consulted on the MVEIRB’s REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
Mountain Island Métis	<ul style="list-style-type: none"> Required group to consult as part of GNWT DOT's Duty to Consult with AGOs with asserted or established Aboriginal or Treaty Rights that encompass the proposed Project area. 	Pre-Application: <ul style="list-style-type: none"> Were contacted via letter (May 21, 2015, June 12, 2015, September 8, 2015) from GWNT Department of Transportation repeatedly inquiring whether MIM would like any additional info regarding the proposed TASR or if

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
		<p>they had any comments/concerns. A final consultation letter was sent on March 29, 2016, as notification that the TASR application package would be submitted in the following days. At the WLWB application submission date, no response was received.</p> <p>Analysis:</p> <ul style="list-style-type: none"> • Were consulted during the EA phase via invitation letters notifying of the Project and requesting that the IGO participate in the MVEIRB process. <p>Decision:</p> <ul style="list-style-type: none"> • Were consulted on the MVEIRB's REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.
Dehcho First Nations	<ul style="list-style-type: none"> • Required group to consult as part of GNWT DOT's Duty to Consult with AGOs with asserted or established Aboriginal or Treaty Rights that encompass the proposed Project area. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Were contacted via letter (May 21, 2015, June 12, 2015, September 8, 2015) from GWNT Department of Transportation repeatedly inquiring whether DFN would like any additional info regarding the proposed TASR or if they had any comments/concerns. A final consultation letter was sent on March 29, 2016, as notification that the TASR application package would be submitted in the following days. At the WLWB application submission date, no response was received. <p>Analysis:</p> <ul style="list-style-type: none"> • Were consulted during the EA phase via invitation letters notifying of the Project and requesting that the IGO participate in the MVEIRB process. <p>Decision:</p> <ul style="list-style-type: none"> • Were consulted on the MVEIRB's REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
		final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.
Northwest Territory Métis Nation	<ul style="list-style-type: none"> Required group to consult as part of GNWT DOT's Duty to Consult with AGOs with asserted or established Aboriginal or Treaty Rights that encompass the proposed Project area. 	Pre-Application: <ul style="list-style-type: none"> Were contacted via letter (May 21, 2015, June 12, 2015, September 8, 2015) from GWNT Department of Transportation repeatedly inquiring whether NTMN would like any additional info regarding the proposed TASR or if they had any comments/concerns. A final consultation letter was sent on March 29, 2016, as notification that the TASR application package would be submitted in the following days. At the WLWB application submission date, no response was received. Analysis: <ul style="list-style-type: none"> Were consulted during the EA phase via invitation letters notifying of the Project and requesting that the IGO participate in the MVEIRB process. Decision: <ul style="list-style-type: none"> Were consulted on the MVEIRB's REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
Yellowknives Dene First Nation (YKDFN)	Party status <ul style="list-style-type: none"> • YKDFN were notified of the EA in October, 2016 and self identified as a group to consult based on GNWT DOT's Duty to Consult with IGOs with asserted or established Aboriginal or Treaty Rights that encompass the proposed Project area. 	Analysis Phase: <ul style="list-style-type: none"> • Participated in Information Requests and technical session processes. • GNWT sent letter to YKDNF (June 06, 2017) inquiring for clarification regarding concerns YKDFN raised during May Adequacy Statement Response (ASR) Technical Review Session. • YKDFN sent responding letter to GNWT (June 14, 2017) expressing serious concerns re GWNT understanding of

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
		<p>aboriginal rights, duty to consult/accommodate and YKDFN's inclusion in the Project up to the point in time.</p> <ul style="list-style-type: none"> • GNWT responded to YKDFN letter (June 26, 2017) expressing intent to better understand YKDFN's concerns and appended the document detailing concerns raised by YKDFN and other parties regarding potential impacts to both barren-ground and woodland caribou, for YKDFN's review. GNWT asked YKDFN to review the materials and respond with any outstanding concerns, as a method of adequately accommodating any concerns related to the TASR. • Submitted Technical Report <p>Hearing:</p> <ul style="list-style-type: none"> • Participated in Public Hearing processes. • Submitted Closing Arguments. <p>Analysis:</p> <ul style="list-style-type: none"> • Were consulted during the EA phase via invitation letters notifying of the Project and requesting that the IGO participate in the MVEIRB process. <p>Decision:</p> <ul style="list-style-type: none"> • Were consulted on the MVEIRB's REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights. • YKDFN submitted suggested edits for measures 6-1, 6-2 and 6-3. The GNWT and Government of Canada responded to these edits by indicating how the responsible ministers' proposed modifications adequately accommodated YKDFN's concerns, as well as why certain YKDFN suggestions were not incorporated. The response letter also noted where YKDFN's suggestions were incorporated in the final measures.

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
<p>North Slave Métis Alliance</p>	<ul style="list-style-type: none"> • Party status. • Required group to consult as part of GNWT DOT's Duty to Consult with AGOs with asserted or established Aboriginal or Treaty Rights that encompass the proposed Project area. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> • Were contacted via letter on May 21, 2015 from GWNT DOT offering summary of proposed TASR and inquiring whether NSMA would like any additional info regarding the proposed TASR or if they had any comments/concerns. When the letter got no response, a follow up letter was sent on June 12, 2015 which received a response stating that NSMA wished to be consulted and that they would like to receive materials pertaining to the proposed TASR. Sharing of TASR materials, discussions and correspondence ensued and were captured in an engagement log. <p>Analysis:</p> <ul style="list-style-type: none"> • Were consulted during the EA phase via invitation letters notifying of the Project and requesting that the IGO participate in the MVEIRB process. • Participated in Information Requests and technical session processes. • Submitted Technical Report. <p>Hearing:</p> <ul style="list-style-type: none"> • Participated in Public Hearing processes. • Submitted Closing Arguments <p>Decision:</p> <ul style="list-style-type: none"> • Were consulted on the MVEIRB's REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights. • NSMA submitted suggested edits for measures 6-1, 6-2 and 6-3. The GNWT and Government of Canada responded to these edits and indicated how the responsible ministers' proposed modifications adequately accommodated NSMA's concerns, as well as why certain suggestions were not incorporated. The response letter

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
		also noted where NSMA's suggestions were incorporated in the final measures.
Nahanni Butte Dene Band	<ul style="list-style-type: none"> Notified of the EA and consulted by RMs during determination of final measures for the EA Decision. 	Decision: <ul style="list-style-type: none"> Were consulted on the MVEIRB's REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.
Lutselk'e Dene First Nation	<ul style="list-style-type: none"> Notified of the EA and consulted by RMs during determination of final measures for the EA Decision. 	Decision: <ul style="list-style-type: none"> Were consulted on the MVEIRB's REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.
Deninu Kue First Nation	<ul style="list-style-type: none"> Notified of the EA and consulted by RMs during determination of final measures for the EA Decision. 	Decision: <ul style="list-style-type: none"> Were consulted on the MVEIRB's REA and regarding whether the Report of EA and wording on the proposed modifications to the measures, to determine whether the final modifications had the potential to adversely impact Aboriginal and/or Treaty Rights.
Tłıchq Investment Corporation	<ul style="list-style-type: none"> Participated in early scoping activities for a potential future Project in the same proposed Project area as the TASR. Also reviewed early scoping draft materials for TASR. 	Scoping: <ul style="list-style-type: none"> Were given the opportunity to review the draft Project Description Report (Early 2016).

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
Northwest Territories Power Corporation	<ul style="list-style-type: none"> Consulted during early (2008) scoping and data collection for Tłıchq winter road realignment and again during early pre- scoping consultations (2016) for Tłı chq All Season Road. 	Pre-Application: <ul style="list-style-type: none"> Were sent a conceptual Project description of the Tłıchq winter road realignment for comment, by Kavik AXYS (2008). Scoping:

Participants / Intervenors	Role / Perspective	Involved in Project Stages (and how)
		<ul style="list-style-type: none"> Were given the opportunity to review the draft Project Description Report (Early 2016).
NWT & Nunavut Chamber of Mines	<ul style="list-style-type: none"> Consulted during early (2008) scoping and data collection for Tłıchq winter road realignment and again during early pre-scoping consultations (2016) for Tłıchq All Season Road. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> Were sent a conceptual Project description of the Tłıchq winter road realignment for comment, by Kavik AXYS (2008). <p>Scoping:</p> <ul style="list-style-type: none"> Were given the opportunity to review the draft Project Description Report (Early 2016).
Fortune Minerals	<ul style="list-style-type: none"> Completed an Environmental Assessment in 2013 regarding Fortune Minerals' NICO mine Project. As the proposed mining development's regional study area is in close proximity to the northern edges of the TASR Project area, FM's materials and experience was included/consulted in some parts of the Tłıchq Road EA process. 	<p>Pre-Application:</p> <ul style="list-style-type: none"> GNWT Depart of Trans reviewed the Fortune Minerals Limited NICO Project EA and Reasons for Decision document as a means to consider. <p>Scoping:</p> <ul style="list-style-type: none"> Were given the opportunity to review the draft Project Description Report (Early 2016).

**Appendix C: Stakeholder Mapping: Summary of Key
Information Requests (IRs)**

GNWT Event ID: 0000003532
Lessons Learned Tłıchǫ All-Season Road
December 2020
SLR Project No.: 209.40742.00000

The GNWT DOT submitted its Adequacy Statement Response on April 13, 2017 after which the MVEIRB determined that the Adequacy Statement Report (ASR) along with the Project Description Report (PDR) provided sufficient information to proceed to the Information Request (IR) stage. The table below summarizes the Information Requests submitted to the Online Review System during the first round of Information Requests (due by May 29, 2017) as well as later rounds submitted by the North Slave Métis Alliance (July 14, 2017).

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
Adaptive Management	Clarification regarding application of adaptive management planning for water quality, erosion and sedimentation issues	2	GoC - ECCC	GNWT DOT	GoC-6		MVEIRB Compiled IRs, 2017
	Adaptive management for wildlife		North Slave Métis Alliance	GNWT DOT	NSMA-26	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
Avian Species at Risk (SAR)	Suitable habitat development	3	GoC - ECCC	GNWT DOT	GoC-11	Adequacy Statement Response, Project Description Report, Wildlife Management and Monitoring Plan	MVEIRB Compiled IRs, 2017
	Assessment methods		GoC - ECCC	GNWT DOT	GoC-12		MVEIRB Compiled IRs, 2017
	Mitigation and monitoring at quarries and borrow pits		GoC - ECCC	GNWT DOT	GoC-13		MVEIRB Compiled IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
Barren-Ground Caribou	Assessment endpoint clarification	17	MVEIRB	GNWT DOT	MVEIRB-1	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Cumulative effects		MVEIRB	GNWT DOT	MVEIRB-2		MVEIRB Compiled IRs, 2017
	Application of assessment endpoint and measurement indicators		WRRB	GNWT DOT	WRRB-1	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Measurement indicators		WRRB	GNWT DOT	WRRB-2	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Spatial boundaries		WRRB	GNWT DOT	WRRB-3	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Temporal boundaries		WRRB	GNWT DOT	WRRB-4	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Access; increased potential for harvest		WRRB	GNWT DOT	WRRB-5	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Potential encounter rates with all season road		WRRB	GNWT DOT	WRRB-6	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Consideration of Bathurst Caribou		North Slave Métis Alliance	GNWT DOT	NSMA-4	Adequacy Statement Response	NSMA IRs, 2017
	Sensory disturbances to Caribou during sensitive periods		North Slave Métis Alliance	GNWT	NSMA-13	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Caribou traffic protection for large groups		North Slave Métis Alliance	GNWT DOT	NSMA-20	Wildlife Management and Monitoring Plan	NSMA IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
	Sensory disturbance at key times of the year for caribou		North Slave Métis Alliance	GNWT DOT	NSMA-36	Adequacy Statement Response	NSMA IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
	Low presence indicating low effect on species in the Project area		North Slave Métis Alliance	GNWT DOT	NSMA-43	Adequacy Statement Response	NSMA IRs, 2017
	Uncertainty regarding winter road access and climate change on species		North Slave Métis Alliance	GNWT DOT	NSMA-44	Adequacy Statement Response	NSMA IRs, 2017
	Ability of barren-ground populations to rebound in 40-50 years		North Slave Métis Alliance	GNWT DOT	NSMA-45	Adequacy Statement Response	NSMA IRs, 2017
	Effects to Beverly and Ahiak herds		North Slave Métis Alliance	GNWT DOT	NSMA-48	Adequacy Statement Response	NSMA IRs, 2017
	Residual effects on barren-ground caribou		North Slave Métis Alliance	GNWT DOT	NSMA-50	Adequacy Statement Response	NSMA IRs, 2017
Baseline Monitoring	Clarification regarding availability of water quality and sediment quality baseline data	1	GoC - ECCC	GNWT DOT	GoC-5		MVEIRB Compiled IRs, 2017
Bison	Consideration of sensitive period setback for Bison	5	North Slave Métis Alliance	GNWT DOT	NSMA-14	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Bison traffic protection for large groups		North Slave Métis Alliance	GNWT DOT	NSMA-24	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Bison setbacks missing from the table in WMMP		North Slave Métis Alliance	GNWT DOT	NSMA-28	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Sensory disturbance at key times of the year for wood bison		North Slave Métis Alliance	GNWT DOT	NSMA-36	Adequacy Statement Response	NSMA IRs, 2017
	Interaction strength between primary pathways and valued components for Bison		North Slave Métis Alliance	GNWT DOT	NSMA-41	Adequacy Statement Response	NSMA IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
Boreal Caribou	Critical habitat	20	GoC - ECCC	GNWT DOT	GoC-7		MVEIRB Compiled IRs, 2017
	Habitat connectivity		GoC - ECCC	GNWT DOT	GoC-8	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Baseline information		GoC - ECCC	GNWT DOT	GoC-9	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Habitat offsetting		GoC - ECCC	GNWT DOT	GoC-10	Project Description Report, Wildlife Management and Monitoring Plan	MVEIRB Compiled IRs, 2017
	Effects assessment and application of the Boreal Caribou Recovery Strategy		MVEIRB	GNWT DOT	MVEIRB-3		MVEIRB Compiled IRs, 2017
	Application of assessment endpoint and measurement indicators		WRRB	GNWT DOT	WRRB-1	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Measurement indicators		WRRB	GNWT DOT	WRRB-2	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Access; increased potential for harvest		WRRB	GNWT DOT	WRRB-5	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Quantification of habitat availability		WRRB	GNWT DOT	WRRB-7	Adequacy Statement Response, Project Description Report	MVEIRB Compiled IRs, 2017
	Habitat availability thresholds		WRRB	GNWT DOT	WRRB-8	Adequacy Statement Response	MVEIRB Compiled IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
	Habitat availability pertaining to connectivity and fragmentation		WRRB	GNWT DOT	WRRB-9	Adequacy Statement Response, Project Description Report	MVEIRB Compiled IRs, 2017
	Increased traffic collisions		WRRB	GNWT DOT	WRRB-10	Adequacy Statement Response, Project Description Report	MVEIRB Compiled IRs, 2017
	Predation related impacts		WRRB	GNWT DOT	WRRB-11	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Sensory disturbance affecting boreal caribou herd productivity		North Slave Métis Alliance	GNWT DOT	NSMA-5	Adequacy Statement Response	NSMA IRs, 2017
	Sensory disturbances to Caribou during sensitive periods		North Slave Métis Alliance	GNWT DOT	NSMA-13	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Caribou traffic protection for large groups		North Slave Métis Alliance	GNWT DOT	NSMA-20	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Proportion of undisturbed boreal caribou habitat in NT1 range		North Slave Métis Alliance	GNWT DOT	NSMA-33	Adequacy Statement Response	NSMA IRs, 2017
	Boreal caribou habitat availability in Wek'èezhìi portion of NT1 range.		North Slave Métis Alliance	GNWT DOT	NSMA-34	Adequacy Statement Response	NSMA IRs, 2017
	Sensory disturbance at key times of the year for caribou		North Slave Métis Alliance	GNWT DOT	NSMA-36	Adequacy Statement Response	NSMA IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
	Performing land clearing during winter to reduce disturbance to boreal caribou during sensitive periods		North Slave Métis Alliance	GNWT DOT	NSMA-42	Adequacy Statement Response	NSMA IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
Borrow Pits / Materials	Clarification regarding sufficiency of quantities of borrow materials	2	GoC - NRCan	GNWT DOT	GoC-21	Project Description Report, Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Borrow pit reclamation		North Slave Métis Alliance	GNWT DOT	NSMA-11	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
Commitments List	Updated list of consolidated commitments for various Project phases	1	MVEIRB	GNWT DOT	MVEIRB-21	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
Employment benefits	Equitable distribution of employment benefits	2	MVEIRB	TG, Community Government of Whatı	MVEIRB-9		MVEIRB Compiled IRs, 2017
	Equitable distribution of employment benefits		MVEIRB	GNWT DOT	MVEIRB-10		MVEIRB Compiled IRs, 2017
Erosion and Sediment Control Plan	Provision of a draft ESC Plan for review by parties during the EA	1	GoC - ECCC	GNWT DOT	GoC-3	Project Description Report	MVEIRB Compiled IRs, 2017
Explosives Storage	Additional information regarding explosive storage required	1	GoC - ECCC	GNWT DOT	GoC-15		MVEIRB Compiled IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
Fish	Fish estimates, baseline information and harvest pressures	7	MVEIRB	GoC - DFO	MVEIRB-5		MVEIRB Compiled IRs, 2017
	Fish monitoring		MVEIRB	GoC - DFO	MVEIRB-6		MVEIRB Compiled IRs, 2017
	Inspection and enforcement of proposed mitigations		MVEIRB	GoC - DFO	MVEIRB-7		MVEIRB Compiled IRs, 2017
	Inspection and enforcement of proposed mitigations		MVEIRB	GNWT DOT	MVEIRB-8		MVEIRB Compiled IRs, 2017
	Tłıchq Regulation of Fishing		North Slave Métis Alliance	TG	NSMA-3		MVEIRB Compiled IRs, 2017
	Implementation of fisheries regulations on shared water bodies		North Slave Métis Alliance	GNWT DOT, TG	NSMA-4		MVEIRB Compiled IRs, 2017
	Sustainable development of fishing-based tourism opportunities		North Slave Métis Alliance	TG	NSMA-5		MVEIRB Compiled IRs, 2017
Food Security and Traditional Harvesting	Combined effects of the Project on food availability	1	MVEIRB	GNWT DOT	MVEIRB-17		MVEIRB Compiled IRs, 2017
Geotechnical conditions	Provision of additional information on geotechnical conditions presently known along the proposed TASR corridor	1	GoC - NRCan	GNWT DOT	GoC-20	Project Description Report, Adequacy Statement Response	MVEIRB Compiled IRs, 2017
Hydrology alterations	Consideration of beaver dam impacts to road conditions and to wildlife habitat	1	North Slave Métis Alliance	GNWT DOT	NSMA-3	Wildlife Management and Monitoring Plan	NSMA IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
Management measures	Clarification in GNWT ENR's implementation approach for Caribou Management Measure 6-6	1	North Slave Métis Alliance	GNWT DOT	NSMA-51		NSMA IRs, 2017
Mitigation measures	Inclusion of adaptive management as part of mitigation measures	2	WRRB	GNWT DOT	WRRB-12	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Additional information regarding reclamation; definitions and clarification on approaches to quantify and track reclamation		WRRB	GNWT DOT	WRRB-13	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
Monitoring Plan	Provision of a draft comprehensive monitoring plan for erosion, sedimentation and water quality for review by parties during the EA	1	GoC - ECCC	GNWT DOT	GoC-4	Project Description Report	MVEIRB Compiled IRs, 2017
Moose	Clarification of existing and predicted hunting and harvesting pressures	2	MVEIRB	GoC - DFO	MVEIRB-4		MVEIRB Compiled IRs, 2017
	Sensory disturbance effect on moose and other large animals		North Slave Métis Alliance	GNWT DOT	NSMA-15	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
Non-native / invasive species monitoring	Planned methods and implementation details concerning monitoring methods	2	North Slave Métis Alliance	GNWT DOT	NSMA-10	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Guidelines for cleaning and inspection to avoid the spread of invasive plant species		North Slave Métis Alliance	GNWT DOT	NSMA-38	Adequacy Statement Response	NSMA IRs, 2017
Perception of land	Follow up with TG to obtain response to MVEIRB's 2016 inquiry and perception of the land	1	MVEIRB	TG	MVEIRB-18		MVEIRB Compiled IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
Permafrost	Embankment design options	4	GoC - NRCan	GNWT DOT	GoC-16	Project Description Report, Environmental Impact Statement	MVEIRB Compiled IRs, 2017
	Purpose and properties of geotextile beneath embankment		GoC - NRCan	GNWT DOT	GoC-17	Project Description Report, Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Pre-existing permafrost conditions		GoC - NRCan	GNWT DOT	GoC-18	Project Description Report, Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Removal of permafrost		GoC - NRCan	GNWT DOT	GoC-19	Project Description Report, Adequacy Statement Response	MVEIRB Compiled IRs, 2017
Prey-predatory interactions	Expectations concerning use of TASR and converted habitat by prey and predators impact on survival and reproduction of prey	1	North Slave Métis Alliance	GNWT DOT	NSMA-39	Adequacy Statement Response	NSMA IRs, 2017
Rate plants, rare communities, community surveying and habitat setbacks	Details regarding anticipated setback distances for development and construction as well as planned plant and community surveys.	1	North Slave Métis Alliance	GNWT DOT	NSMA-12	Wildlife Management and Monitoring Plan	NSMA IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
References	Supply document references for the public registry	2	MVEIRB	TG	MVEIRB-20		MVEIRB Compiled IRs, 2017
	Contradictory citation data regarding sensory distance distances		North Slave Métis Alliance	GNWT DOT	NSMA-49	Adequacy Statement Response	NSMA, 2017
Road Safety and Emergency Response Planning	Discussions between community governments and the GNWT DOT regarding emergency response	1	MVEIRB	GNWT DOT	MVEIRB-16		MVEIRB Compiled IRs, 2017
Runoff monitoring	Rock type verification during construction in regards to runoff monitoring	1	North Slave Métis Alliance	GNWT DOT	NSMA-2		MVEIRB Compiled IRs, 2017
Snowbank heights and snow fences	Details concerning implementation of snow fences in relation to wildlife crossings	1	North Slave Métis Alliance	GNWT DOT	NSMA-7	Adequacy Statement Response, Wildlife Management and Monitoring Plan	NSMA IRs, 2017
Species at Risk (SAR)	Further details on ECCC expectation for environmental assessment regarding barren-ground caribou	3	WRRB	ECCC	WRRB-14	ECCC letter to MVEIRB re status of barren-ground caribou	MVEIRB Compiled IRs, 2017
	Surveys for wildlife features of species at risk		North Slave Métis Alliance	GNWT DOT	NSMA-8	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Formal classification of residual effects and determination of significance of all SAR		Goc - ECCC	GNWT DOT	GoC-6	Adequacy Statement Response	MVEIRB Compiled IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
Substance Abuse	Adverse socio-economic effects to communities from substance abuse	3	MVEIRB	GNWT DOT	MVEIRB-12		MVEIRB Compiled IRs, 2017
	Evidence supporting the anticipated increased and decreases of substance abuse through Project phases		MVEIRB	TG	MVEIRB-13		MVEIRB Compiled IRs, 2017
	Mitigations		MVEIRB	GNWT DOT	MVEIRB-14		MVEIRB Compiled IRs, 2017
Surface Blasting	Details concerning noise levels and mitigations for surface blasting	1	North Slave Métis Alliance	GNWT DOT	NSMA-6	Adequacy Statement Response	
Traditional Harvesting	Assessment endpoints, measurement indicators and conclusions	1	MVEIRB	GNWT DOT	MVEIRB-19		MVEIRB Compiled IRs, 2017
Traffic	Traffic estimates and patterns	3	MVEIRB	GNWT DOT	MVEIRB-15	Adequacy Statement Response	MVEIRB Compiled IRs, 2017
	Traffic rate estimates for predicting impacts to wildlife		North Slave Métis Alliance	GNWT DOT	NSMA-2	Adequacy Statement Response	NSMA IRs, 2017
	Adaptive wildlife traffic protection during operations		North Slave Métis Alliance	GNWT DOT	NSMA-23	Adequacy Statement Response, Wildlife Management and Monitoring Plan	NSMA IRs, 2017
Vulnerable Groups	Mitigation of risks to young women	1	MVEIRB	GNWT DOT	MVEIRB-11		MVEIRB Compiled IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
Wildlife (general)	Increased hunting access to wildlife	17	North Slave Métis Alliance	GNWT DOT	NSMA-1	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Qualifications for wildlife monitors		North Slave Métis Alliance	GNWT DOT	NSMA-16	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Wildlife attraction to salt		North Slave Métis Alliance	GNWT DOT	NSMA-17	Wildlife Management and Monitoring Plan, Adequacy Statement Response	NSMA IRs, 2017
	Wildlife traffic protection speed reduction		North Slave Métis Alliance	GNWT DOT	NSMA-18	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Wildlife traffic speed enforcement		North Slave Métis Alliance	GNWT DOT	NSMA-19	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Caribou and bison behavioral reactions		North Slave Métis Alliance	GNWT DOT	NSMA-21	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Pushing caribou and bison		North Slave Métis Alliance	GNWT DOT	NSMA-22	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Aircraft mitigation for wildlife		North Slave Métis Alliance	GNWT DOT	NSMA-25	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Critical bison and caribou habitat		North Slave Métis Alliance	GNWT DOT	NSMA-27	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Lack of rationale for setback distances		North Slave Métis Alliance	GNWT DOT	NSMA-29	Wildlife Management and Monitoring Plan	NSMA IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
	Setback distances for salt licks		North Slave Métis Alliance	GNWT DOT	NSMA-30	Wildlife Management and Monitoring Plan	NSMA IRs, 2017

Subject	Details	Number of Related IRs	Submitted by	Submitted to	IR Reference	Related Document	Reference Document
	Setback distances for water crossings		North Slave Métis Alliance	GNWT DOT	NSMA-31	Wildlife Management and Monitoring Plan	NSMA IRs, 2017
	Assessing capability vs suitability of wildlife habitat		North Slave Métis Alliance	GNWT DOT	NSMA-32	Adequacy Statement Response	NSMA IRs, 2017
	Moose densities that will impact boreal caribou populations		North Slave Métis Alliance	GNWT DOT	NSMA-35	Adequacy Statement Response	NSMA IRs, 2017
	Risk of wildlife-vehicle collisions		North Slave Métis Alliance	GNWT DOT	NSMA-40	Adequacy Statement Response	NSMA IRs, 2017
	Definitions to predict residual effects to wildlife VCs		North Slave Métis Alliance	GNWT DOT	NSMA-46	Adequacy Statement Response	NSMA IRs, 2017
	Seasonal movement and rut site maps		North Slave Métis Alliance	GNWT DOT	NSMA-47	Adequacy Statement Response	NSMA IRs, 2017
Wildlife Management and Monitoring Plan (WMMP)	Provision of anticipated date when revised WMMP will be provided during the EA	1	GoC - ECCC	GNWT DOT	GoC-14	Wildlife Management and Monitoring Plan	MVEIRB Compiled IRs, 2017
Winter Road Reclamation	Clarification regarding mitigation options relating to winter road reclamation	1	North Slave Métis Alliance	GNWT DOT	NSMA-9	Wildlife Management and Monitoring Plan	NSMA IRs, 2017

Appendix D: Interview Guide

GNWT Event ID: 0000003532
Lessons Learned Tłıchq All-Season Road
December 2020
SLR Project No.: 209.40742.00000

Topic / Theme	Questions / Probes
Interview Contact Information	<ul style="list-style-type: none"> • Can you state / spell your full name, your position in your organization? • What was your role in the EA and regulatory processes for the TASR Project?
Project Proponent(s) and Background	<ul style="list-style-type: none"> • Can you describe your organization and its mandate(s)? • How is your organization linked to / associated with the broader government in the Province / Territory? • How many Projects like TASR has your organization / department participated in over the past 10 years? How many EAs for major developments? • Has your organization / department been a proponent for a Project subject to EA? • What role did your organization have with the EA for the TASR Project? • Has your organization conducted any reviews of the process? If yes, can you provide details? Is there any documentation you can share now or in future?
Other Government Agency / Departmental Roles	<ul style="list-style-type: none"> • What other government departments, groups or organization played a role in the EA process? What were their roles? • How did your organization interact with these other departments, groups and organizations during the EA and regulatory processes?
Government Decision-maker(s) / Review Bodies and Applicable Procedures	<ul style="list-style-type: none"> • What government department / agency / body was the ultimate decision-maker? • Can you direct me to information that describes the decision-making process? • What roles did devolution play in who and how decisions are made?
Responsibilities for Indigenous Engagement / Consultation	<p>GNWT Participants</p> <ul style="list-style-type: none"> • Who was responsible for Indigenous engagement? • Who fulfilled the Crown's Duty to Consult? How was this determined? • What challenges did your organization face in fulfilling its responsibilities regarding Indigenous engagement / consultation? • The Tłıchq Government, the Community Government of Whatı sought "continuous collaboration with the GNWT". Was this accomplished and how? • Other Parties and Intervenors • Was it clear to you or your organization who was responsible for Indigenous engagement ? • From your perspective, what were the major challenges faced by the Crown in fulfilling its duty to consult Indigenous peoples • What challenges did your organization face with regards to participating in the Crown's engagement / consultation process? • The Tłıchq Government, the Community Government of

Topic / Theme	Questions / Probes
	<p>What is sought “continuous collaboration with the GNWT”. Was this accomplished and how?</p>
Internal Organizational Issues	<ul style="list-style-type: none"> • From your perspective how did you organize yourself / your department to undertake or participate in this EA? • Was there an organization structure established for this Project? Can you share it with us? • How did you organize / manage your interactions with other government agencies/departments during the EA and regulatory processes? • Do you feel your organization / department’s role was adequately defined in relation to other governmental departments? Review bodies or others? • Were there any overlapping responsibilities or uncertainties? Please explain. • What organizational challenges did you face within your organization / department? • Where internal “firewalls used to avoid conflicts of interest within your organization / department? • What resourcing issues did you face? Were you adequately resourced (financial and human resources)
Whole of Government (WoG) Approach	<p>The GNWT took a “whole of government” approach to the EA process. The Whole of Government Approach refers to the GNWT’s intent to plan, permit and build the Tłıchǫ Road as a one cohesive government unit. A strategic government wide decision was made to implement the Whole of Government Approach rather than approaching the Project EA by the GNWT Department of Transport (DOT) acting as prime Developer and having the remaining GNWT departments perform their independent responsibilities involved in an EA.</p> <ul style="list-style-type: none"> • Have you had previous experience with this approach elsewhere? Please explain. • What did this approach mean to how your organization / department had organized itself for the TASR EA? • Did this approach make it easier or more difficult for your organization to contribute to / participate in the EA and/or fulfill your mandate? • Can you describe the what you see are the advantages and disadvantages of this approach? What worked or did not work? • What are the alternatives to the Whole of Government Approach that could have been considered or should be considered in the future by the GNWT where it is a proponent?
Parties / Intervenors in the EA	<ul style="list-style-type: none"> • Who were the key parties / intervenors in the EA which whom you interacted the most? What were their roles? • How did you organize / manage your interactions with these parties / intervenors during the EA and regulatory processes?

Topic / Theme	Questions / Probes
EA and Regulatory Process Challenges	<ul style="list-style-type: none"> • Do you feel that the scope of the environmental assessment for this Project was well defined? • Do you feel that the time taken for the completion of the EA and regulatory process was adequate? • What EA or regulatory process challenges did your organization / department face on this Project?
Lessons Learned / Effective Tools or Approaches Applied in Managing EA and Regulatory Process Challenges	<ul style="list-style-type: none"> • Can you identify any Lessons Learned by your organization / department with respect to managing EAs and regulatory processes? • Can you identify any tools or approaches to managing EAs and regulatory process that were particularly effective (e.g., Memoranda of Understanding with the GNWT, Working Groups, etc.)?
Lessons Learned / Effective Tools or Approaches Applied to Indigenous Engagement / Consultation	<ul style="list-style-type: none"> • Can you identify any Lessons Learned by your organization / department with respect to Indigenous Engagement / Consultation? • Can you identify any tools or approaches to Indigenous engagement / consultation that were particularly effective?
Lessons Learned / Effective Tools for Transition from EA to Project Implementation	<ul style="list-style-type: none"> • Can you identify any Lessons Learned by your organization / department with respect to transitioning the Project from EA to implementation? • Can you identify any tools or approaches to implementing EA commitments or conditions of approval that were particularly effective?
Other / Summary	<ul style="list-style-type: none"> • Do you feel there is a level playing field between Projects that are assessed in the private sector versus those of the public sector? • What is the one thing you would recommend that the GNWT do differently on future Projects to improve their performance? • Do you have comments, ideas and concerns that you would like to raise?

Appendix E: Screening of Projects Outside of the Mackenzie Valley

GNWT Event ID: 0000003532
Lessons Learned Tłıchǵ All-Season Road
April 2020 SLR Project No.: 209.40742.00000

Project Name	Project ID / File Number	Project Description	Proponent	Relevant Documents for Review	Screening Decision and Rationale
Inuvik to Tuktoyaktuk Highway Project (See also https://eirb.ca/public-registry/)	58081	The Hamlet of Tuktoyaktuk, the Town of Inuvik, and the Government of the Northwest Territories are proposing to construct, operate and maintain a 140 kilometer all-weather highway from the Town of Inuvik to the Hamlet of Tuktoyaktuk.	<ul style="list-style-type: none"> Hamlet of Tuktoyaktuk, Town of Inuvik and Government of the Northwest Territories 	<ul style="list-style-type: none"> Backgrounder Government of Canada Response to the Panel Report on the Proposal to Construct the Inuvik to Tuktoyaktuk Highway Notice of Decision Final Panel Report Agreement to Establish a Substituted Panel for the Inuvik to Tuktoyaktuk Highway Project Correspondence to EIRB regarding role of GNWT in Project 	<p style="text-align: center;">YES</p> <ul style="list-style-type: none"> Project proponents were Hamlet of Tuktoyaktuk, Town of Inuvik and Government of the Northwest Territories Environmental Impact Review Board (EIRB) was the decision-maker. Involved a hearing component (i.e., EIRB Panel) Project is an all season road in a northern or remote setting of similar scale/scope as TASR Project is in the NWT but outside the Mackenzie Valley Involved Indigenous groups and communities in the NWT Experience with this process informed the GNWT's approach to the TASR. Project was completed within past 10 years
Manitoba Hydro - Bipole III Transmission Project	5433.00	Manitoba Hydro is proposing to develop a new 500kV HVdc transmission line, known as Bipole III. Depending on the final route selection, the Bipole III transmission line will be approximately 1,290 to 1,475 km in length and will cross diverse regions of Manitoba from the Boreal Forest in the north to agricultural areas in the south.	<ul style="list-style-type: none"> Manitoba Hydro 	<ul style="list-style-type: none"> Proposal Description and Draft Scoping Documents Final Environmental Assessment Scoping Document 	<p style="text-align: center;">YES</p> <ul style="list-style-type: none"> Government Agency (Manitoba Hydro) is the proponent. Manitoba Clean Environment Commission and Manitoba Sustainable Development were decision-makers Linear infrastructure Project of similar scale/scope to TASR Involved a hearing component (i.e., Manitoba Clean Environment Commission) Involved multiple Indigenous groups Involved multiple government agencies Project was completed within past 10 years
Northwest Transmission Line		The British Columbia Transmission Corporation (BCTC) proposes to install a 344 km 287 kV transmission along Highway 37 from Terrace to Bob Quinn Lake. New substation at Bob Quinn Lake with upgrades to Skeena substation.	<ul style="list-style-type: none"> BC Hydro 	<ul style="list-style-type: none"> Project Description Environmental Effects Methodology and Scoping Certificate NLT Project Ministerial Decision Record Draft Terms of Reference for an Application for an EA Certificate 	<p style="text-align: center;">YES</p> <ul style="list-style-type: none"> Government agency (BC Hydro) was the proponent BC Environmental Assessment Office (BCEAO) was the decision-maker. Project exempt from review by BC Utilities Commission. Linear infrastructure Project of similar scale/scope to TASR Involved multiple Indigenous groups Involved multiple government agencies. Project was completed within the past 10 years

Project Name	Project ID / File Number	Project Description	Proponent	Relevant Documents for Review	Screening Decision and Rationale
All Season Road Linking Manto Sipi Cree Nation, Bunibonibee Cree Nation and God's Lake First Nation	80138	Manitoba Infrastructure proposes to construct 138 km of all-season road on provincial Crown land. The Project, designed as a 2-lane gravel public highway, would consist of three sections of intersecting road located on the east side of Lake Winnipeg, Manitoba.	<ul style="list-style-type: none"> Manitoba Infrastructure (GoM) 	<ul style="list-style-type: none"> Summary of Environmental Impact Statement Notice of Environmental Assessment Determination Summary of Project Description IR from CEAA 	<p style="text-align: center;">YES</p> <ul style="list-style-type: none"> Government agency (Manitoba Infrastructure) was the proponent Manitoba Sustainable Development and the Canadian Environmental Assessment Agency were decision-makers. Approval for on-Reserve access roads will be subject to separate approvals by Indigenous Services Canada (ISC). Project is an all season road in a northern or remote setting Involved multiple Indigenous groups Involved multiple government agencies. Project also involved a Provincial Technical Advisory Committee (TAC) EA is <u>largely completed</u> but still under review by regulators and the public.
All Season Road Connecting Berens River to Poplar River First Nation	80094	Manitoba Infrastructure proposes to construct an all-season road on provincial Crown land, designed as a 2-lane gravel public highway approximately 94 kilometres in length. As proposed, the road would begin near the Berens River First Nation, on the east side of Lake Winnipeg, Manitoba, and extend north from the Berens River to the Poplar River First Nation reserve boundary.	<ul style="list-style-type: none"> Manitoba Infrastructure (GoM) 	<ul style="list-style-type: none"> Project Description Environmental Assessment Decision Statement Environmental Assessment Report Potential Environmental Assessment Conditions Summary of the EIS 	<p style="text-align: center;">YES</p> <ul style="list-style-type: none"> Government agency (Manitoba Infrastructure) was the proponent Manitoba Sustainable Development and the Canadian Environmental Assessment Agency were decision-makers. Project is an all season road in a northern or remote setting of similar scale/scope to TASR Involved multiple Indigenous groups Involved multiple government agencies. Project approved within the past 10 years (2017)
All Season Road Linking Manto Sipi Cree Nation, Bunibonibee Cree Nation and God's Lake First Nation	80138	Manitoba Infrastructure proposes to construct 138 km of all-season road on provincial Crown land. The Project, designed as a 2-lane gravel public highway, would consist of three sections of intersecting road located on the east side of Lake Winnipeg, Manitoba.	<ul style="list-style-type: none"> Manitoba Infrastructure (GoM) 	<ul style="list-style-type: none"> Summary of Environmental Impact Statement Notice of Environmental Assessment Determination Summary of Project Description IR from CEAA 	<p style="text-align: center;">NO</p> <ul style="list-style-type: none"> This Project is still in progress and not as advanced as other Manitoba Infrastructure Projects (see above)
Naujaat Community Access Trail. https://www.nirb.ca/application?strP=r	19PN003	The Hamlet of Naujaat is proposing to build an all-weather community access trail within municipal boundaries. The proposed trail is about 15 km long and will start on the existing road about 4 km north of Naujaat just before the community water filling station. The trail will follow the existing ATV trail to the southeast to where it crosses a stream about 200 m north of where the stream flows into the north end of Naujaat Inlet.	<ul style="list-style-type: none"> Hamlet of Naujaat (Nunavut) 	<ul style="list-style-type: none"> Part 2 Supporting Documents Environmental Impacts Project Application Documents Comment Submissions Screening Decision Report 	<p style="text-align: center;">NO</p> <ul style="list-style-type: none"> This Project is not of similar scale/scope as TASR. EA was limited to a screening rather than a full review.

Project Name	Project ID / File Number	Project Description	Proponent	Relevant Documents for Review	Screening Decision and Rationale
Grays Bay Road and Port Project	17XN011	The Grays Bay Road and Port GBRP Project is a proposed transportation corridor that will permanently connect a deep-water port at Grays Bay on the Coronation Gulf to the northern terminus of the Tibbitt-Contwoyto Winter Road at the former Jericho Mine, Nunavut	<ul style="list-style-type: none"> Jointly proposed by: Kitikmeot Inuit Association (KIA) and Government of Nunavut (GN). 	<ul style="list-style-type: none"> Project Proposal Public Scoping and Environmental Impact Statement Guidelines Meetings Summary Report Nunavumi Impact Review Board Letter re Minister's Decision 	<p style="text-align: center;">NO</p> <ul style="list-style-type: none"> Project is currently on hold at the proponent's request. GN withdrew as co-proponent in May 2017. Insights regarding the government as a proponent would likely be limited.
Bay d'Espoir to Western Avalon TL 267 Transmission Line	1803	The proponent proposes to construct a 188 kilometre, 230 kilovolt transmission line to connect the existing Bay d'Espoir and Western Avalon Terminal Stations. The proposed new line will parallel two existing transmission lines from Bay d'Espoir to Sunnyside on the Avalon Peninsula.	<ul style="list-style-type: none"> Newfoundland and Labrador Hydro (GoNL). A crown corporation BUT also a Nalcor Energy company 	<ul style="list-style-type: none"> Decision Letter Environmental Assessment Registration 	<p style="text-align: center;">YES</p> <ul style="list-style-type: none"> Government agency (Newfoundland and Labrador Hydro) was the proponent NL Department of Environment and Conservation was the decision-maker Linear infrastructure Project in a remote setting of similar scale/scope as TASR Involved multiple Indigenous groups Involved multiple government agencies. Project completed within the last 10 years
Provincial Road 304 to Berens River All Season Road	5388.00	The Government of Manitoba announced its intention to proceed with construction of an all-season road (ASR) from Provincial Road 304 at Manigotagan to Berens River. The East Side Road Authority (ESRA) was established as a provincial Crown Agency to manage the East Side Transportation Initiative, including completion of an Environmental Impact Assessment, design and construction of the PF 304 to Berens River ASR.	<ul style="list-style-type: none"> Manitoba Infrastructure (GOM). (Originally the East Side Road Project which in 2016 was dissolved and operations were transferred to Manitoba Infrastructure) 	<ul style="list-style-type: none"> Environmental Assessment Scoping Document Project Description Lake Winnipeg East Side Road Federal Comprehensive Study Scoping Document Technical Advisory Committee (TAC) Comments April 7, 2017 - NoA approval 	<p style="text-align: center;">NO</p> <ul style="list-style-type: none"> Other Manitoba Infrastructure Projects have been selected (see above). Insights as to the government as a proponent would likely be limited.
Prairie Creek All Season Road	EA1415- 01	The Project consists of the construction, operation and closure of a 180 km all season access road from the Prairie Creek Mine (km 0) to the Liard Hwy (km 180). All season road	<ul style="list-style-type: none"> Canadian Zinc Corporation 	<ul style="list-style-type: none"> Minister CIRNA Decision Letter to Review Board Report of Environmental Assessment and Reasons for Decision Terms of Reference 	<p style="text-align: center;">POTENTIAL</p> <ul style="list-style-type: none"> Examining a private sector Project may provide some contrast or additional insights on government decision-making processes.
Transmission Line Restoration and Enhancement - Dawson and Kluane Wagon Road. https://yesabregistry.ca/Projects/4ad71a7e-e501-4e32-945e-7292524d1c04	2019-0078	The Project is to create new and upgrade existing access trails in various locations along the Yukon Energy Corporation Transmission Line along the Dawson and Kluane Wagon Roads for approximately 14 km. The Project is located within Champagne and Aishihik First Nations (CAFN), Ta'an Kwá'chān Council (TKC) and Kwanlin Dūn First Nation's Traditional Territories. The line runs through the Ibex Valley and Takhini Hotsprings development areas and multiple Settlement Land parcels	<ul style="list-style-type: none"> Yukon Energy Corporation 	<ul style="list-style-type: none"> Project Proposal Information Requests Evaluation Report 	<p style="text-align: center;">NO</p> <ul style="list-style-type: none"> Project is not at the same scale/scope as TASR. Limited Project documentation available

Project Name	Project ID / File Number	Project Description	Proponent	Relevant Documents for Review	Screening Decision and Rationale
Dempster Fibre Project	2019-0140	The Government of Yukon, Department of Highways and Public Works (the "Proponent") is proposing the Dempster Fibre Project (DFP) that will see the construction of an approximately 800 km fibre optic line from Dawson City, Yukon to Inuvik, Northwest Territories.	<ul style="list-style-type: none"> • Department of Highways (Government of Yukon) 	<ul style="list-style-type: none"> ▪ Project Proposal 	<p style="text-align: center;">POTENTIAL</p> <ul style="list-style-type: none"> • May be a good contingency case study. • This Project is currently under review, YESAB may not be able to provide much information within the interview timeframe. • Insights regarding the government as a proponent would likely be limited.



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