



September 9, 2021

VIAEMAIL: baydunord@iaac-aeic.gc.ca

Impact Assessment Agency of Canada
200 – 1801 Hollis Street
Halifax, NS B3J 3N4

Dear Sir/Madam,

Re: Technical Review of the Draft Environmental Assessment Report and Potential Conditions of the Bay du Nord Development Project.

On behalf of Mi'gmawé'l Tplu'taqnn Inc., we are responding to the Draft Environmental Assessment Report and Potential Conditions for the above project, dated August 2021.

Mi'gmawé'l Tplu'taqnn's primary concern remains how the project impacts migratory species that are of great cultural significance to the Mi'gmaq, including salmon, swordfish, Bluefin tuna, Atlantic right whales, and migratory birds.

Please find enclosed a report from Shared Value Solutions that is being submitting on behalf of Mi'gmawé'l Tplu'taqnn. Based on the report, we highlight the following recommendations in particular:

- 1) The Environmental Assessment Report, and mitigation and monitoring plans need to accurately reflect consideration of MTI's Indigenous Knowledge Study that was submitted to the Proponent in August 2018.
- 2) The Agency and/or the Proponent should engage MTI and Anqotum Resource Management in designing and conducting a research project focused on species of cultural importance to MTI (including swordfish, and Atlantic bluefin tuna) that seeks to fill data gaps related to use and existence in the Project Area.
- 3) Establish a forum and process where MTI can meet with Equinor Canada Ltd. and Canada whereby issues and follow-up program decision-making regarding the Project can be brought forward, discussed, and addressed throughout the life of the Project.
- 4) Equinor Canada Ltd. and the Crown must engage in direct, meaningful consultation with all Mi'gmaq First Nations of New Brunswick to ensure that their legitimate concerns are understood and reflected throughout the life of the Project, including the EA Report, conditions imposed on the Project, and all follow-up monitoring programs.



- 5) MTI, the Crown and the Proponent should develop agreements to support MTI and MTI member communities' participation in environmental, socio-economic and cultural monitoring of activities throughout the life of the Project. This may also require:

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Yours in Peace and Friendship,

<Original signed by>

Impact Assessment Coordinator
Mi'gma'we'l Tplu'taqnn Inc.

Cc:

Mike Atkinson, CEAA via email mike.atkinson@ceaa-acee.gc.ca
Cheryl Benjamin, CEAA via email Cheryl.Benjamin@ceaa-acee.gc.ca
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SHARED VALUE
SOLUTIONS



EQUINOR BAY DU NORD DEVELOPMENT PROJECT: REVIEW OF THE IMPACT ASSESSMENT AGENCY OF CANADA'S ENVIRONMENTAL ASSESSMENT REPORT

Prepared for: Mi'gmawe'l Tplu'taqnn Incorporated (MTI)
September 3, 2021

62 Baker Street
Guelph Ontario Canada
N1H 4G1



Mi'gmawe'l Tplu'taqnn Incorporated (MTI)

Chief George Ginnish
Chief Rebecca Knockwood
40 Micmac Rd.
Eel Ground New Brunswick

c/o Marcy Cloud, Impact Assessment Coordinator

September 3, 2021

Chief George Ginnish and Chief Rebecca Knockwood:

It is our pleasure to provide you with Shared Value Solutions' technical review of the Impact Assessment Agency of Canada's Environmental Assessment Report and Draft Potential Conditions for the proposed Equinor Bay du Nord Offshore Development Project.

This review was completed by Rachel White, MSc; Jake Stemeroff, MBA; Meaghan Langille, BSc; and Luke Ridgway, MSc, with senior review provided by Jessica Ward and Meghan Buckham.

We look forward to continuing to serve you in consultation and lands and resources protection matters. Please do not hesitate to get in touch with us if you have any questions or concerns with the enclosed report.

With best regards,

<Original signed by>

Meghan Buckham, MA

*Senior Consultant and Regulatory and Negotiations
Practice Area Lead, Shared Value Solutions Ltd.*



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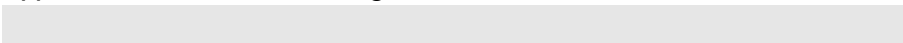
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1.0 REVIEW OBJECTIVES

Shared Value Solutions Ltd. (SVS) provides this independent high-level peer review and strategic assessment of the Impact Assessment Agency of Canada's (IAAC; the Agency) Environmental Assessment (EA) Report and Draft Potential Conditions for the Equinor Canada Ltd.'s (Equinor; the Proponent) proposed Bay du Nord Development Project on behalf of Mi'gmawe'l Tplu'taqnn Incorporated (MTI).

MTI is a not-for-profit organization created by the Mi'gmaq First Nations of New Brunswick to promote and support the recognition, affirmation, exercise, and implementation of their members' Aboriginal and Treaty Rights and title.

For this review, Mi'gmawe'l Tplu'taqnn Incorporated represents the rights and interests of eight of its nine member communities: Amlamgog (Fort Folly) First Nation, Natoaganeg (Eel Ground) First Nation, Oinpegitjoig (Pabineau) First Nation, Esgenoôpetitj (Burnt Church) First Nation, Tjipôgtôtjig (Buctouche) First Nation, L'nui Menikuk (Indian Island) First Nation, Ugpi'ganjig (Eel River Bar) First Nation and Metepenagiag Mi'kmaq Nation.

SVS consultants with expertise in marine water resources, aquatic ecology, migratory birds, fisheries biology, socio-economics, and regulatory processes conducted the review.

This report is not intended to be a comprehensive review of the Agency's EA report for the Project, rather this report identifies concerns, potential impacts, additional protection measures, and provides comments on the draft potential conditions related to seven key issues of concern identified by MTI in communications with SVS. These seven key issues relate to the rights, key values, and interests of MTI member communities:

1. Atlantic salmon
2. Atlantic bluefin tuna
3. Migratory birds
4. North Atlantic right Whale
5. Cumulative effects
6. Socioeconomic impacts on MTI member communities' land and water use, including commercial swordfish fisheries and Atlantic salmon and the related impacts on member communities' Indigenous Knowledge.
7. Accidents and malfunctions

This report provides a summary of our review findings, which are also provided in the form of a Comment and Response Tracking Table in [Appendix A](#), which MTI can provide to the Agency.



2.0 PROJECT DESCRIPTION AND REGULATORY PROCESS

2.1 BAY DU NORD DEVELOPMENT PROJECT

2.1.1 PROJECT LOCATION

The following information is derived directly from Section 2.4 of Equinor's Environmental Impact Statement (EIS) for the Bay du Nord Project.

The Project is located in the Flemish Pass area of the Canada-Newfoundland and Labrador (NL) Offshore Area, approximately 500 km east-northeast of St. John's, Newfoundland.

The Project Area is defined as the overall geographic area where all planned Project-related components and activities will take place and is based on those aspects that are within the defined scope of the Project for EA purposes as detailed in Section 2.1 and Section 4.1 of the EIS.

The Project Area includes all or portions of Exploration Licenses (ELs) 1143, 1154 and 1156, and Significant Discovery Licenses (SDLs) 1047, 1048, 1055 and any SDLs that may be awarded within the foregoing ELs, or ELs that may be renamed on the issuance of SDLs.

The Core Bay du Nord (BdN) Development will occur primarily in the area currently defined by SDL 1055, SDL 1056/1057 and EL 1143 and EL 1157, within the Project Area (herein called the Core BdN Development Area). Equinor Canada recognizes that production activities are contingent on the requisite approvals and rights issuance granted by the Canada- Newfoundland Offshore Petroleum Board (C-NLOPB), IAAC, and other government regulatory entities as outlined in Section 2.2 below.

Figure 1 illustrates the proposed Project Area, which is approximately 4,900 km² in size. The Core BdN Development Area is approximately 470 km². The footprint of the seabed Project facilities based on the current stage of design, cover approximately 7 km².

Water depths in the Core BdN Development Area range from approximately 1,000 m to 1,200 m, whereas water depths in the broader Project Area range from approximately 340 m to 1,200 m (Equinor Canada Ltd., 2020).



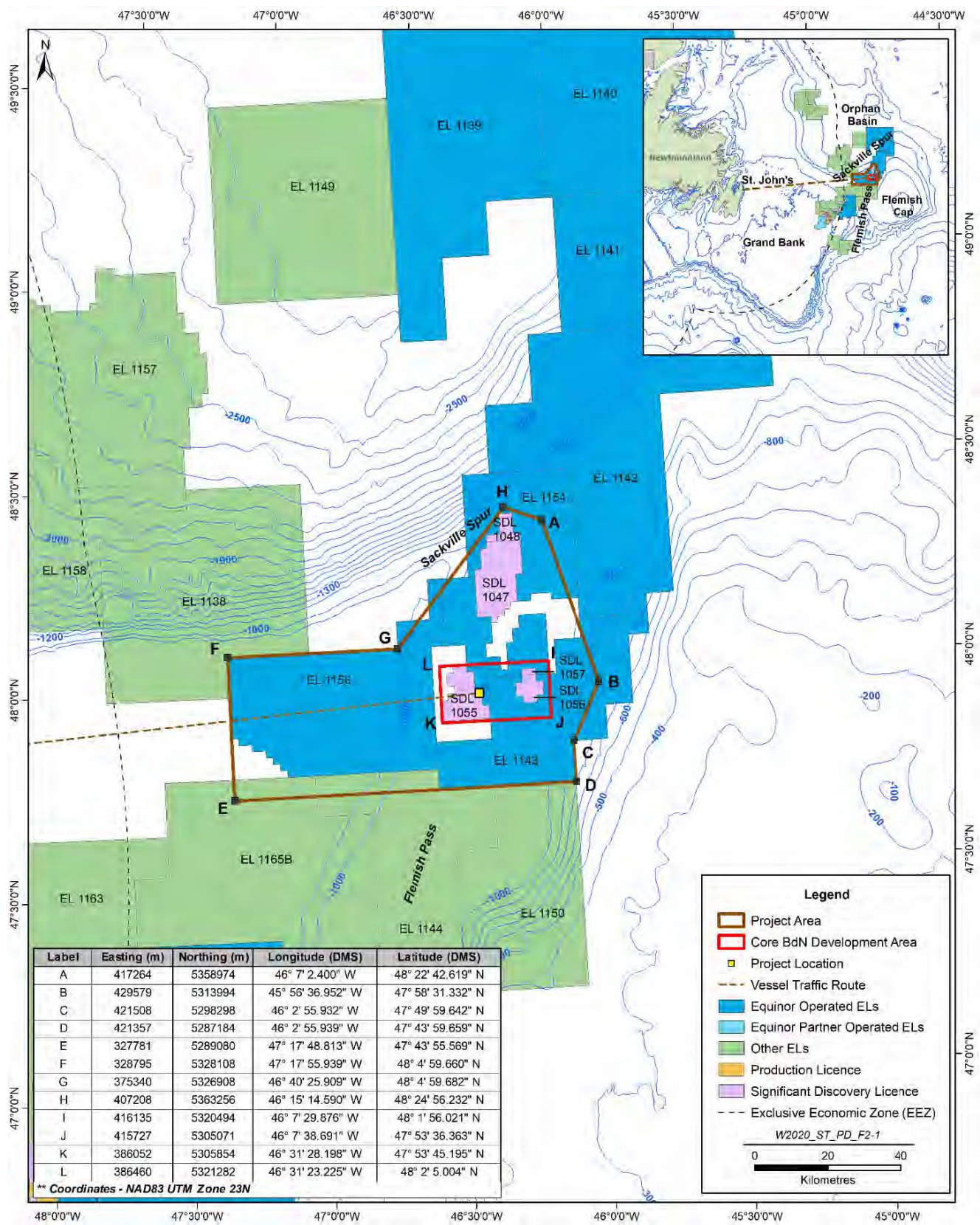


Figure 1. Map of Proposed Area for the Bay du Nord Development Project



2.1.2 PROJECT COMPONENTS

The following information is from Section 2.1 of Equinor's EIS for the BdN Project.

The BdN Development Project (the Project) is defined as the development of the Core BdN Development and Project Area Tiebacks. The Core BdN Development will include activities associated with the offshore construction and installation, hook-up and commissioning (HUC), production and maintenance operations, drilling and eventual decommissioning, as well as associated supporting surveys, field work, and supply and servicing activities.

Project Area Tiebacks would only occur if exploration activities discover economically recoverable reserves that can be tied back to the BdN production installation. Activities within the Project Area associated with Project Area Tiebacks include offshore construction and installation of well templates, flowlines, umbilicals, and risers to the existing BdN production installation within the Project Area, as well as associated supporting surveys.

There are no land-based activities associated with this Project. The location of the proposed Project is illustrated in Figure 1 above. The Project scope includes the following components and activities:

Core Bay du Nord Development:

- Offshore construction and installation, and hook-up and commission phase (HUC)
- Production and maintenance operations
- Drilling activities
- Supply and servicing
 - Offshore supply vessels (OSV)
 - Standby vessels (SBV)
 - Helicopter support
 - Crude oil shipping (including movement, hook-up / disconnect and offloading of crude oil to shuttle tankers within the Project safety zone)
- Supporting surveys
 - Geohazard / wellsite and seabed surveys
 - Geophysical surveys (2D/3D/4D seismic surveys; vertical seismic profiling (VSP)
 - Geotechnical / geological surveys
 - Environmental surveys
 - Remotely-operated vehicle (ROV) / autonomous underwater vehicle (AUV) / video surveys
- Decommissioning



Activities to support Project Area Tiebacks, should they arise, are included in the scope of the Project assessment. Potential tieback activities include:

- Offshore construction and installation of subsea tiebacks (well templates; flowlines, umbilical cables); HUC activities associated with additional subsea tiebacks to existing production installation
- Continuation of production and maintenance operations from the existing production installation
- Drilling activities from well templates in the Project Area
- Continuation of supply and servicing
- Potential additional supporting surveys, if required
- Decommissioning

The Project Area also includes lands adjacent to the Core BdN Development Area. Equinor Canada has majority interests in other exploration licenses (ELs) and significant discovery licenses (SDLs) in the area of the Project (Figure 1) with tieback opportunities.

Should future resource potential be discovered in areas adjacent to the Core BdN Development Area, resources could be developed and produced from the production installation through the addition of subsea tiebacks and are therefore included in the Project. The Core BdN Development has a life of field between 12 and 20 years. Should Project Area Tiebacks occur, production could be extended out to the design life of the Floating Production Storage and Offloading vessels (FPSO), which is 30 years. Therefore, the overall Project temporal scope is 30 years (Equinor Canada Ltd., 2020).

2.2 REGULATORY PROCESS

In general, the BdN Development Project is subject to a federal EA, conducted under the *Canadian Environmental Assessment Act, 2012* (CEAA, 2012) and in accordance with the processes and methods agreed upon between the IAAC and the Canada-Newfoundland Offshore Petroleum Board (C-NLOPB) in a [Memorandum of Understanding](#) that was agreed upon and signed in January 2019.

The regulatory process, including relevant acts and approvals, is discussed in greater detail within the following sections.

2.2.1 THE ACCORD ACT

The role of the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB), under the Accord Acts, is to regulate oil and gas exploration and development in the Canada-NL Offshore Area, oversee compliance with regulatory requirements for worker safety, environmental protection and safety, conservation of the resource, land tenure, and Canada-NL benefits (C-NLOPB, n.d.). These



processes are administered under various legislation, regulations, guidelines, and memoranda of understanding.

The C-NLOPB's responsibilities under the Accord Acts include:

- The issuance and administration of petroleum and exploration and development rights
- Administration of statutory requirements regulating offshore exploration, development, and production
- Approval of Canada-NL benefits and development plans

The Canada-NL Offshore Area, as defined in the Accord Acts, includes those lands within Canada's Economic Exclusion Zone or to the edge of the continental margin, whichever is greater. As a result, the Project Area includes marine lands that fall within the C-NLOPB jurisdiction.

2.2.2 LAND TENURE AND LICENSING

The C-NLOPB administers a scheduled land tenure system for the issuance and administration of petroleum exploration and production rights in the Canada-NL Offshore Area.

Licences afford the holder the exclusive rights to explore for or produce petroleum resources in that area, and include ELs, SDLs, and Production Licenses (PLs).

ELs are issued for a term of nine years covering two periods. A well must be drilled or diligently pursued by the end of Period I in order to obtain tenure to Period II.

If an exploration drilling program results in a significant discovery and a declaration of significant discovery is made, an interest owner is entitled to apply for an SDL. A significant discovery is defined in the Accord Acts as:

A discovery indicated by the first well on a geological feature that demonstrates by flow testing the existence of hydrocarbons in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of hydrocarbons that has potential for sustained production.

An SDL is the document that allows the owner of the EL to continue to hold rights to a discovery area while the extent of that discovery is determined and, if it has potential to be brought into commercial production in the future, until commercial development becomes viable.

An SDL is effective from the application date and remains in force for so long as the relevant declaration of significant discovery is in force, or until a PL is issued for the relevant lands. A PL allows the following:

- 1) The right to explore for, and the exclusive right to drill and test for, petroleum
- 2) The exclusive right to develop those portions of the offshore area in order to produce petroleum



- 3) The exclusive right to produce petroleum from those portions of the offshore area
- 4) Title to the petroleum produced in the licensing area

A PL is effective from the date it is issued for a term of 25 years or for such period thereafter during which commercial production continues (Equinor Canada Ltd., 2020).

2.2.3 EA UNDER CANADIAN ENVIRONMENT ASSESSMENT ACT 2012

The federal EA process under Canadian Environmental Assessment Act (CEAA) 2012 focuses on potential adverse environmental effects that are within areas of federal jurisdiction, including: fish and fish habitat, migratory birds, federal lands, and other changes to the environment that are directly linked to or necessarily incidental to federal decisions about a project.

The Regulations Designating Physical Activities (the Regulations) enacted under CEAA 2012 identify the physical activities that constitute a "designated project" that may require a federal EA. Section 11 of the Regulations specify that offshore oil and gas development activities are subject to federal EA review and are defined as:

The construction, installation and operation of a new offshore floating or fixed platform, vessel or artificial island used for the production of oil or gas.

The Project, therefore, constitutes a "designated project" under CEAA 2012 (Equinor Canada Ltd., 2020).

2.2.4 OTHER POTENTIAL REGULATORY AND POLICY REQUIREMENTS AND INTERESTS

Federal and provincial government departments and agencies which may have regulatory responsibilities, information, and advice regarding exploration drilling activities in the Project Area pursuant to their associated legislation and mandates include the following:

- Fisheries and Oceans Canada (DFO)
- Environment and Climate Change Canada (ECCC)
- Transport Canada
- Department of National Defence (DND)
- NL Department of Environment, Climate Change and Municipalities
- NL Department of Fisheries, Forestry and Agriculture
- NL Department of Natural Resources legislation, and regulations thereunder, that may be relevant and subsequently required regulatory approvals include the following:
 - Accord Acts and associated Regulations and Guidelines



- *Fisheries Act*
- *Canadian Environmental Protection Act*
- *Oceans Act*
- *Canadian Navigable Waters Act*
- *Canada Shipping Act, 2001*
- *Migratory Birds Convention Act*
- *Species at Risk Act (SARA)*
- *NL Endangered Species Act (NL ESA)*
- *NL Seabird Ecological Reserve Regulations*

2.3 MTI ISSUES AND CONCERNS WITH REGULATORY PROCESS TO DATE

MTI has raised several issues with the regulatory process to date. These issues have been clearly documented in a letter to the Agency dated August 4, 2020, and were again noted in MTI's EIS comment submission on September 4, 2020.

Unfortunately, MTI has yet to receive any response to these concerns to date and the concerns remain largely unresolved. As a result, MTI is carrying forward these issues as part of our comment submission on the EA Report. To reiterate, these issues are centred around flaws and shortcomings in the consultation process set out for the Project that the Agency and Equinor should have worked to rectify throughout the assessment process. These shortcomings include:

- **Changing of the process and lack of notification.** MTI was not made aware in a timely manner of the Memorandum of Understanding between the IAAC and the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) dated January 2019. The Agency did not give any notification when this was posted to the Registry and MTI did not learn about the Memorandum of Understanding until June 25, 2020 when an Agency representative shared the news via phone call. Further, by moving the Information Requests (IRs) to the beginning of the EA process and having no consultation or engagement in this step, MTI is concerned that the Agency will not give proper consideration to the comments throughout the process. This lack of notification and involvement continued throughout the EA for the BdN Project. This includes failure to provide MTI and other impacted Indigenous Nations with the opportunity to review and comment on the EA Report or Draft Potential Conditions before they were released for a public comment period.

Providing these reports to impacted Indigenous Nations for review and comment in advance of the public comment period is becoming increasingly common and is considered best practice for Indigenous consultation and participation in environmental assessments. As



such, the Agency should have extended such opportunities during the EA process for the BdN Project. Although these efforts have not been made to date, the Agency, C-NLOPB, and Equinor should strive towards such efforts as part of the lifecycle oversight and regulation of this and other offshore exploration and development projects being assessed and developed.

- **A lack of consultation and engagement by the Crown.** The Agency has had access to the Draft EIS since February 2019, and Indigenous groups were not notified or given the opportunity to be included in any capacity. Indigenous groups should have been included in the face-to-face meetings between the Agency and the Proponent to discuss and clarify issues. The Agency had the perfect opportunity to show they understand the importance of early engagement, but we were never contacted. Further to that point, a lack of communication continued throughout the process. This includes minimal engagement and communication with MTI after we submitted comments on the EIS in 2020. Although our comments were forwarded to the Proponent in the form of IRs, there was limited engagement around the review and limited response to our comments, indicating that MTI is not engaging in the EA process for the Project in a meaningful way.
- **A lack of engagement by the Proponent.** The Agency and the Proponent participated in several face-to-face meetings, engagements, and other technical workshops and sessions throughout the assessment process for the Project. However, Indigenous groups, including MTI, were frequently excluded from these sessions. More specifically, the Agency and Proponent were actively discussing and reviewing the EIS for over a year before it was released for comment to impacted Indigenous Nations and groups, including MTI. The Agency and Proponent had a perfect opportunity to demonstrate leadership with respect to early engagement with Indigenous Peoples and that opportunity went unmet, and continues to be unfulfilled to this day.
- **Timeline.** Throughout the EA and regulatory process for the BdN Project, the timelines were consistently tight and challenging to meet, especially because much of the assessment took place during the ongoing COVID-19 pandemic. Although the comment period on the EIS was extended from 30 to 45 days, the process was still rushed. In addition to this being the first offshore development project MTI will be consulted on, restrictions from COVID-19 are hindering MTI's ability to properly consult and engage.
- **Inadequate funding.** Neither the Impact Assessment Agency nor the Proponent are providing adequate funding for the consultation process for this Project. The amount of funding made available to MTI is the same as for exploration projects, which is inadequate. This is the first development project MTI will be engaged and consulted on, which will require additional consideration, as well as time and effort.

Overall, MTI's meaningful participation in the consultation process is challenged by a lack of effective engagement and consultation on the part of the Agency and the Proponent, the requirement to respond within tight timelines, and limited capacity funding resources to participate in the regulatory process. This underscores the importance of the Agency and the Proponent's committing and working collaboratively with MTI to ensure ongoing consultation and engagement be carried out in good faith throughout the lifecycle of the Project.



As a result, for MTI to be properly consulted and accommodated, and ultimately for the duty to consult to be met in a satisfactory manner for MTI, these concerns *must* be addressed through meaningful and sufficient consultation and engagement throughout the life of the Project, per the recommendations and accommodation measures that are identified in this submission.

3.0 MI'GMAQ RIGHTS AND INTERESTS RELATIVE TO PROJECT INTERACTIONS

For this review, Mi'gmawé'l Tplu'taqnn Incorporated represents the rights and interests of eight of its nine member communities: Amlamgog (Fort Folly) First Nation, Natoaganeg (Eel Ground) First Nation, Oinpegitjoig (Pabineau) First Nation, Esgenoôpetitj (Burnt Church) First Nation, Tjipōgtōtjg (Buctouche) First Nation, L'nui Menikuk (Indian Island) First Nation, Ugpi'ganjig (Eel River Bar) First Nation and Metepenagiag Mi'kmaq Nation.

The Mi'gmaq are the Indigenous People (known to ourselves as L'Nu) whose Traditional Territory, known as Mi'gmaq'i, encompasses the lands and waters of what is currently known as Nova Scotia, Prince Edward Island, New Brunswick, southern and western Newfoundland, the Gaspé area of Quebec, Anticosti Island, the Magdalen Islands, and sections of the Northeastern United States (D. Simon, personal communication, December 14, 2018).

The Mi'gmaq have occupied, relied on, used, and been stewards of the lands and waters in Mi'gmaq'i since time immemorial. The Mi'gmaq entered into Peace and Friendship Treaties with the British Crown, which have been renewed many times and form a covenant chain.

The Mi'gmaq have established Aboriginal and Treaty Rights to—among others—hunt, fish and gather from the lands and waters of their territory for food, social and ceremonial purposes, as well as to trade and to earn a moderate livelihood, all of which have been upheld by the Supreme Court of Canada.

3.1 MI'GMAWE'L TPLU'TAQNN'S VISION FOR SUSTAINABLE DEVELOPMENT OF NATURAL RESOURCES

Natural Resources are an integral part of the Lands and Waters of the Mi'gmaq. The Vision for Sustainable Development of Natural Resources states:

Those Resources belong to Mother Earth. We may use them, but we are also their custodians. Natural Resources are not simply here for the taking, rather they must be managed carefully so as to provide benefits today while guaranteeing the rights and needs of generations yet to come. This requires truly sustainable development.



There are four pillars to sustainable development:

- Environmental Sustainability
- Social Sustainability
- Cultural Sustainability
- Economic Sustainability

Each pillar supports the others. They must be kept in balance. The Mi'gmaq are committed to the cultural, spiritual and social importance of lands, waters and natural resources. Natural resource development must:

- Understand that lands, waters and natural resources are integral to the well-being of humanity and are not simply commodities to be exploited
- Seriously take into account the short- and long-term ecological costs of natural resource extraction and see those costs as potentially debilitating debts
- Honour the precautionary principle (in that lack of scientific certainty must not impede conservation efforts and must not enable irresponsible development)
- Guarantee that the benefits of natural resource development are shared equitably with those most in need
- Protect the environment
- Ensure biological diversity
- Maintain ecological balance
- Commit to the rehabilitation of habitat and species that have been damaged by current and past natural resource extraction practices
- Place the needs of future generations on at least an equal footing with the needs of our time

This Vision, and the rights described above, were the primary guides to undertaking this review considering Mi'gmaq rights and interests. Also considered, in a more generic sense, are the following primary effects of importance to the federal EA process that overlap with MTI member communities rights and interests (as per Section 5(1)(c) of CEEA, 2012) are as follows:

Section 5. (1)(c)- *“with respect to Aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on:*

- health and socio-economic conditions;*
- physical and cultural heritage;*
- the current use of lands and resources for traditional purposes; or*



- iv. *any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.”*

The proposed activities within the geographic location of the Project’s development area have the potential to impact Mi’gmaq rights to the lands and waters, especially in the Atlantic Ocean shorelines, which are used by some Mi’gmaq to exercise their Aboriginal and Treaty Rights, including for socio-economic purposes.

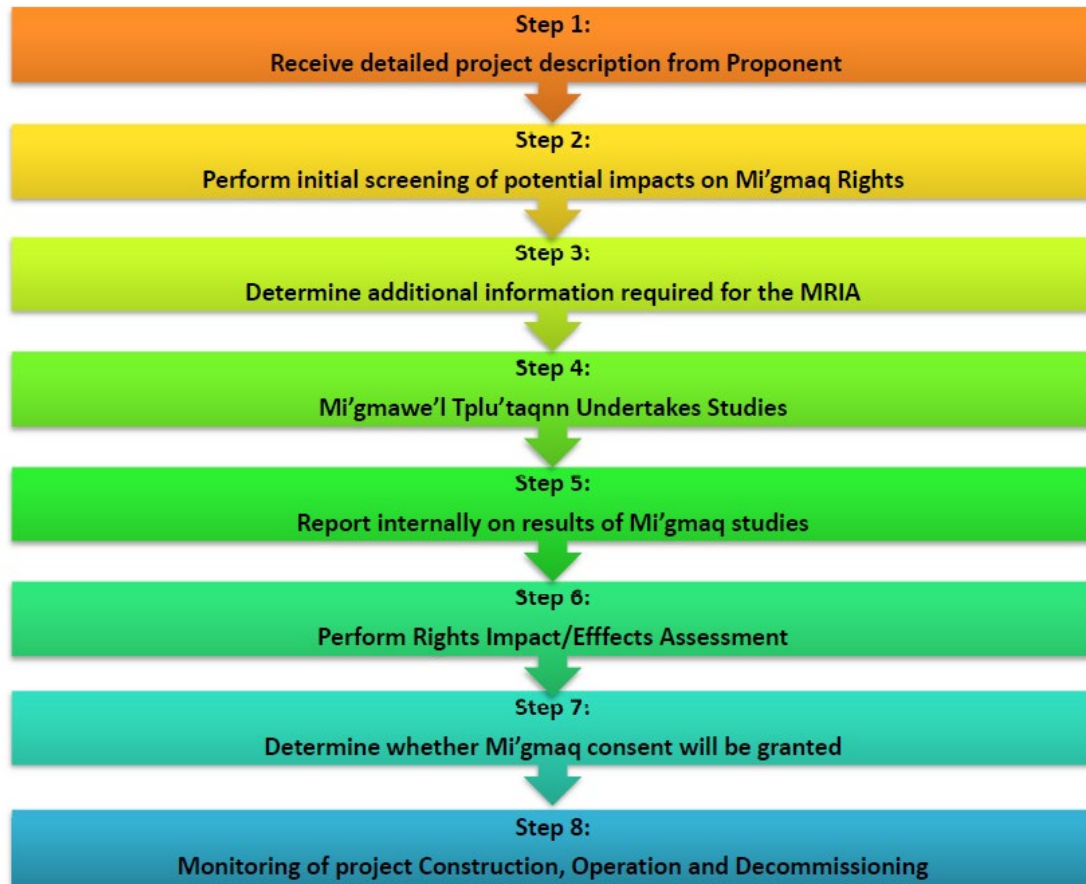
3.2 MI’GMAQ RIGHTS IMPACT ASSESSMENT (MRIA) FRAMEWORK

In addition to the above Vision for Sustainable Development, MTI has recently developed and implemented a Mi’gmaq Rights Impact Assessment (MRIA) Framework to assess the impacts an undertaking may have on Mi’gmaq Aboriginal and Treaty Rights and Title. The MRIA Framework also provides a road map for how MTI wishes to work with the Crown and Proponents on assessing and protecting our rights and interests going forward. According to the MRIA Framework:

The Mi’gmaq have the responsibility as stewards of their lands and waters to ensure that they take no more than they need, and that enough is left for future generations to live and prosper. The objective of the process set out in this MRIA framework document is to ensure Mi’gmaq Rights are protected, and to provide the next seven generations with healthy lands, waters and resources in order to maintain their culture and our Mi’gmaq way of life. For all proposed activities in or near Mi’gmaq Territory that may potentially impact or infringe Mi’gmaq Aboriginal or Treaty Rights or Title, the following process will apply for assessing the potential impacts on the exercise of Mi’gmaq Rights and to assist in determining whether Mi’gmaq consent will be granted for the activity:



Overview of the MRIA Methodology



Due to the lack of meaningful engagement and capacity support provided to MTI throughout the environmental assessment process, MTI has not been provided the opportunity to inform the rights impact assessment process for this Project and assess the impacts of the Project adequately and meaningfully on MTI's rights and interests under the MRIA framework. Given this lack of engagement and the lack of information used to inform assessment, as further outlined below, MTI is concerned that the impacts of the Project could be greater than anticipated.

3.3 SUMMARY OF MI'GMAWE'L TPLU'TAQNN MEMBER COMMUNITIES' INDIGENOUS KNOWLEDGE, LAND USE AND OCCUPANCY IN THE PROJECT STUDY AREA

The Proponent has not integrated Mi'gmaq comprehensive Indigenous Knowledge or Socio-Cultural-Economic Baseline Information into their respective projects' EA processes to date. This includes failure to properly consider and integrate the Indigenous Knowledge Study for the Eastern



Newfoundland Offshore Exploration Drilling Project and the Flemish Pass Exploration Drilling Project that MTI completed and submitted to the Proponent in August 2018. As a result, MTI requires that the Agency ensure that MTI's Indigenous Knowledge is adequately integrated into the EA Report.

Although the Indigenous Knowledge Study was not completed explicitly for the BdN Project, the Study does focus on the Flemish Pass area, which is where the BdN development will occur. In addition, as part of the process agreement established between MTI and the Proponent, Equinor requested permission to use the information provided in this Study to inform other project EAs for a period of up to five years.

The BdN assessment falls well within that five-year threshold and therefore, should have properly and thoroughly considered and integrated the results from MTI's Indigenous Knowledge Study for the Eastern Newfoundland Offshore Exploration Drilling Project and the Flemish Pass Exploration Drilling Project. Lastly, failure to consider this Study clearly violates requirements established in the EIS guidelines released by the Agency, namely requirements set out in sections 6, 7.1.8, and 7.3.7.

The evident shortcomings of the EIS with respect to integration of Mi'gmaq Indigenous Knowledge and land use information remain within the IAAC's EA Report. Most concerning to MTI was that the Agency deemed Equinor's responses to MTI's Information Requests (IRs) regarding the consideration and inclusion of the Indigenous Knowledge MTI provided as sufficient. According to the responses provided by Equinor in relation to the incorporation and inclusion of Indigenous Knowledge, including the Study completed by MTI, Equinor endeavoured to include this knowledge by studying the species identified within the valued components as part of the effects assessment for the Project. Although MTI appreciates that species of social, cultural, and economic significance to the Mi'gmaq were included in the effects assessment, it seems that efforts were made to minimize the severity of the effects to these species resulting from the Project. This minimization of impacts is further demonstrated by the Agency in the EA Report where effects are noted and acknowledged but the significance of those effects are downgraded. MTI has serious concerns that the minimization of impacts puts Mi'gmaq Aboriginal and Treaty Rights and interests at risk by reducing the breadth and depth of mitigation and accommodation measures.

Equinor's IR response, states,

As a result of its ongoing engagement activities, including the Indigenous Knowledge Desktop Study, Equinor Canada is aware of the traditional, social and cultural importance of salmon to Indigenous groups. Equinor Canada has identified and assessed the potential impacts of the Project upon the various Atlantic salmon populations, including those which may migrate through or overwinter in the Project Area. As stated in the EIS, it is Equinor Canada's conclusion that the potential for interactions with the relevant salmon populations and the Project is limited.

MTI is of the view that this response actively negates and minimizes the effects, interactions, and knowledge shared by MTI in this process.



In addition, although Mi'gmaq Indigenous Knowledge was used to inform the scoping of the effects assessment, it is still evident that the cultural significance of these species, and any impacts that effects to these species would have on the Mi'gmaq has still not been properly considered by the Agency nor the Proponent, including in the proposed conditions and follow-up measures associated with the Project. As a result, the Crown's duty to consult, via adequate integration of Indigenous Knowledge shared, and meaningful engagement, consultation and accommodation with the Mi'gmaq in New Brunswick, has not been met.

4.0 SUMMARY OF REVIEW FINDINGS

A high-level overview of the results of SVS's review of the Agency's EA Report and Draft Potential Conditions for Equinor Canada's BdN Project is presented below. The overview focuses on key issues and concerns integral to Mi'gmaq rights and interests. These issues include potential impacts on the marine environment, marine mammals, on socio-economic factors and community well-being, as well as cumulative effects, accidents and malfunctions as they relate to the rights, values and interests of MTI First Nation communities.

With this lens, the review strategically assessed potential Project interactions with the environment that may result in risks to Mi'gmaq Rights and interests, as summarized below and described in greater detail in Appendix A of this report. As a result of the review of the EA Report and Draft Potential Conditions, a total of 42 issues and subsequent recommendations for further information, enhanced engagement with impacted Indigenous Nations, and adequate avoidance, mitigation and accommodation measures that protect to Mi'gmaq First Nations rights and interests have been identified.

Overall, comments provided for each of the valued components identified in Section 1 of this report collectively indicate that the IAAC did not have adequate information to support their conclusions on the likelihood and extent of significant adverse effects on the environment and on the Aboriginal and Treaty Rights of MTI member communities. Our review concludes that there remains significant uncertainty surrounding the habitat characteristics of the site and impact area; the presence and behaviour of species of interest including bluefin tuna, Atlantic salmon, North Atlantic Right Whale, and migratory birds; and the extent, magnitude and likelihood of impacts associated with the BdN Development Project on the environment and rights and interests of MTI member communities. Our review also notes that the Agency's conclusion regarding cumulative effects is directly contradicted by their own findings, which describe cumulative impacts to valued components on an unprecedented scale both spatially and ecologically. MTI disagrees with the outcomes of the assessment and requests that the EA Report be updated to reflect the views expressed by MTI, and that the avoidance, mitigation, and accommodation measures provided are adopted as conditions of approval. A detailed list of comments is available in Appendix A.



In addition, in the initial review of the EIS, MTI put forward additional accommodations as potential means of addressing the issues and comments raised in that review. Based on our assessment of the Agency's responses through the EA Report and Draft Potential Conditions, we are carrying forward the following accommodation measures as they still remain unaddressed in both the EA Report and Draft Potential Conditions in their current iteration:

1. The Project EIS, its baseline studies, the EA Report, and mitigation and monitoring plans need to accurately reflect consideration of MTI's Indigenous Knowledge Study that was submitted to the Proponent in August 2018.
2. The Agency and/or the Proponent should engage MTI and Anqotum Fisheries Resource Centre in designing and conducting a research project focused on species of cultural importance to MTI (including swordfish, Atlantic salmon and Atlantic bluefin tuna) that seeks to fill data gaps related to use and existence in the Project Area. The EA Report in its current form merely offers the intent to share information on Anqotum with the Proponent but does not mandate that a study of this nature be conducted, as requested by MTI.
3. Establish a forum and process where MTI can meet with Equinor Canada Ltd. and Canada whereby issues and follow-up program decision-making regarding the Project can be brought forward, discussed, and addressed throughout the life of the Project (including the provision of capacity funding to MTI to support and participate in an equal capacity in this process). The EA Report and Draft Potential Conditions in their current form indicate that the Agency has made Equinor and other offshore proponents aware of this request but has not mandated any action to carry forward this request, despite nearly all Indigenous groups who were requesting such a mechanism be established.
4. Equinor Canada Ltd. and the Crown must engage in direct, meaningful consultation with all Mi'gmaq First Nations of New Brunswick to ensure that their legitimate concerns are understood and reflected throughout the life of the Project, including the EA Report, conditions imposed on the Project, and all follow-up monitoring programs.
 - a. A plan for enhanced and ongoing engagement and consultation with MTI and its member communities that spans the life of the Project must be developed. An annual report should also be submitted to MTI which summarizes the implementation and results of all consultation and engagement activities, including a concordance table that identifies how all outstanding issues have been addressed.
5. MTI, the Crown and the Proponent should develop agreements to support MTI and MTI member communities' participation in environmental, socio-economic and cultural monitoring of activities throughout the life of the Project. This may also require:
 - a. Training, involvement, and employment of Mi'gmaq First Nations of New Brunswick environmental and cultural monitors for all Project phases.
 - b. Involvement in emergency preparedness planning and appropriate notifications and consultations in the event of a significant accident or malfunction.

In summary, the above accommodations requested during the EIS review were carried forward given that none of them were wholly incorporated or addressed in the Agency's EA Report and Draft



Potential Conditions. At most, the above accommodations are actions the Agency is directing the Proponent to “consider” or take under advisement, which is concerning to MTI.

Without specific, tangible requirements or conditions that mandate these accommodation measures be acted upon, there is a limited likelihood of the Proponent or the Crown through the Agency or C-NLOPB actually following through with them. As a result, MTI respectfully requests that issues related to key concerns expressed by MTI in this report be the focus of subsequent issue resolution meetings with the Proponent and Crown agencies and part of subsequent reviews and updates to the Regional EA reporting, should the Project proceed. MTI further requests that a formal follow-up monitoring mechanism that involves impacted Nations, including MTI, be established for the life of the Project.

5.0 CONCLUSIONS

In conclusion, MTI’s review of the IAAC’s EA Report and Draft Potential Conditions for the proposed Equinor Bay du Nord Development Project has determined that the potential impacts to Mi’gmaq rights and interests from the Project remain unaddressed and that the Duty to Consult has not been met. The review found a combined 42 issues related to effects on the aquatic environment in the Project area, including species of interest to MTI member communities like bluefin tuna, Atlantic salmon, North Atlantic Right Whale, and migratory birds; as well as the potential for impacts associated with the BdN Development Project on the Aboriginal and Treaty Rights and interests of MTI member communities.

In addition to the comments identified in relation to the EA Report, there are several comments and issues that MTI provided during the EIS comment period that remain largely unaddressed. These issues include deficiencies in how Mi’gmaq Indigenous Knowledge information was considered and integrated into the process, major consultation, engagement, and procedural issues regarding how the Duty to Consult was carried out on this project, and several recommended follow-up program measures identified that are largely unaccounted for in the EA Report and Draft Potential Conditions.

At the time of this review, there has been little to no development of suitable avoidance, mitigation, offsetting, or monitoring measures between the Proponent and MTI that address the risks to Mi’gmaq rights and interests. Additionally, the Agency has indicated that many mitigation measures necessary to avoid significant adverse effects from operations, including accidents and malfunctions, have not yet been developed. Without knowing if or how the Proponent will mitigate harm to the environment and the rights and interests of Indigenous Peoples, including the Mi’gmaq, the Agency has concluded that significant adverse effects are not likely. The dichotomy between the Agency’s analysis of impacts and their conclusions, as well as the Agency’s willingness to make determinations despite uncertainty in the valued components and scope of impacts, is deeply concerning to MTI and undermines the purpose and integrity of the EA and the Agency’s obligations under Section 35 of the *Constitution Act*.

The measures recommended by MTI must be implemented, as IAAC’s EA Report and Draft Potential Conditions in their current form does not provide an adequate understanding or fully address the potential impacts of the Project to Mi’gmaq rights and interests. More specifically, IAAC has limited the scope of effects to rights and interests to be exclusively focused on environmental effects, which



is inappropriate and provides an incomplete picture of the true extent of potential effects stemming from the Project. As a result, it is important for the Agency to adopt MTI's proposed recommendations as conditions to ensure impacts to rights are adequately and appropriately addressed.

6.0 REFERENCES

- Canadian Environmental Assessment Act. (2012). (S.C. 2012, c. 19, s. 52). <https://laws-lois.justice.gc.ca/eng/acts/C-15.21/page-1.html>
- Canada-Newfoundland and Labrador Offshore Petroleum Board. (2017). Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activity. <https://www.cnlopb.ca/wpcontent/uploads/guidelines/compgle.pdf>
- Committee on the Status of Endangered Wildlife in Canada (COSEWIC). 2010. COSEWIC assessment and status report on the Atlantic Salmon *Salmo salar* (Nunavik population, Labrador population, Northeast Newfoundland population, South Newfoundland population, Southwest Newfoundland population, Northwest Newfoundland population, Quebec Eastern North Shore population, Quebec Western North Shore population, Anticosti Island population, Inner St. Lawrence population, Lake Ontario population, Gaspé-Southern Gulf of St. Lawrence population, Eastern Cape Breton population, Nova Scotia Southern Upland population, Inner Bay of Fundy population, Outer Bay of Fundy population) in Canada. Committee on the Status of Endangered Wildlife in Canada. Ottawa. xvii + 136 pp. <https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/cosewic-assessments-status-reports/atlantic-salmon.html>
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APPENDIX A: COMMENT TRACKING TABLE

COMMENT #	EA SECTION REFERENCE	ISSUE	RECOMMENDATION
CUMULATIVE EFFECTS			
1	Table 10: Potential Cumulative Effects of Drill Cuttings and Muds in Deep-Water Habitat of the Flemish Pass and Orphan Basins	The steadily increasing cumulative total area that will experience burial effects and toxic effects as a result of this Project speaks to the undeniable cumulative impact of oil and gas development in the area. While this Project's ~8% contribution to cumulative burial footprint is proportionate to the number of projects/activities in the area, the fact that it represents 28% of the cumulative area that will likely be impacted by toxic sediment deposition is grossly disproportionate.	MTI recommends that the Agency consider the disproportionate contribution this Project will have on the total cumulative area in its cumulative effects assessment. The impact of this project must be appropriately weighted in the cumulative effects assessment to support an accurate assessment.
2	Section 5.3.2 Cumulative Effects of Sound Emissions – Fish and Fish Habitat	Based on the Agency's assessment of potential sound emissions, they concluded that up to "141,400 square kilometres of the region may be disturbed by sound emissions from exploration projects." Further, the cumulative total area that could experience effects from sound emissions is potentially up to 229,000 square kilometres. This impact area is larger than the Gulf of St. Lawrence and represents a major portion of the offshore marine habitat in the Atlantic.	MTI recommends that the Agency's concluding statement that "the Project is not likely to contribute to significant adverse cumulative environmental effects on fish and fish habitat" is reconsidered given the staggering disturbance area that exists as a result of oil and gas activities in the area. MTI fundamentally disagrees with the Agency's conclusion on cumulative effects.
3	Section 5.3.2 Cumulative Effects of Sound Emissions – Fish and Fish Habitat	The Agency states that "based on known Atlantic salmon migration routes and overwintering areas, DFO acknowledges there is low potential for interaction with the Project. DFO has previously advised that monitoring of finfish for the past 25 to 30 years in the Newfoundland and Labrador offshore region has revealed no appreciable effects on fish health from previous or ongoing oil and gas operations."	MTI recommends that the Agency's conclusion on the cumulative effects of oil and gas developments in the area be reassessed based on the results of the proposed studies on Atlantic salmon. Furthermore, a suitable offsetting measure for the cumulative effects associated with greenhouse gas emissions from the Project would be for the Proponent to commit to carbon neutrality throughout the construction, operation and decommission/closure of the



MTI disagrees with this conclusion, given that a key threat to Atlantic salmon is changes to ocean ecosystems with an unknown relative contribution to population decline (Committee on the Status of Endangered Wildlife in Canada [COSEWIC], 2010). MTI agrees with Miawpukek First Nation's suggestion to implement the precautionary principle to mitigate potential harm, especially given the already extremely fragile state of the stock.

facility. To achieve this, the Proponent must implement all feasible emissions reduction measures as well as carbon offsets for any remaining emissions. Carbon offsets purchased through Indigenous Nations would also have direct economic and cultural benefits for their members.

Furthermore, MTI notes that the COSEWIC Assessment and Status Report on Atlantic salmon (COSEWIC, 2010) lists climate change as a threat to Atlantic salmon populations with an unknown relative contribution to population declines. Therefore, MTI believes that this Project's potential contribution to climate change through anthropocentric greenhouse gas emissions would also contribute to Atlantic salmon population declines with an unknown magnitude of impact.

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Appendix C:
Summary of the
Crown
Consultation
with Indigenous
Groups

MTI acknowledges and appreciates the Agency's response to our concern regarding the potential oil release effects on the Laurentian Channel Marine Protect Area and the Miramichi Bay Closure Marine Refuge. However, MTI notes that the lack of modelling and risk assessment on spills associated with tanker traffic between the facility and shore in Canadian waters was not assessed, and therefore the risk to these areas remains unknown.

See comment 25: MTI recommends that the Agency require the Proponent to conduct additional modelling and risk assessment to communicate the risks associated with marine tanker traffic that will occur as a result of this Project, including modelling of spills from tanker traffic in Canadian waters on route to shore facilities. Tanker traffic and potential spills from tanker traffic can impact MTI member communities' right to fish by disrupting or interfering with fish migration or through environmental impacts that effect spawning, behaviour and/or survivability.



SOCIO-ECONOMICS & COMMUNITY WELL-BEING

5	Section 4.5.1 Commercial Fisheries and Other Ocean Users – Existing Environment	<p>The Agency states “five Indigenous groups in Newfoundland and Labrador hold communal commercial fishing licences for several species that overlap with the Project Area. Most Indigenous groups located in Nova Scotia, New Brunswick and Prince Edward Island also hold communal commercial licences for tuna and swordfish that can be harvested in NAFO Divisions that overlap with the Project Area. For more information on communal commercial fishing see Section 4.6.”</p> <p>Indigenous commercial fishery considerations should be considered both independently (as they are in 4.6), but also in conjunction with all other commercial fishery considerations.</p>	<p>MTI recommends that the Agency includes Indigenous commercial fisheries in Section 4.5, as Indigenous commercial fisheries are fully licensed commercial fisheries, and it is important to understand cumulative effects on all commercial fisheries.</p> <p>An independent review of impacts to Indigenous commercial fisheries in Section 4.6 is needed in conjunction with the assessment in Section 4.5 as Indigenous communities utilize fishing techniques and equipment unique to their individual Indigenous community. Therefore, it is crucial to also assess impacts to these unique considerations in Section 4.6.</p>
6	Section 4.5.2 Commercial Fisheries and Other Ocean Users – Proponent’s Assessment of Environmental Effects	<p>The Agency states “the proponent stated that there is little commercial harvest occurring in the core development area (see Figure 5), thus limiting potential interactions”.</p> <p>However, in Section 4.6.1 which discusses Indigenous commercial fisheries, the EA Report states “the proponent indicated that some of the communal commercial licenses are located in NAFO Divisions or Fishing Areas that overlap with the Project Area including licenses in NAFO Divisions 3L and 3M for swordfish and bluefin tuna (i.e., species that are both culturally and economically important to some groups).”</p> <p>These are contradictory statements that need to be addressed and clarified.</p>	<p>MTI recommends that the Agency update Section 4.5.4 to include reference to the presence of Indigenous commercial fishing activity in the study area in the Agency’s analysis of effects.</p>
7	Section 4.5.3 Commercial Fisheries and Other Ocean	<p>The Agency states “several Indigenous groups noted the importance of communal commercial and commercial fishing to their communities and stated that the proposed drilling site is within</p>	<p>MTI agrees that follow-up monitoring to evaluate the accuracy of predications and mitigation effectiveness will be necessary. The</p>



Users – Views Expressed

fishing grounds that harvesters use. Indigenous groups noted the importance of follow-up monitoring to evaluate the accuracy of predications and mitigation effectiveness.”

No details, or reference for where to find details, related to follow-up monitoring is included.

Agency must require the Proponent work in partnership with MTI regarding any follow-up monitoring programs. Further, if any follow-up monitoring program identifies impacts to commercial fisheries that are above and beyond what is anticipated, MTI must be accommodated.

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Section 4.5.3 Commercial Fisheries and Other Ocean Users – Views Expressed

The Agency states “KMKNO requested to be consulted by the proponent on developing a mutually agreed upon process for communication, and that this would form the basis for an Indigenous Communication Plan. KMKNO requested that the Indigenous Communication Plan be put in place prior to initiating Project activities and include both emergency response and marine user interaction protocols.”

An Indigenous Communications Plan is essential to ensure safety for everyone. It is important that all Indigenous Nations have an Indigenous Communications Plan in place prior to initiating Project activities, and that it includes both emergency response and marine user interaction protocols.

MTI recommends that the Agency require the Proponent to provide support to all impacted Indigenous Nations to develop individual comprehensive Indigenous Communications Plans for each Indigenous Nation which must be put in place prior to initiating Project activities and include both emergency response and marine user interaction protocols.

9

Section 4.5.4 Commercial Fisheries and Other Ocean Users – Agency Analysis and Conclusion

The Agency states “the Agency is of the view that adverse residual environmental effects for commercial fishing and other ocean users, would be low to medium magnitude because there would be little to no alteration of harvest activity required to continue fishing as there is no domestic fishing and low international fishing effort in the core development area.”

However, in Section 4.6.1, the Agency states “the proponent indicated that some of the communal commercial licenses are located in NAFO Divisions or Fishing Areas that overlap with the Project Area including licenses in NAFO Divisions 3L and 3M for swordfish and bluefin tuna (i.e., species

MTI recommends that the Agency update Section 4.5.4 to include recognition of Indigenous commercial fishing activity in the study area. The Agency’s assessment of effects to commercial fisheries needs to be re-evaluated to include an assessment of effects on Indigenous commercial fishing. This gap in the analysis challenges the Agency’s ability to adequately assess, understand and accommodate impacts to Aboriginal and Treaty rights.



that are both culturally and economically important to some groups).”

These are contradictory statements that need to be addressed and clarified.

10	Section 4.6.1 Indigenous Peoples – Existing Environment	<p>The Agency states “the proponent noted that there is no known current use of the land or waters in the Project Area for traditional purposes. However, the proponent acknowledged some species that are traditionally harvested in or around traditional territories have the potential to migrate through the Project Area, including fish, marine mammals, and migratory birds of cultural importance to Indigenous groups.”</p> <p>From MTI’s perspective, MTI’s Indigenous Knowledge Study was not adequately considered in the EIS or the EA Report. The absence of this information puts MTI’s rights at risk and the Agency or Proponent must work with MTI to develop area-specific avoidance, mitigation and accommodation measures.</p>	<p>MTI recommends that the Agency require the Proponent to consult and engage with all impacted Indigenous communities to identify and confirm if any Indigenous activities are conducted in the study area. To adequately mitigate impacts to Aboriginal and Treaty rights, MTI recommends that MTI’s partnership and collaboration on monitoring and follow-up programs is critical.</p>
11	Indigenous Peoples –Section 4.6.1 Existing Environment	<p>The Agency states “the proponent indicated it was unable to confirm locations where communal commercial fishing is currently taking place, as the Indigenous groups did not provide this information, with the exception of a few groups who indicated their swordfish and bluefin tuna licenses for NAFO Division 3LM were currently inactive.”</p> <p>It is critical that the Proponent identify whether any communal commercial fishing takes place in the study area in order to properly assess impacts to Indigenous communities.</p>	<p>This gap in information poses a risk to MTI member communities’ rights and undermines the Agency’s ability to adequately assess, understand and accommodate impacts to Mi’gmaq Aboriginal and Treaty rights. MTI recommends that the Agency take action to address this gap in information and reassess impacts based on the inclusion of this additional information.</p>
12	Section 4.6.1 Indigenous Peoples –	<p>The Agency states “the proponent indicated that presently, based on available information, there is limited potential for interactions between</p>	<p>MTI recommends that the Agency require the Proponent to consult and engage with impacted</p>



	Existing Environment	<p>planned project activities and commercial fishing activity, including communal commercial fishing by Indigenous groups, in or near the Project Area. However, communal commercial licenses could be active in the future or the level of communal commercial fishing could increase.”</p> <p>As identified in previous issues raised, the Proponent has not adequately consulted and engaged with impacted Indigenous communities to collect the necessary information required to assess interactions between planned Project activities and commercial fishing activity, including communal commercial fishing by Indigenous groups in or near the Project Area.</p>	<p>Indigenous communities to collect the necessary information required to assess interactions between planned Project activities and commercial fishing activity, including communal commercial fishing by Indigenous groups in or near the Project Area.</p> <p>Without a proper assessment of interactions between planned Project activities and commercial fishing activity, the Treaty-protected rights and interests of MTI member communities are at risk of being adversely impacted by Project activities.</p>
13	Section 4.6.2 Indigenous Peoples – Proponent’s Assessment of Environmental Effects	<p>The Agency states “the proponent did acknowledge that the potential exists for the Project to affect socioeconomic conditions related to the communal commercial fisheries. These fisheries are a significant source of employment and community revenues. The proponent indicated that sustained losses in employment or a reduction in availability or quality of commercially fished species, occurring over a year or more, has the potential to significantly affect the economy and overall wellbeing of the Indigenous groups. The proponent stated that with the applied mitigation, adverse effects from routine project activities to commercial fisheries, including communal commercial fishing by Indigenous groups, would not be significant, as discussed in Section 4.5 (Commercial Fisheries).”</p> <p>Given that there are gaps in the information and data used to assess impacts on Indigenous commercial fisheries, MTI has serious outstanding concerns related to the conclusions drawn by the Proponent and the Agency.</p>	<p>MTI recommends that the Agency require the Proponent work with MTI to understand and reassess adverse impacts the Project may have on Indigenous commercial fisheries.</p>



14	Section 4.6.3. Views Expressed	<p>The Agency states, “several Indigenous groups commented that the Proponent’s EIS lacks sufficient information to assess the potential adverse effects on Atlantic salmon. They noted there are gaps regarding their migration patterns and preferred overwintering areas; that the Proponent did not conduct any of its own studies; and, concerns about the cited research being several decades old.”</p>	<p>MTI agrees that the Proponent’s EIS lacks sufficient information to assess the potential adverse effects on Atlantic salmon. MTI recommends that the that the Agency require the Proponent to work collaboratively with MTI to undertake new studies to adequately understand and address concerns regarding impacts to Atlantic Salmon.</p>
		<p>Using decades-old data to assess impacts on Atlantic salmon is inadequate to fully understand and address potential impacts to MTI communities Aboriginal and Treaty rights.</p>	
15	Section 4.6.3 Indigenous Peoples – Views Expressed	<p>The Agency states, “MMS commented that new studies must be completed to address the data gaps, as any negative impacts on Atlantic salmon will adversely impact Aboriginal and Treaty Rights. Several groups made suggestions regarding further research on Atlantic salmon that could be supported or led by the proponent. Some would like the proponent to develop its own research and monitoring programs for Atlantic salmon, above and beyond any support it is providing to Environmental Studies Research Fund research. MTI commented it remains unclear whether the proponent would contribute to the Environmental Studies Research Fund research, or if they plan on using the research to enhance and update the effects assessment for the Project. Miawpukek First Nation suggested that, rather than starting new research projects, the proponent should provide funding to support existing initiatives focused on Atlantic salmon tracking</p>	<p>MTI agrees that the Proponent should provide funding to support existing initiatives focused on Atlantic salmon tracking and tagging.</p>



and tagging. It noted that the Atlantic Salmon Federation, the Ocean Tracking Network, and DFO are already involved in such research that could be supported by the proponent.”

Without current, reliable, and verified data it is impossible to assess and address impacts to Atlantic salmon and Aboriginal and Treaty rights.

16	Section 4.6.3 Indigenous Peoples – Views Expressed	The Agency states, “MTI commented the proponent did not propose any mitigations to reduce potential effects of underwater sound emissions from supply and servicing vessels on fish. It requested that the proponent develop a monitoring program that assesses the underwater impacts of light and sound on fish from all Project activities, including vessel traffic, drilling and operations.”	MTI recommends that the Agency require the Proponent to co-develop and implement a monitoring program with MTI that assesses the underwater impacts of light and sound on fish from all Project activities, including vessel traffic, drilling and operations.
		This issue and the associated impacts of underwater light and sound may have on Aboriginal and Treaty rights has not been addressed.	

17	Section 4.6.3 Indigenous Peoples – Views Expressed	The Agency states “most Indigenous groups who provided comments were dissatisfied with the proponent’s lack of follow-up or monitoring programs for effects on species of cultural importance, and asked that follow-up and monitoring programs be developed and implemented collaboratively with Indigenous groups.”	MTI agrees with this statement and recommends that follow-up and monitoring programs be developed and implemented collaboratively with MTI. To ensure that MTI’s participation is meaningful in the development and implementation of monitoring programs, capacity must be provided.
			Without adequate follow-up and monitoring programs there is no way to accurately monitor, measure, and assess actual Project impacts during the operation of the Project to ensure Project impacts are within predicted and acceptable thresholds.



ACCIDENTS & MALFUNCTIONS

18	Section 5.1.2 Proponent's Assessment of Environmental Effects - Prevention, Preparedness, and Response Measures	Previous comments and recommendations from the EIS remain unaddressed. Specifically, the EA Report does not include a robust assessment of the marine shipping by oil tankers from the Project site to shore facilities. The EA does not provide an adequate understanding of risks or modelled trajectories associated with spills from a tanker in Canadian waters on route to a shore facility.	MTI recommends that the Crown require the Proponent to conduct a spill risk assessment that models the possible scenarios in which a marine tanker experiences a spill along the anticipated shipping routes in Canadian waters. The probability of potential oil release effects on the Laurentian Channel Marine Protect Area and the Miramichi Bay Closure Marine Refuge should be reassessed in the context of a spill from a tanker vessel in transit.
			MTI also recommends that the Proponent engages with MTI to co-develop a Marine Response Plan that includes increased access to information on maritime activity in local waters, access to marine safety equipment, and an increased role in marine safety and response.
19	Section 5.1.2 Proponent's Assessment of Environmental Effects - Prevention, Preparedness, and Response Measures	The Agency states that “the proponent committed to developing and implementing a compensation program for damages resulting from Project activities, including spill events. The compensation program would be developed in consideration of the C-NLOPB Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activities (2017) and will be aligned with the Best Practices Document for Compensation Processes and Procedures being developed by One Ocean.”	MTI recommends that a compensation program for damages resulting from Project activities be developed through ongoing and meaningful participation with MTI and other Indigenous communities to ensure that the priorities and values of Indigenous communities are accurately represented and considered. Capacity funding must be provided to support meaningful engagement and participation. Adequate capacity funding ensures that all voices and values in our community can be heard, which MTI considers essential if impacts to rights are to be fully compensated.
		This does not provide enough detail as to the meaningful involvement of Indigenous communities in planning and implementing compensation programs.	



20	Section 5.1.3 Views Expressed – Federal Authorities	DFO indicated that “the recolonization of benthic communities from potential impacts would be influenced by population patches and connectivity, and influenced by oceanographic regime.”	As noted in comments on Marine Fish and Fish Habitat, MTI recommends that recolonization of benthic habitat is not considered a mitigation measure for disturbance to benthic habitat due to a spill, smothering, or burial, since the sensitive, long-lived deep-sea corals and spongers will likely struggle to recolonize the site.
		As noted in comments on Marine Fish and Fish Habitat, sites which previously hosted sensitive benthic species that are recolonized by generalist colonizer species or invasive species after experiencing smothering or burial represents a harmful alteration to high quality fish habitat that impacts the entire food chain.	
21	Section 5.1.3 Views Expressed – Federal Authorities	DFO notes that following the Deepwater Horizon blowout, a “significant portion of the oil was found on deep-water coral and sponge reefs.”	MTI recommends that the Crown require the Proponent to conduct additional spill modelling to consider the probability of oil accumulation on deep-water coral and sponge reefs once habitat surveys are completed, and use these model results to consider and minimize the possibility of oil settling on deep-sea benthic habitat in the event of a spill.
		If the spill modelling conducted by the Proponent did not consider the accumulation of oil on deep-water coral and sponge reefs as observed following the Deepwater Horizon spill, MTI believes that impacts to sensitive benthic ecosystems could be greater than the modelling would suggest.	
22	Section 5.1.4 Agency Analysis and Conclusions	Regardless of whether having the capping stack locally available would reduce installation time in the event of a blow out, the Proponent should be expected to take all reasonable steps to shorten a response time for all stages of the response to a blowout. This would include having all components necessary for a spill response located as close as possible to the well site. Furthermore, having a cap stack locally available would reduce the cumulative risks of all current and future oil and gas projects, and serve as a backup if an	MTI recommends that the Agency include a condition that a capping stack is made locally available in Atlantic Canada. This is critical to demonstrate the Proponent’s willingness to adopt all measures that could contribute to a faster response time in the event of a spill and reduce the regional cumulative risks of all oil and gas projects. The Proponent must demonstrate a willingness to prioritize the constitutionally protected rights and values of MTI member communities, and other Indigenous



initial capping stack failed to address a subsea blowout.

communities, over logistical challenges associated with local emergency response.

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Section 5.1.4
Agency Analysis
and Conclusions
– Key Mitigation
Measures to
Avoid Significant
Effects

MTI supports the added measure to consult with Indigenous groups on the spill response plan. However, language remains vague and there is no clear indication how Indigenous priorities and values will be reflected in the final plan. Additionally, it remains unclear how the Agency concludes that no significant adverse effects are expected, however unlikely, when they do not know the contents of the spill response plan or the plan for avoidance of collisions with vessels and other hazards.

The Agency also instructs the Proponent to “undertake a spill impact mitigation assessment to consider all realistic and achievable spill response options and identify those techniques (including the possible use of dispersants) that would provide for the best opportunities to minimize environmental consequences and provide it to the C-NLOPB for review.”

The best opportunities to minimize environmental consequences should already be considered, given that they are essential to an informed conclusion on the probability and extent of significant adverse effects on the environment and all Nations who depend on it.

MTI recommends that the Proponent develop a spill response plan and collision avoidance plan through meaningful consultation with MTI to ensure that Indigenous priorities and values are factored into response and remediation plans. A spill response plan and collision avoidance plan that are developed in partnership with Indigenous communities and endorsed by Indigenous leadership should be considered before an informed decision statement can be made on the likelihood of adverse environmental effects due to accidents and malfunctions. Without meaningful consultation and incorporation of knowledge and concerns shared by rightsholders, MTI cannot be confident that our members’ rights will be respected in the event of an emergency.

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Section 5.1.4
Agency Analysis
and Conclusions
– Key Mitigation
Measures to
Avoid Significant
Effects

The Agency states that “if drilling is anticipated in water depths of 500 metres or less, undertake further analysis to confirm the capping stack technology selected can be deployed and operated safely at the proposed depth and submit this analysis to the C-

MTI recommends that the Proponent develop a mitigation plan that demonstrates their ability to effectively respond to a subsea release using proven technology. If a capping stack is the preferred method, the mitigation plan should



NLOPB for approval.” This statement suggests that the effectiveness of the capping stack at depths greater than 500 metres is currently unknown.

If the ability to mitigate a subsea release deeper than 500 metres is currently unknown, it is not clear how the Agency reached the conclusion that adverse effects are not likely to occur when it is possible that the primary response (a capping stack) may not be able to effectively stop a subsea release at depths greater than 500 metres.

Given the catastrophic impacts of the Deepwater Horizon spill, the ability to mitigate a subsea release deeper than 500 metres should be established in advance of an informed conclusion on the potential for adverse environmental effects as a result of accidents or malfunctions. Even if a subsea release is highly unlikely, the catastrophic impacts that would occur in the event that the capping stack could not stop a subsea release at depths greater than 500 metres would devastate both Indigenous and non-Indigenous communities throughout Atlantic Canada.

be informed by analysis that demonstrates the effectiveness of capping stack technology at depths and conditions similar to those found at the Project site. A second capping stack should be locally available in the event that the first capping stack fails to contain a subsea release at depths greater than 500 metres.

25

Section 5.1.4
Agency Analysis
and Conclusions
– Key Mitigation
Measures to
Avoid Significant
Effects

MTI supports the inclusion of the mitigation measure to ensure MTI fishers are properly compensated for damages related to commercial, food, social or ceremonial fisheries.

It is important to note that *perception* of damages still impacts behaviour and practice to rights.

MTI recommends that perceived damages associated with spills or accidents that do not necessarily cause a measurable environmental impact but still discourage harvesting for food, social or ceremonial reasons are also considered for compensation. Compensation must be provided for damages that are a result of impacts described in this EA as well as impacts that may not yet be considered or realized. Additional



impacts that are currently beyond the scope of the project or EA must still trigger accommodation.

MARINE FISH & FISH HABITAT

26	Section 4.1.2 Proponent's Assessment of Environmental Effects - Predicted Effects of Presence of Subsea Infrastructure	<p>The recolonization of destroyed or altered habitat does not imply that a recolonized site will be of a quality or quantity equal to what was destroyed or altered. Deep-sea corals and sponges are sensitive species that are slow to recover, making them an unlikely candidate for recolonization following a disturbance. Their slow growth rate makes them incapable of adapting to rapidly changing conditions associated with a disturbance of this magnitude.</p> <p>In all likelihood, a recolonized site would represent an alternative stable state that does not reflect the biodiversity found at an undisturbed location. To imply that recolonization would "counterbalance initial losses in species and habitat" is misleading and factually inaccurate. Given that the Proponent also states that the "recovery of benthic communities in deep water is not well understood," and relies on anecdotal evidence of observed colonization of fishing gear, MTI does not believe that recolonization potential should be considered among mitigation measures.</p>	<p>Given the uncertain ecological state of a recolonized site, recolonization should not be considered a "counterbalance" to initial losses in species and habitat. Due to the slow recovery of deep-sea corals and sponges, a recolonized site should potentially be considered as "harmfully altered" based on DFO's risk assessment criteria and anticipated loss of sensitive, slow-growing deep-sea coral and sponge habitat.</p>
27	Section 4.1.4 Agency Analysis and Conclusions - Effects of Drill Waste Discharge	<p>The Agency states that "the Agency agrees with the proponent that the concentration of suspended particles in the water would likely be higher closer to the well template, but recognizes that the elevated concentrations of concern and extent are unknown in the</p>	<p>Data on natural variability, species tolerance and distribution should be collected to determine the extent and elevated concentrations of concern before an informed conclusion can be made on the likelihood and extent of significant</p>



absence of natural variability data, species tolerances or distribution.”

adverse environmental effects to marine fish and fish habitat.

Given this uncertainty around the elevated concentrations of concern and the extent of possible impacts associated with Drill Waste Discharge, MTI does not see how the decision statement could be adequately informed with respect to possible impacts.

28

Section 4.1.4
Agency Analysis
and Conclusions
– Agency
Conclusions

It is noteworthy that DFO has acknowledged that they do not yet have enough information to make an informed determination on whether a Fisheries Act Authorization will be required for the work, yet the IAAC feels that they have enough information to conclude that “the project is not likely to cause significant adverse environmental effects on fish and fish habitat.”

Given that the Agency has determined that widespread impacts over 110 square kilometres are likely as a result of the drill waste discharge, and that the high-quality aquatic coral and sponge habitats are “very vulnerable to perturbations and they can take decades or longer to recover if they are removed or damaged,” it is difficult to comprehend that DFO would not conclude that the impacts are likely to temporarily or permanently impair the habitat’s capacity to support one or more life processes of fish, meeting the fundamental criteria of a Fisheries Act Authorization. This determination is anchored in the conclusion that significant adverse effects are likely, which would directly contradict the decision statement made by the IAAC.

MTI recommends that the decision statement in the concluding paragraph of Section 4.1.4 be revised based on DFO’s determination on whether a Fisheries Act Authorization is required based on the probable impacts to fish habitat.

Furthermore, MTI requests to be consulted by DFO to identify suitable avoidance, mitigation, and offsetting measures in the Fisheries Act Authorization, including expectations and timelines for monitoring.



29	Section 4.1.4 Agency Analysis and Conclusions – Effects of Presence of Subsea Infrastructure	Regarding the presence of subsea infrastructure, the Agency states that they “understand that DFO may suggest additional mitigation measures to the C-NLOPB based on the outcome of seabed surveys.” Based on this statement, and the following statement that “follow-up monitoring would be required to verify the efficacy of mitigation and verify predicted effects,” it seems reasonable to conclude that all necessary mitigation measures have not yet been identified to minimize harm to the aquatic environment. However, the Agency still concludes that adverse effects are not likely, “taking into account the implementation of the mitigation measures listed above.” Given that, potentially, many necessary mitigation measures have not yet been determined, the concluding statement appears to be based on incomplete information.	Consistent with recommendation 34, MTI recommends that no conclusion regarding the adverse effects to marine fish and fish habitat should be made by the Agency until DFO has made an informed conclusion on whether impacts are likely to temporarily or permanently impair the habitat’s capacity to support one or more life processes of fish, and the decision regarding the Project’s need for a Fisheries Act Authorization has been made.
30	Section 4.1.4 Agency Analysis and Conclusions – Effects of Presence of Subsea Infrastructure	The Agency concludes that “follow-up monitoring would be required to verify the efficacy of mitigation and verify predicted effects.” The Agency also concludes that sensitive deep-sea corals and sponges are “very vulnerable to perturbations and they can take decades or longer to recover if they are removed or damaged... or the effects could possibly be permanent.” Based on these statements, a long-term monitoring and adaptive mitigation program will be necessary to determine if the benthic ecosystem recovers, including thresholds for adaptive mitigation measures to be implemented.	Based on the long-term nature of the benthic ecosystem that will be disturbed by the works, MTI expects that the Agency consider a condition that the Proponent must develop a long-term monitoring and adaptive management program in collaboration with MTI that reflects the nature of the anticipated impacts on the benthic environment. The long-term monitoring and adaptive mitigation program should include thresholds for implementing adaptive mitigation measures if the benthic ecosystem is not recovering. These measures could include experimental treatments to restore coral and sponge habitats.
31	Section 4.1.4 Agency Analysis and Conclusions – Effects of	Based on the Agency’s expectation that “avoidance behavioural effects could occur between 25 to 50 kilometres (8,580 cubic kilometres)” from seismic	Given the predicted disruption to trophic dynamics over a large area around the seismic survey sites, MTI disagrees with the Agency’s



Underwater
Sound

surveys, the Agency concludes that there is a probable cascading effect of avoidance behaviour exhibited by fish that could impact multiple levels of the food chain, including whales and seabirds. This cascading effect is inconsistent with the conclusion made by the Agency, that “the project is not likely to cause significant adverse environmental effects on fish and fish habitat.”

conclusion that “the project is not likely to cause significant adverse environmental effects on fish and fish habitat” and agrees with DFO’s position that more information is required to adequately understand the magnitude of effects on marine species. MTI recommends that our perspective on this matter is captured in the EA Report Due to these gaps in information, impacts to Mi’gmaq Aboriginal and Treaty Rights are not fully understood.

32	Section 4.1.4 Agency Analysis and Conclusions – Effects on Atlantic salmon and American Eel	MTI appreciates the Agency’s position that the Proponent should be required to support research on Atlantic salmon in offshore areas. The stated objectives partially address MTI’s previous recommendations made in response to the EIS. MTI notes, however, that the objectives outlined in the EA Report do not include a study to identify the source populations of Atlantic salmon that could be moving through the area.	In order to fully understand the potential impacts to Mi’gmaq right to fish, MTI requests that research supported by the Proponent include a study to identify the source populations of Atlantic salmon that potentially move through the Project Area or the broader 229,000 square kilometre area that could experience cumulative effects. Various methods could be used, including genetics, telemetry, or mark-recapture.
33	Section 4.1.4 Agency Analysis and Conclusions – Follow-up	MTI supports the Agency’s recommendation on the development and implementation of an underwater sound monitoring plan to verify the effects predictions of all Project sound sources. MTI notes that light pollution could also contribute to disturbances in the aquatic environment.	MTI recommends that the monitoring plan be expanded to include monitoring of light at or below the water surface to verify the effects of light sources.
34	Section 4.1.4 Agency Analysis and Conclusions – Agency Conclusion	The Agency states “due to the uncertainty of models as well as the lack of information related to species presence, abundance, diversity, and effects on other trophic levels; the magnitude of effects is uncertain. DFO has indicated site specific information would be required to determine if effects would result in the harmful	MTI recommends that the Agency revisit the assessment of effects on marine fish and fish habitat once DFO has made an <i>informed</i> decision on whether impacts associated with the Project warrant a Fisheries Act Authorization, which would imply that significant adverse effects are expected. The Proponent should collect and provide all information



alteration, disruption or destruction of fish and fish habitat.”

DFO’s position is that there is currently not enough information to conclude if the works would result in a harmful alteration, disruption or destruction of fish habitat. In addition, the Agency states that “a portion of a population may be affected over one or more generations and this could affect other trophic levels.”

The above statements are not consistent with the Agency’s concluding statement that “the project is not likely to cause significant adverse environmental effects on fish and fish habitat.”.

necessary for DFO to make this assessment, including information related to species presence, abundance, and diversity.

35	Section 4.6.2 Proponent’s Assessment of Environmental Effects – Communal Commercial Fishing	<p>The Agency states that “the proponent stated that the spawning habitats of swordfish and tuna are located at significant distances from the Project Area, thus reducing potential interactions with important habitats and critical life stages.”</p> <p>However, the Proponent did not indicate whether the spawning habitats are within the 229,000 square kilometre zone of cumulative audible disturbance caused by oil and gas activities in the region.</p>	MTI recommends that the Agency require the Proponent to conduct a study on the movement, behaviour, and range of bluefin tuna to better understand the cumulative impacts that oil and gas activities could have on bluefin tuna spawning and migration that could impact the Mi’gmaq Aboriginal and Treaty rights of MTI member communities.
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MARINE MAMMALS & SEA TURTLES

36	Appendix C: Summary of Crown consultation with Indigenous Groups: Marine Mammals	In response to requests made by Indigenous groups that marine mammal and sea turtle observers should be present on all supplying and servicing vessels, the Agency has indicated that dedicated onboard marine mammal observers would not be required on all vessels due, in part, to the low numbers of ship strikes and that the vessel traffic	MTI recommends that the Agency consider a condition that commits the Proponent to implementing awareness training for all offshore workers on marine mammal and sea turtle visual surveys and a process to keep records of observations on all vessels.
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corridor is located outside of important marine mammal habitat.

MTI is concerned that the Agency and the Proponent are interpreting the lack of data and targeted survey effort in this region as an absence of North Atlantic Right Whales. MTI disagrees with the Agency's conclusions, given the lack of baseline data to understand the distribution and habitat use of marine mammals in the Project Area.

37	<p>Section 4.2.4 Agency Analysis and Conclusions – Key Mitigation Measures to Avoid Significant Effects</p> <p>Appendix C: Summary of Crown consultation with Indigenous Groups: Marine Mammals</p>	<p>The Agency identified mitigation measures and proposed conditions to mitigate the impact of vessel traffic on marine mammals, sea turtles and migratory birds, which includes reducing vessel speed to seven knots when a whale or sea turtle species at risk is observed or reported within 400 metres of the vessel. The Agency does not acknowledge the unpredictable movement of the North Atlantic Right Whale population, and the necessity to review management measures regularly.</p>	<p>MTI recommends that the Agency consider a condition that commits the Proponent to adapt and refine the mitigation measures annually, or on an as-needed basis (e.g., mid-season, or in the event of a collision or near miss), considering observations made from the vessels, the latest scientific advice, safety and economy (Fisheries and Oceans Canada 2021). This should form part of a comprehensive adaptive mitigation and monitoring program that includes regular reporting, periodic reviews of the effectiveness of mitigation measures, and thresholds for the application of additional mitigation measures.</p>
38	<p>Section 4.2.4 Agency Analysis and Conclusions – Key Mitigation Measures to Avoid Significant Effects</p> <p>Potential Conditions 3.11 Fish and Fish Habitat</p>	<p>The Agency has not indicated that the Proponent should consult with MTI along with Fisheries and Oceans Canada and the C-NLOPB, to develop a Marine Mammal and Sea Turtle Monitoring Plan.</p>	<p>MTI recommends that the Agency include MTI in the list of agencies to consult with during development of a Marine Mammal and Sea Turtle Monitoring Plan, to ensure our Indigenous Knowledge and values are incorporated into planning for monitoring by the Proponent.</p>



MIGRATORY BIRDS

39	<p>Section 4.3.3 Views Expressed – Indigenous Groups</p>	<p>MTI provided a recommendation that the Proponent should consult MTI during the development of a marine and migratory bird monitoring protocol to ensure their Indigenous Knowledge is considered and values protected. This is not reflected in the Agency's EA Report.</p>	<p>MTI recommends that the Agency include this wording in Section 4.3.3: <i>MTI recommends that capacity funding be provided to support the co-development of a marine and migratory bird monitoring protocol to ensure their Indigenous Knowledge is considered and values protected.</i></p>
40	<p>Section 4.3.3 Views Expressed – Indigenous Groups</p> <p>Section 4.3.4 Agency Analysis and Conclusion – Follow-up</p>	<p>MTI has recommended that the Proponent hire and train MTI community members to work as marine bird monitors on board the FPSO and other vessels. The direct involvement of MTI monitors would give the MTI greater confidence that marine bird monitoring protocols are implemented effectively.</p> <p>There are gaps in information that have challenged a full assessment of the impacts of the Project on marine mammals and migratory birds. Involving Mi'gmaq monitors is critical to ensure that Project activities do not adversely impact MTI's rights. MTI communities require, for instance, healthy lands and waters to support the meaningful exercise of our right to hunt and fish, and MTI community members are best positioned to monitor impacts and determine measures to avoid, mitigate and accommodate those impacts. This applies to co-developing monitoring protocols in collaboration with the Proponent (see Comments 43 and 45).</p> <p>The recommendation to employ Mi'gmaq monitors is not included in the Agency's EA Report under the Views Expressed Section (4.3.3) or as part of the follow-up program (Section 4.3.4).</p>	<p>MTI recommends that the Agency require the Proponent to involve Indigenous groups, including MTI, to co-develop and implement monitoring programs including:</p> <ul style="list-style-type: none"> • Hiring members of MTI member communities (Mi'gmaq monitors) to assist with marine mammal monitoring activities. • Hiring members of MTI member communities (Mi'gmaq monitors) to assist with systemic daily monitoring of the Mobile Offshore Drilling Unit (MODU) and designated Project vessels for stranded birds and collecting migratory bird data and monitoring and documenting behaviour during flaring. <p>MTI does not necessarily expect Mi'gmaq monitors without prior training and experience to act solely as qualified professionals, but to play a field or research assistant role.</p>



41	Section 4.3.4 Agency Analysis and Conclusion – Follow-up	The Agency has not indicated that the Proponent should consult with MTI along with the ECCC to develop vessel-specific systematic monitoring protocols.	MTI recommends that the Agency include MTI in the list of agencies to consult with to develop vessel-specific monitoring protocols, to ensure our Indigenous Knowledge and values are incorporated into planning for monitoring by the Proponent.
42	Appendix C: Summary of Crown Consultation with Indigenous Groups: Light and Light Emissions Section 4.3.4 Agency Analysis and Conclusion – Follow-up Potential Conditions 4.7 Migratory Birds	MTI recommended the use of water curtains to mitigate migratory bird mortality, which have been used as an industry-standard mitigation measure. The Agency’s response included information about potential collaborative research and monitoring programs that focus on the effects of light attraction on birds but does not include research on the effectiveness of mitigation measures such as water curtains, to mitigate mortality should birds be attracted to the FPSO, MODUs or other Project vessels.	<p>MTI recommends that the Agency broaden the foci of the research initiatives to include measures on site to mitigate mortality of migratory birds, such as installing water curtains.</p> <p>MTI recommends that the Agency include the following wording to Section 4.3.4: <i>Participate in research related to mitigation measures, such as water curtains, that prevent mortality of migratory birds on the FPSO, MODUs and Project vessels.</i></p> <p>MTI recommends that the Agency include the following wording to Potential Conditions Section 4.7 Migratory Birds: <i>Effectiveness of mortality mitigation measures such as water curtains</i></p>



