

Relationship, Engagement and Consultation Protocol

PORT OF/DE
BELLEDUNE



We, the Owners of the Protocol, are;

The Belledune Port Authority (BPA);

Oinpegitoig First Nation (Pabineau);

Ugpi'ganjig First Nation (Eel River Bar); and

Mi'gmawe'l Tplu'taqnn Inc (Mi'gmawe'l Tplu'taqnn) representing for the purposes of this Protocol *eight (8)* of its member First Nations: Oinpegitjoig First Nation (Pabineau); Ugpi'ganjig First Nation (Eel River Bar); Amlamgog (Fort Folly); Esgenoopetitj; L'nui Menikuk (Indian Island); Natoaganeg (Eel Ground); Metepenagiag Mi'kmaq Nation; Tjipogtotig (Buctouche) (*collectively the "Mi'gmaq First Nations"*)

BACKGROUND

The foundation for this Engagement and Consultation Protocol (Protocol) is the Letter of Agreement signed by the parties in April 2017 in which the Mi'gmaq communities of the Mawipogtapeg/ Bay of Chaleur region and the other members of the Mi'gmawe'l Tplu'taqnn Inc. and the Belledune Port Authority formalized a component of their relationships. (*Attached as Schedule A*).

As the joint authors and signatories of this Protocol, we are proud of the collaborative work that was required in the establishment of this important document.

PURPOSE

The *Owners* agree that purpose of this Protocol is to:

- 1) define the roles and responsibilities of the parties in:
 - a) Relationship building;
 - b) Consultation and Accommodation; and
 - c) Proponent Engagement with the Mi'gmaq First Nations.
- 2) complement *the* Mi'gmaq/Canada/New Brunswick Interim Consultation Protocol, as amended;
- 3) prescribe the steps for a practical, transparent and respectful approach to adequate and purposeful engagement, and meaningful consultation and accommodation, where appropriate;
- 4) provide guidance to proponents seeking to do business at the Port on their role in these processes;

PURPOSE – Continued...

- 5) implement wise practices from existing protocols/policies related to the Federal Port Authority community and other federal agents with the intention to meet or exceed the standards and processes set out in these documents;
- 6) provide a living document that is subject to a regular review by the parties on an ongoing basis; and
- 7) represent a step in the ongoing process of establishing and maintaining respectful relationships and reconciliation between the parties.

ACKNOWLEDGEMENT

The *BPA* is situated on the unceded traditional land of the Mi'gmaq People. The *BPA*, as a federal agent, has the responsibility to consult with the Mi'gmaq First Nations which may be impacted by any conduct undertaken at the Port of Belledune. The *BPA* recognizes the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, the Aboriginal and Treaty rights of the Mi'gmaq People as confirmed in section 35 of the *Constitution Act, 1982* and by the decisions of the Courts of Canada. The *BPA* is governed by the *Canada Marine Act* and its Letters Patent.

The Mi'gmaq First Nations, as the traditional owners and stewards of Mawipogtaped/Bay of Chaleur, represent potential partners in sustainable, respectful development projects at the Port of Belledune. Together, the *Owners* intend to establish a meaningful and practical engagement and consultation process through which all parties will be inclusive of the perspectives, the views and positions of each other while maintaining, fostering and strengthening working relationships with project proponents. Also, the *Owners* share the commitment to a process that will enable better communication and stronger relationships towards the resolution of issues between the Mi'gmaq First Nations, project proponents and the *BPA*.

In short, the *Owners* are committed to a process of reconciliation between the *BPA* and the Mi'gmaq. The Protocol has three components each of which contributes to that goal:

- 1) Relationship Building;
- 2) Engagement,
- 3) Meaningful Consultation and Accommodation, where appropriate, including Responsibilities of the parties to consultation.

The Protocol, together with the Schedules attached, should afford all potential project proponents an appreciation of the expectations of the *Owners*.

COMPONENTS of the PROTOCOL

1) Relationship Building

Relationship building takes place in situations where the legal duty to consult has not been triggered, but where the parties wish to exchange information, pursue economic opportunities, build their relationship and gain a better understanding of each other.

Relationship building provides opportunities to share information and perspectives; seek advice and build awareness on both sides; develop stronger proposals and create the basis for future work together.

In the interests of encouraging frank dialogue, engagement discussions will be considered off the record and without prejudice, and will not be entered as evidence in any legal proceedings.

As part of the process of relationship building, the Owners commit to meeting at least three times a year to discuss relationship building, which may include discussion on:

- 1) Economic, business and employment opportunities within the Port and the Baie de Chaleurs region;
- 2) Development of a plan for Cultural awareness training and education and other opportunities to learn from Mi'gmaq Indigenous knowledge related to the land, sea and air.;
- 3) Current activities at the Port; the roles and responsibilities of the Federal and Provincial regulatory processes and authorities; and industrial development trends for the region.
- 4) General information about BPA, MTI or the Mi'gmaq First Nations;
- 5) Reconciliation, including implementation of the Calls to Action of the Truth and Reconciliation Commission;
- 6) practical improvements to this Protocol through ongoing and regular discussions; and
- 7) The Development and implementation of a budget work plan, and funding agreement to support the above activities.

TRUTH AND RECONCILIATION

The Truth and Reconciliation Commission of Canada established 94 Calls to Action prescribing an ongoing process of establishing and maintaining respectful relationships. The critical part of this process involves repairing damage, trust by making apologies, providing individual and collective reparations and following through with concrete actions that demonstrate real societal change.

The Owners implore that it is incumbent on all parties to a project to recognize all 94 Calls to Action and, in particular, Call to Action 92 which speaks directly to industry and the business community in Canada.

- (92) We call upon the corporate sector in Canada to adopt the *United Nations Declaration of Rights of Indigenous Peoples* as a reconciliation framework to apply its principles, norms, standards to corporate policy and core operational activities involving indigenous peoples, lands and resources. This would include, but not limited to, the following;
- i) commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of indigenous peoples for proceeding with economic development projects.
 - ii) ensure that aboriginal peoples have equitable access to jobs, training, educational opportunities in the corporate sector, and that aboriginal communities become long term sustainable from economic development projects.
 - iii) provide education for management and staff on the history of aboriginal peoples, including the history and legacy of residential schools, United Nations Declaration on the Rights of Indigenous Peoples, treaties and aboriginal rights, indigenous law, aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights and anti-racist.

COMPONENTS of the PROTOCOL – Continued...

II) Engagement

Engagement describes the relationship that takes place between a proponent who has a project at the Port, and the Mi'gmaq. Engagement may take place as part of a process of consultation and accommodation (where procedural aspects have been properly delegated, as described below) but may also encompass broader engagement between the proponent and the Mi'gmaq.

- **Principles of Engagement**

The following *Principles of Engagement* with the Mi'gmaq First Nations will support a process that provides stronger potential for successful projects. All Parties must be secure in their belief that each party is committed to the principles outlined below. The *Owners* prescribe that the following engagement principles be incorporated into the business practices of prospective project proponents when contemplating business with the *BPA*.

- **Mutual Respect**

Engagement with the Mi'gmaq First Nations shall be based on mutual respect for all participants, taking into account different interests, perspectives, cultures, understandings and concerns.

The *Owners* recognize that successful sustainable economic development that respects traditional land use and Aboriginal rights requires the development of mutual trust and respect amongst the engagement and consulting parties. Trust and respect can be achieved through constant efforts to build a relationship that is inclusive of the perspectives, the views and positions of all participants

- **Early Engagement**

Engagement must be initiated in the pre-planning stage, before submitting applications for permits licenses etc. The *BPA* will introduce the proponent to the Mi'gmaq at this point. The communication between the proponent and the Mi'gmaq needs to begin with the proponent conveying established information that is appropriate in proportionate respect of the decision being made.

- **Openness and Transparency**

There needs to be transparency throughout the process based on open lines of communication and the provision of timely, accurate, clear and objective information. The Mi'gmaq shall be informed of how their concerns have been considered, and where appropriate, addressed in the planning and decision- making process.

COMPONENTS of the PROTOCOL – Continued...

- **Adequate Time to Review/Respond**

Engagement will allow a reasonable amount of time that is appropriate and proportionate in respect of the decision being made for the Mi'gmaq to review information, hold internal discussions and respond.

- **Flexibility**

The engagement process should be evolving and ongoing. While this process is happening in a specific point in time it will be impacted by the process and relationships that went before it and will influence the processes and relationships that follow.

Engagement Process	
	The Engagement Process shall follow the following steps:
Step 1	Notify Mi'gmaq Early in the Development Process
	The Mi'gmaq should be notified as soon as the proponent begins to consider a project in their territory. As soon as BPA becomes aware of a project, they will advise the Proponent to notify the Mi'gmaq.
Step 2	Provide as Much Information as Possible The Proponent should provide all relevant information to the Mi'gmaq so that they are in a position to understand the project.
Step 3	Meet with the Mi'gmaq Community(s) Once the Mi'gmaq have been provided with the relevant information, and sufficient time to review it, the Proponent should arrange to meet face to face with the Mi'gmaq. Meetings should have an agreed upon agenda, notes should be taken, and action items followed up before requesting another meeting. Meetings should continue to occur regularly throughout the process, as new information becomes available, or as action items are fulfilled.
Step 4	Complete an Indigenous Knowledge Study For many projects, it will be necessary to undertake an Indigenous Knowledge Study in order to assess the impacts on Aboriginal and Treaty Rights. Indigenous knowledge studies should be undertaken prior to other project studies being completed, as the indigenous knowledge study may inform other project studies. The Owners recognize that the New Brunswick Mi'gmaq Indigenous Knowledge Study Guide adopted by the MTI will govern any Indigenous Knowledge studies that are undertaken.
Step 5	Address Potential Project-Specific Impacts

COMPONENTS of the PROTOCOL – Continued...

The Proponent should work throughout to address project specific impacts through possible accommodation measures, as outlined below.

III) Meaningful Consultation and Accommodation

The *BPA* is ultimately responsible for the fulfilment of the Duty to Consult on projects that are considered within the jurisdiction of the *BPA* and may have a potential impact on the Aboriginal and Treaty rights held by the Mi'gmaq First Nations. As a federal agent, the *BPA* is mandated by the *Canada Marine Act* and its Letters Patent to manage its business, including land holdings. Economic development on the land holdings is subject to provincial and federal governments' laws, regulations, permitting and licensing.

The parties have identified below the relevant principles, practices, and roles and responsibilities related to consultation and accommodation, and the steps in the process.

A. Principles

In order to be meaningful, reasonable and good faith, consultation should adhere to these principles:

1.	Early/Timely Engagement: Consultation must be timely, and must take place at the earliest possible opportunity, and well before any final decisions are made regarding approval and implementation of the Project;
2.	Complete information: Consultation must involve full, complete and timely disclosure to the Mi'gmaq of all information required to understand the impacts of the Project on the Mi'gmaq and their rights;
3.	Reasonable Timeframes: The Mi'gmaq must be given adequate time to respond to the information;
4.	Transparency: Crown decision-making must be transparent and understandable;
5.	Clear Delegation: Where any procedural aspects of consultation are delegated to the proponent, this must be done clearly, in writing, and with notice to the Mi'gmaq;
6.	Real Dialogue: Crown representatives must approach consultation with open minds and in a spirit of two-way dialogue, which takes Mi'gmaq input seriously, and allows for real discussion and consideration of decisions, and not just an explanation of decisions which are already set in stone;
7.	Access to decision-makers: The Mi'gmaq must have the opportunity to meet directly with those who have the actual authority to make the decision;
8.	Real influence: the project proponent must have the intention to substantially address the communities' concerns, if any arise and give communities the opportunity to influence the conduct, decision, and/or project
9.	Meaningful Accommodation: Consultation should result in meaningful accommodation measures to mitigate or minimize any impact on Aboriginal and Treaty rights and Title, and compensate for any impacts that cannot be minimized;

10.	Adequate Resources: The Mi'gmaq must be given adequate resources in order to obtain the input of their communities, to properly study and review the plans, and to gather indigenous knowledge with respect to the rights impacted; and
11.	Respect for our Territory and Culture: Consultation meetings must happen in a spirit of respect. Wherever possible, they should take place in our territory, and in our communities, to put the discussions in the appropriate social and cultural context.
12.	Rationale: for decisions must be communicated to the Mi'gmaq.

B. Practices

Based on the Owners' common belief that bringing together the First Nations and the proponent for early engagement will result in meaningful consultation by adherence to the following practices:

1.	Consultation is to be conducted in good faith by all consulting parties and while each party has different roles, the consultation requires the participation of the Mi'gmaq First Nations community(ies), MTI, the potential project proponent and the BPA.
2.	The Parties will attempt to jointly agree when consultation has been triggered.
3.	Consultation will work towards the objective of helping to ensure that development projects address, minimize, mitigate and where reasonably practical, eliminate adverse impacts on asserted or established Aboriginal and Treaty rights.
4.	Consultation will be completed before any development decisions are made.
5.	Consultation, as a reciprocal process, will mean that each party is expected to provide pertinent information to the other parties and allow adequate time for the other parties to review such information.
6.	The nature of consultation will depend on i) the strength of claim, and ii) the seriousness of potentially adverse impacts on asserted or established Aboriginal and Treaty rights in the First Nations affected.
7.	Consultation support or capacity building required by a First Nation(s) will be the responsibility of the project proponent.
8.	Accommodation is part of the consultation process and is to be proportionate to the strength of claim, Aboriginal rights assessment and the degree of the adverse impact.

C. Accommodation

Accommodation must respond to the adverse impacts of a project on potential or asserted or established Aboriginal or Treaty rights and related interest of the First Nations group. Accommodation can consist of actions that:

- | |
|---|
| <ul style="list-style-type: none"> • seek to avoid adverse impacts on the asserted or established Aboriginal and Treaty rights, |
| <ul style="list-style-type: none"> • if impact avoidance is not possible, then accommodation measures must be sought to mitigate or minimize the impact, and |
| <ul style="list-style-type: none"> • if none of the above is possible, it may be that a form of compensation (financial or nonfinancial) may be considered appropriate accommodation; revenue sharing, Impact Benefit Agreements, business development, equity positions, employment etc |

Accommodation can take many forms, such as:

- | |
|--|
| <ul style="list-style-type: none"> • The Proponent making changes to the Project, including adjusting the project plans or footprint in order to eliminate or minimize the impact on rights; |
| <ul style="list-style-type: none"> • The Federal or Provincial Crown placing terms and/or conditions on any permits, licenses or authorizations to ensure adjustments or modifications are made to the project, mitigation measures in order to minimize or mitigate the impact on rights; and/or |
| <ul style="list-style-type: none"> • The Proponent sharing benefits of the Project with the Mi'gmaq in order to compensate for any impact on Rights. |

D. Responsibilities of the Parties: Who Does What?

a. BELLEDUNE PORT AUTHORITY RESPONSIBILITIES

Ensure Adequacy and Reasonableness

The BPA is committed to long term strong relationships with *the Mi'gmaq* First Nations, strong projects and undertakes the spirit of this Protocol in good faith to ensure that all aspects of consultation are conducted in an effective and timely manner and fulfill its obligations regarding the Duty to Consult; ensure that the technical aspects of consultation conducted by the proponent are meaningful and reasonable, and ensure that when Accommodation is required it is appropriate and reasonable.

The Owners understand that a proponent is in the best position to present its project to the Mi'gmaq First Nations and therefore the BPA may delegate *certain* procedural aspects of consultation to the proponent.

The BPA will:

- 1) Notify MTI so that they can identify which First Nations communities and members should be notified and consulted about proposed activities, based on best available information provided by those First Nations about where they have or assert Aboriginal and Treaty rights;
- 2) Facilitate introductions between First Nation neighbours with potential clients of the BPA to encourage early engagement. Early engagement gives potential proponents and First Nations an opportunity to establish a working relationship;
- 3) Provide direction *in writing* on the scope of consultation required in the circumstances as supported by the Provincial and Federal governments and *which aspects of the duty are being delegated to the proponent*;
- 4) Initiate consultation when conduct or a decision that may impact on asserted or established rights is being contemplated;
- 5) Provide ongoing direction, oversight and supervision of the process, and
- 6) Assess the adequacy of consultation and accommodation, where required, and to make required decisions and determinations.

DELEGATION OF PROCEDURAL ASPECTS of the DUTY

The courts have confirmed that the federal agent may delegate procedural aspects of consultation to third party proponents. This will be done on a case by case and project by project basis, as outlined below.

When delegating the procedural aspects of consultation and accommodation, where appropriate, to a prospective proponent(s) the BPA will expect project proponents to resolve any outstanding issues between the project proponent and the Mi'gmaq First Nations involved.

The Duty to Consult arises when contemplated conduct may adversely impact on the asserted or established Aboriginal and Treaty rights. The BPA, through the project proponent where applicable, shall fulfill the procedural aspects of consultation with Mi'gmaq First Nation communities.

Fulfilling the procedural aspects of consultation must be seen by the potential project proponent as assisting the BPA in its responsibility to uphold the honour of the Crown while creating both a higher level of respect between the parties and strengthening the mutual understanding between the parties.

NON-DELEGABLE ASPECTS OF THE DUTY

There are certain aspects of the duty to consult and accommodate which cannot be delegated to the Proponent by BPA. These include assessing:

- 1) Who to Consult with;
- 2) The Depth of Consultation required, having regard to:
 - a) Strength of Claim; and
 - b) Assessing Degree the Potential Adverse Impacts.
- 3) The Adequacy of Consultation.

The above assessments shall be made in consultation with MTI. However, where a proponent submits a project proposal to the other federal or provincial government authorities for authorization, the *BPA* may also consult with those authorities on the above assessments.

Assessment 1: Who to Consult With

The *BPA* will work with MTI and the Mi'gmaq communities to determine the reach of required consultation;

- A. identify the project or decision footprint, including but not limited to, mobile effects (e.g. upstream/downstream effects)
- B. identify all communities within the area determined in A above, that may be adversely impacted by the proposed conduct (the rights holders or their representatives).

Assessment 2: Depth of Consultation

The scope of the duty and where appropriate accommodation is in proportion to:

- i) strength of claim or treaty rights assessment, and
- ii) seriousness of the potential adverse impact.

The depth of the Duty is contextual. The assessment of the depth will be dependent on the facts in each circumstance and is to be determined by the *BPA* in conjunction with the appropriate Provincial and Federal government departments.

Where there is an impact on established Aboriginal and Treaty Rights deeper consultation is generally required, and the *BPA*, with the proponent, has a responsibility to seek the consent of the impacted First Nations, and to take positive steps to minimize the impact on their rights.

i) Strength of Claim Assessment

While it is the responsibility of the *BPA*, in consultation with the Mi'gmaq First Nations, to determine the strength of claim, the Proponent should also inform itself about the range of asserted or established Aboriginal and Treaty rights of the communities: the Mi'gmaq communities are best placed to convey the nature and scope of their rights and their importance.

ii) Assessing Degree of Adverse Impacts

The degree of adverse impacts on Aboriginal and Treaty Rights is a function of the following variables:

- **Nature** and geographic extent
- **Magnitude**: intensity and adverse effect/degree of change given any cumulative effects
- **Reversibility**: temporary or permanent?
- **Timing**: frequency and duration
- **Probability**

Potential Adverse Impacts to Rights range on the following scale:

- *Negligible* no detectable impact on rights
- *Low ability* to exercise the rights will be minimally disrupted
- *Moderate ability* to exercise the rights will be diminished (e.g. community may still exercise the rights, although not in preferred location)
- *High ability* to exercise a right will be significantly diminished or even extinguished (e.g. can no longer hunt)

Assessment 3: BPA Determination of the Adequacy of Consultation

The *BPA* is obligated to ensure the Mi'gmaq First Nations are appropriately consulted and accommodated, where appropriate, in advance of issuing authorizations.

The *BPA* will assess the quality of consultation conducted by a project proponent through compliance monitoring mechanisms established jointly with the Mi'gmaq First Nations. The project proponent consultation documentation will form part of the record used by the *BPA* to determine whether the proponent adequately and sufficiently has satisfied the *BPA*'s Duty to Consult. This documentation should take the form of a Consultation Log for each First Nation community.

b. PROJECT PROPONENT'S RESPONSIBILITIES

The *Owners* recognize that *the United Nations Declaration of the Rights of Indigenous Peoples* provides an effective framework for industry and business to establish respectful relationships and work collaboratively with Indigenous peoples. The *Owners* strive for quality dialogue between the proponent and the First Nations. It is encouraged that dialogue first occur through early engagement initiated by the project proponent upon introduction by the *BPA*.

The *Owners* expect the project proponent to demonstrate the introduction of the following principles within their business plan;

- 1) Cultural competence: understanding the culture of the Mi'gmaq First Nations, understanding the goals of the communities and respect Indigenous knowledge.
- 2) Business policy: adopt a formal policy addressing Aboriginal rights and commit business to respect indigenous rights;
 - i) undertake due diligence to assess impact on the Aboriginal and Treaty rights
 - ii) develop plan to take action on adverse impacts
 - iii) communicate plan of action to all neighboring stakeholders
- 3) Consult in good faith with the appropriate First Nation community (ies) with the objective prescribed in the Protocol.

Cultural Competence

Before delegating aspects of the procedural consultation process to a potential proponent, the *BPA* must assure itself that the potential proponent has demonstrated to the *BPA* cultural competency with a high degree of recognition and respect for indigenous knowledge, cultural and traditional practices in the value of the long- term relationship between the *BPA* and the Mi'gmaq First Nations.

The project proponent must demonstrate *its commitment to principles the of this Protocol* to the *BPA* through Early Engagement and a comprehensive Consultation Plan before submitting applications for permits, licenses, leases etc. *BPA* expects the community (ies) to be appropriately consulted in a timely way. This demonstration could be in the form capacity funding to the *Mi'gmaq* First Nations for land use studies during their Early engagement to establish where the members practice their rights, so that when it comes time for consultation, the community is ready to discuss the adverse impacts and has specifics regarding rights practices, locations, numbers, type of right practiced in certain area, etc.

During the consultation process the project proponent must advise and regularly update the *BPA* through the steps prescribed in this Protocol and prescribed application processes.

Business Policy

The proponent will endeavor to address the following pillars of a strong *business* relationship with the First Nation communities;

- A) Employment- recruit, train, retain and develop First Nation employees; develop employee mentorship programs, job shadowing, support students through co-op opportunities, scholarships, bursaries, summer employment.
- B) Business development- seek out First Nation partners for joint ventures, partnerships, strategic alliances, provide technical expertise, provide management expertise, set aside for contracting, First Nation preference, finance, youth entrepreneurship.
- C) Business support systems- use and support emerging network of business support services, Aboriginal financial institutions.

Good Faith Consultation

The Owners expect that any aspects of the duty to consult carried out by the Proponent will be carried out in accordance with the Principles of Engagement and the Principles and Practices of Consultation outlined above.

In particular, the BPA will look to proponents to provide the Mi'gmaq First Nations with the capacity to participate meaningfully in consultation, will expect the Proponent to maintain a log of engagement with First Nations, and may impose accommodation measures through terms and conditions places on the project. Further, the Proponent is expected to set reasonable timelines for engagement, and to bear its own costs.

Capacity to Participate Meaningfully

Potential proponents should recognize that many communities have capacity challenges that can hinder participation in consultation. Proponents should be prepared to contribute to community capacity needs with regard to consultation about specific proposals and should consider capturing these contributions in any *agreements* that might be reached.

- This may include
 - direct reimbursement to communities for their specific expenses related to the engagement process (including meeting costs, etc.), or
 - financial support for technical or other advice depending on the complexity of the project; and
 - Funding for Indigenous knowledge research.
- This may be addressed through a contribution agreement or process agreement with the Mi'gmaq First Nations.

Engagement Record

The *BPA* and proponent must keep a detailed record of any and all engagement and consultation efforts they take to notify consult with the communities. The following should be clearly tracked:

- the project information has been provided to the communities and in what form;
- a log of communications, whether written or oral, with whom and when, including attempts to communicate that have received no response;
- detailed records of responses received about Aboriginal and Treaty rights and the potential to be adversely affected; propose strategies to avoid, eliminate or minimize any adverse effects and community input to the development of those strategies; ..13
- project specific direction received from *BPA*;
- concerns that were not addressed and why.
- accommodation measures proposed and discussed.

The *BPA* will require reporting of a summary of these efforts on an approved form and they may ask to review a proponent's detailed records at any time. Such record will be shared with the Mi'gmaq.

Terms and Conditions Placed on Project

The *BPA* requires project proponents to prevent, mitigate, or monitor adverse impacts by fulfilling any terms and conditions placed on them through the environmental assessment decisions or *BPA* decisions.

- The *BPA* can rely on the potential proponent to address adverse impacts in this way, so long as the *BPA* has satisfied itself that these measures are reasonable and adequate in the circumstance.

An *Impact and Benefits Agreement* is a private contract between the proponent and the First Nations community.

- IBA's often provide compensation for the use of lands and resources. It can include financial compensation, provisions related to jobs and training, non-profit-sharing, environmental mitigation measures and monitoring
- due to confidentiality clauses, *BPA* may not be privy to the contents of these agreements should they exist

The *BPA* shall monitor and enforce any terms and conditions on authorizations and permits. The expectations and responsibilities outlined in this Protocol will be implemented to ensure the proponent complies with any of the conditions established.

Consultation processes can often result in arrangements being reached between proponents and affected First Nation communities. *BPA* strongly encourages such arrangements. These arrangements can reflect commitments the parties have made to one another with regard to ongoing consultation and mitigation of potential impacts.

Timelines

The proponent must establish reasonable timelines with the *Mi'gmaq* First Nations. Timelines through the consultation process will help ensure that the Duty to Consult is implemented in a timely way. Timelines will help guide First Nations with a clear direction of how long they have to engage in the consultation process. A First Nation's capacity to engage in the consultation process must be taken into account when determining whether the timelines are appropriate or not. Timelines guide project proponents who are undertaking the procedural aspects of the Duty to Consult.

Costs

Proponents are responsible for costs associated with their engagement and consulting including the collection of information and any necessary adjustments to the project to avoid, minimize or mitigate potential adverse impacts on a First Nation community's ability to practice their asserted or established Aboriginal and Treaty rights.

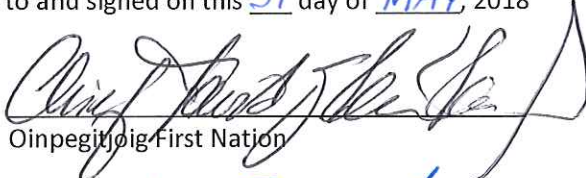
The proponents should also provide support to First Nation communities to facilitate their participation in the Engagement and Consultation processes, as outlined above.

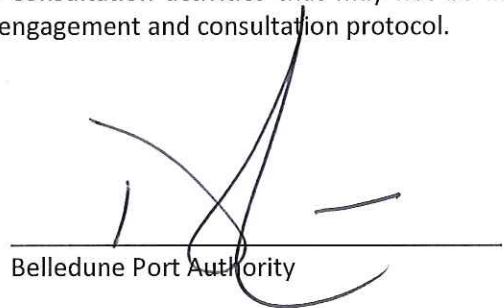
c. FIRST NATION RESPONSIBILITIES

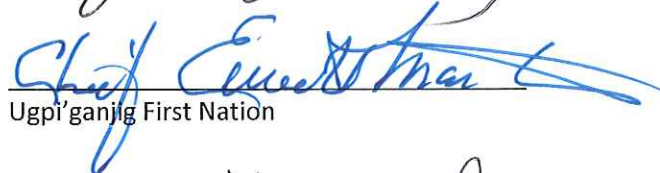
As a full party to the discussion on potential project (s) for economic development within the jurisdiction of the BPA the *Mi'gmaq* First Nations with a claim that their Aboriginal and Treaty rights may be impacted by the potential project subscribe to the following reciprocal approach:

- 1) First Nations will work with the BPA and the project proponent to identify practical arrangements to implement this Protocol and any subsequent engagement and consultation Protocol.
- 2) First Nations will, following introduction to a potential project proponent and once provided with notice and necessary/pertinent information of a potential project, clearly identify the Aboriginal rights established or asserted that are potentially adversely impacted by pending decisions related to the project. In many cases, identification of those rights will require an IK Study.
- 3) First Nations will respond to requests for comment and information from a project proponent or the BPA within the timeframes agreed by the parties.
- 4) First Nations will work with the project proponent and the BPA to find solutions or constructive approaches to address those concerns were such may reasonably exist.
- 5) First Nations will share with the BPA any issues concerning the conduct the project proponent related to its engagement and consultation activities that may not be in compliance with this Protocol or any other engagement and consultation protocol.

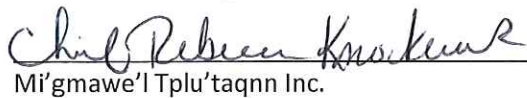
Agreed to and signed on this 31 day of MAY, 2018


 Oinpegiig First Nation


 Belledune Port Authority


 Ugpi'ganjig First Nation


 Mi'gmawe'l Tplu'taqnn Inc.


 Mi'gmawe'l Tplu'taqnn Inc.

Contact information:**Pabineau First Nation**

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Mi'gmawe'l Tplu'taqnn Incorporated

40 MicMac Road

Eel Ground, NB E1V 4B1

SCHEDULE "A" – Letter of Agreement

LETTER OF AGREEMENT

Among

BELLEDUNE PORT AUTHORITY (Port)

And

MI'GMAWE'L TPLU'TAQNN INC. (Mi'gmawe'l Tplu'taqnn) representing for the purposes of this Letter of Agreement 6 of its member First Nations: Amlamgog (Fort Folly); Esgenoôpetitj; L'nui Menikuk (Indian Island); Natoaganeg (Eel Ground); Metepenagiag Mi'kmaq; Tjipôgtôtjg (Buctouche),

And

Oinpegitjoig First Nation (Pabineau),

And

Ugpi'ganjig First Nation (Eel River Bar).

Each a Party and Collectively the Parties

The Port of Belledune is situated on the traditional land of the Mi'gmaq People. The Port, as a federal agent, recognizes the UN Declaration on the Rights of Indigenous Peoples, the Aboriginal and Treaty rights of the Mi'gmaq People as confirmed in section 35 of the Constitution Act, 1982 and by the decisions of the Courts of Canada.

The Mi'gmaq communities of **Oinpegitjoig (Pabineau First Nation)**, **Ugpi'ganjig (Eel River Bar First Nation)**, **Mi'gmawe'l Tplu'taqnn** and the Port are committed in good faith to:

- 1) maintain and foster sustainable long-term relationships that are transparent and respectful.
- 2) support the revitalization of the Mi'gmaq communities while encouraging greater opportunities for Mi'gmaq participation in sustainable, lawful and respectful economic development.
- 3) Facilitate strong economic links between the Mi'gmaq communities and business proponents interested in developing on Port land and/or utilizing Port facilities.

This Letter of Interest is designed to enable the Parties to explore the development of a framework for a Consultation and Accommodation Protocol (Protocol) for matters related to the Port that may have the potential to impact asserted or court affirmed Aboriginal or Treaty rights and the use of their territory by the Mi'gmaq

The Protocol shall:

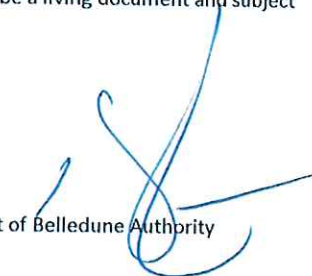
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- a) Be based on the Canada, New Brunswick, Mi'gmaq Interim Consultation Protocol and the Mi'gmaq / New Brunswick / Canada Framework Agreement.
- b) Define the roles and responsibilities of all parties to consultation and accommodation.
- c) Prescribe the steps for a practical, transparent and respectful approach to adequate and purposeful consultation and accommodation.
- d) Utilize best practices and existing protocols/policies as well as specifically referencing existing protocols /policies with the intention to meet or exceed the standards and processes set out in these documents.
- e) Create a joint steering committee to oversee the development and adoption of the Consultation and Accommodation Protocol by the parties.

The resulting Consultation and Accommodation Protocol is intended to be a living document and subject to a mandatory review by the parties on a regular and ongoing basis.

Agreed to and signed on this 10th day of April, 2017


Oinpegitjoig First Nation


Port of Belledune Authority


Ugpi'ganjig First Nation


Mi'gmawe'l Tplu'taqnn Inc.


Mi'gmawe'l Tplu'taqnn Inc.