



# Environmental Impact Statement

## Volume III of V

Boat Harbour Remediation Project  
Pictou Landing, Nova Scotia

Nova Scotia Lands Inc.

November 17, 2020





# **Environmental Impact Statement**

## **Section 4 | Public Participation and Concerns**

Boat Harbour Remediation Project  
Pictou Landing, Nova Scotia

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## 4. Public and Agency Participation and Concerns

Nova Scotia Lands Inc. (NSLI/the Proponent) has extensively engaged and consulted with stakeholders, both formally and informally, prior to initiating the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) process in early 2019 for the Boat Harbour Remediation Project (BHRP or Project). Using key values of openness, transparency, collaboration and respect, NSLIs has consulted with a number of stakeholders since the launch of the Project in 2014 including, the Mi'kmaq of Nova Scotia (Pictou Landing First Nation [PLFN]) and public. For the purposes of this report, public stakeholders are defined as non-Indigenous people with an interest in the Project and include public members, community groups, and other organizations. Consultation and engagement with the public stakeholders and agencies is documented in this section while consultation with Mi'kmaq of Nova Scotia is described in Section 5.

Consultation undertaken prior to the commencement of the Environmental Impact Assessment (EIA), which was formally announced on April 10, 2019 by the Canadian Environmental Assessment (CEA) Agency (now known as the Impact Assessment Agency of Canada [IAAC]), was used to inform the details of the Project in the early planning stages and to shape the consultation process for the EIA. Consultation during the EIA was conducted in accordance with the federal EIA requirements and guidance for public participation in EIAs and the final Environmental Impact Statement (EIS) Guidelines issued by CEA Agency (Agency) on May 31, 2019.

CEAA 2012 requires that all public stakeholders are provided with the opportunity to participate in an EIA. As outlined in IAAC's *Interim Guidance: Public Participation under the Impact Assessment Act* (July, 2019) engagement activities will offer the public with an opportunity to:

- Learn about the impact assessment process
- Comment on the Initial Project Description and the need for an impact assessment
- Identify issues of importance to the public to inform a Summary of Issues
- Identify preferences for methods for participation in the impact assessment process
- Comment in cases where there is a request for a substituted process by another jurisdiction

The final EIS Guidelines provided guidance to the Proponent to ensure meaningful public participation, by conducting early engagement and structuring engagement activities to provide adequate time for stakeholders to review and comment on the relevant information. The EIS Guidelines also outline the required information related to public consultation that is to be presented in the EIS. As such, Section 4 has been organized as follows to address the content requirements of the EIS Guidelines:

- Persons and Organizations Consulted with (Section 4.1)
- Methods of Communication and Consultation (Section 4.2)
- Distribution of Information and Materials (Section 4.3)
- Consideration of Key Issues Raised (Section 4.4)
- Addressing Outstanding Issues and Ongoing Consultation (Section 4.5)

In light of the public consultation requirements and to build off the past engagement activities related to the remediation of Boat Harbour, NSLI developed the following objectives for carrying out consultation with public stakeholders as part of the Project:

- Enhance public awareness and the communication of Project information
- Provide multiple consultation opportunities
- Collect input and demonstrate consideration of issues raised
- Ensure the solicitation and documentation of stakeholder feedback

The objectives noted above highlight the importance of meaningful engagement that involves notifications, reasonable timing for review, accessible information and transparent results. Each of the objectives are further elaborated upon in Table 4.1-1.

**Table 4.1-1 Objectives of Public Consultation**

<b>Objective 1   Enhance Public Awareness and the Communication of Information</b>
<ul style="list-style-type: none"> <li>• Enhance awareness of the EIA process and provide multiple opportunities for the public to get involved</li> <li>• Educate the public on the technical information presented during the EIA process to enhance their understanding of the issues and opportunities</li> <li>• Provide the public with timely, clear, and understandable information so that they can be meaningfully involved in the EIA process</li> <li>• Establish meaningful communication among NSLI, GHD, and public stakeholders to facilitate information discussions on issues and opportunities</li> <li>• Utilize web-based and print materials to ensure that public stakeholders have full access to information and documentation</li> </ul>
<b>Objective 2   Provide Multiple Consultation Opportunities</b>
<ul style="list-style-type: none"> <li>• Engage public stakeholders through a variety of accessible and timely methods and opportunities to participate throughout the EIA process</li> <li>• Be flexible and hold additional consultation activities if extra dialogue with public stakeholders is required</li> <li>• Ensure equal access to participation by hosting events at venues that are accessible, conveniently located, and known to the general public</li> </ul>
<b>Objective 3   Collect Input and Demonstrate Consideration of Issues Raised</b>
<ul style="list-style-type: none"> <li>• Ensure that consultation is relevant by considering input, concerns, and suggestions received from public stakeholders and updating Project approaches and plans when possible/appropriate</li> <li>• Work proactively with public stakeholders to resolve concerns through the various phases of the Project; where concerns cannot be resolved, fully document the reasons why</li> </ul>
<b>Objective 4   Ensure the Solicitation and Documentation of Stakeholder Feedback</b>
<ul style="list-style-type: none"> <li>• Provide full documentation of input received throughout the EIA process in the EIA including stakeholder questions, comments, and concerns</li> <li>• Prepare summaries of input from consultation events and notes of meetings with public stakeholders</li> <li>• Regularly post Project updates, reports, meeting notes, and summaries from consultation events on the Project website and social media sites, as appropriate</li> <li>• Provide timely responses to questions, comments, and concerns that are received, providing electronic responses or otherwise, as requested by the recipient</li> </ul>

#### **4.1 Persons and Organizations Consulted With**

Consultation with public stakeholders is a critical component of the EIA process as they are considered to be local experts with a clear understanding of community priorities, interests, and concerns. Due to the fact that NSLI has been engaging with the public for many years prior to the commencement of the EIA, they were able to build on earlier consultation and the relationships that were formed with the public. Examples of public engagement activities that NSLI conducted prior to the commencement of the EIA include three public meetings with the broader community in October 2016, April 2018, and May 2018. At these meetings, Project concepts and plans were presented and discussed with a focus on the Pilot Scale Testing Program. Appendix C includes comments and responses from these public meetings. While the key focus of this Chapter is to provide information on the consultation undertaken during the EIA, where appropriate, NSLI has highlighted other key stakeholder meetings undertaken outside of the EIA process for additional context.

It is noted that in Nova Scotia the term stakeholder with respect to EIA is anyone with an interest in the Project. The term is very broad and not prescriptive, meaning if persons feel they are a stakeholder, they are a stakeholder. Stakeholders differ from "rights holders" in that "rights holders" have an interest through legal and/or financial agreements. NSLI consulted with the following stakeholders prior to and/or during the development of the EIA:

- Interested public members
- Property owners adjacent to the Site Study Area
- PLFN
- Residents, businesses and community groups in Pictou County and the surrounding area
- Agencies (federal and provincial)
- Boat Harbour Environmental Advisory Committee (BHEAC)
- Local municipal staff and elected officials
- Provincial and federally elected officials
- Northern Pulp Workforce and Northern Pulp Executive
- Environmental Services Association Maritimes
- Northumberland Fisherman's Association
- Academic experts

As stated, engagement with the Mi'kmaq of Nova Scotia, including PLFN, is discussed in Section 5.

#### **4.2 Methods of Communication and Consultation**

After developing the objectives for public stakeholder consultation, NSLI prepared a plan for how consultation would be executed. The following subsections outline the communication and consultation methods employed to engage with the public. Further detail on the information presented and results of each method can be found in Section 4.3.

#### **4.2.1 Public Stakeholder Meetings**

As previously mentioned in Section 4.1, during the planning, design, and regulatory processes relative to the approval of pilot scale testing activities, NSLI held public meetings with the broader community (October 2016, April 2018, and May 2018). These meetings were held as part of the Industrial Approval process to provide an overview of the planned pilot scale work, an update on the pilot scale testing work completed to date and helped guide future discussions and consultation as part of the EIA.

NSLI met with local community groups to discuss the BHRP. To date, these organizations include but are not limited to, Northern Pulp Workforce, Northern Pulp Executive, Environmental Services Association Maritimes, and the Northumberland Fisherman's Association. Depending on the specified interest of these groups, NSLI will continue to share information as the Project progresses.

#### **4.2.2 Boat Harbour Environmental Advisory Committee Meetings**

The BHEAC is comprised of subject matter experts from several provincial and federal departments (including Health Canada, Environment and Climate Change Canada, Fisheries and Oceans Canada, Indigenous Services Canada, Transport Canada, Nova Scotia Environment, NSLI and Forestry, and Nova Scotia Office of Aboriginal Affairs), academic experts from Dalhousie, Acadia, St. Francis Xavier and Cape Breton Universities, and PLFN. The Terms of Reference (TOR) for the BHEAC were developed in January 2016 for the initial meeting of the committee. Since then, the TOR has been revised primarily for accommodating an expansion of BHEAC membership. The TOR provides direction on the purpose of the BHEAC, its responsibilities, the reporting structure and lists the current representatives on the BHEAC. A copy of the TOR can be found in Appendix D.

The purpose of the BHEAC, is to provide expert advice on the environmental management of the Project throughout the life of the Project to ensure that it is carried out in a manner that is environmentally acceptable and safe to human health. In this regard, the BHEAC responsibilities include advice on:

1. Scientific studies required to adequately prepare discrete or broad scope project descriptions as well as to adequately develop environmental effects monitoring.
2. Environmental monitoring programs, compliance monitoring, health and safety plans, contingency plans, environmental protection plans, emergency response plans, regulatory plans, compliance plans, etc.
3. Effectiveness of these plans throughout the life of the Project.
4. Progress in meeting Environmental Monitoring Plan and Environmental Effect Monitoring Plan requirements.
5. The mitigation of adverse environmental impacts.
6. Development and implementation of a follow-up program.
7. Opportunities for undergraduate/graduate studies in the engineering, environmental and social disciplines.

The BHEAC has met on average 10 times per year since January 2016. The meetings have typically been held on a monthly basis. IAAC representatives have sat as observers on the BHEAC since September 2019.

The BHEAC met throughout the EIA process and will continue to meet throughout the remainder of the EIA process and continue on during Project implementation. The meetings will typically be held on a bi-monthly basis.

Section 4.3.4 provides additional information on the BHEAC.

### **4.2.3 Public Open Houses**

Public Open Houses (POHs) provided NSLI with the opportunity to inform public stakeholders about the proposed plans for remediation of Boat Harbour and introduce the public to the EIA process and findings. Stakeholders were able to review information, provide formal comments and speak directly with representatives from NSLI and GHD. Public input received from these sessions helped inform the Project plans.

### **4.2.4 Project Specific Website and Email**

The [Boat Harbour Project website](#), hosted by NSLI, was launched in March 2017 and predated the EIS. When the final EIS Guidelines were released on May 31, 2019, a dedicated page was created on the existing Boat Harbour Project website to host all information on the EIA process. The website includes information related to the history of the Site, documentation of ongoing monitoring, overview of baseline studies completed, consultation to date and upcoming consultation opportunities. Once the EIS is finalized, a link to the EIS on the IAAC website will be added to the Boat Harbour Project website.

Public stakeholders were invited to submit comments directly through the Project website, via email or via mail. A Project email was maintained during the preparation of the EIA as an accessible means for stakeholders to contact with the Project Team or submit comments to be included in the EIS. Section 4.4.1 summarizes the comments received.

### **4.2.5 Media**

NSLI communicated with local media outlets to provide information and updates about the progress of the EIA. The media was engaged ahead of POHs, and a press release and media event took place in May 2019 connected to the announcement of federal funding, jointly coordinated with Infrastructure Canada. NSLI has interacted with and responded to requests from The Chronicle Herald, New Glasgow News, Halifax Examiner, Star Halifax, Pictou Advocate, allnovascotia.com, and CBC.

### **4.2.6 Social Media and Radio**

In addition to traditional media, NSLI recognized the importance of Facebook as an additional outlet to share information about the Project. NSLI, through the Nova Scotia Government Facebook account, created Facebook events for each of the POHs. Radio ads were also placed ahead of the POHs as a form of promotion to ensure promotional efforts extended beyond the web.



## 4.3 Distribution of Information and Materials

### 4.3.1 Notice of Commencement

On February 22, 2019, the Agency decided that a federal EIA was required. A Notice of Commencement was posted on the Agency's website on April 10, 2019. This initiated the federal EIA process.

### 4.3.2 Public Open Houses

As part of the EIA, NSLI hosted two POHs in 2019 at key points in the EIA process; including completion of the baseline studies and development of alternative solutions, and the assessment of potential effects. Both POH #1 and POH #2 were informal drop-in sessions, where members of the public could stop by any time during the given hours, review the information, and meet individually with Project Team members to discuss the Project.



Project information was presented on large display panels, with Project Team members stationed around the room to encourage discussion and answer questions from the public. The information provided on the display panels at each POH is detailed below. In order to provide more detail for those attendees wishing to gain a deeper understanding of specific Project elements, a resource table provided ancillary information, (i.e., summary of environmental baseline, infographics on the pilot scale testing, etc.). Copies of the ancillary information are provided in Appendix E.

#### 4.3.2.1 Public Open House #1

##### *Purpose*

The purpose of the POH #1 was to provide public members with an opportunity to review information, ask questions, seek clarification, and provide comments to the Project Team (i.e., NSLI and GHD) on the following topics:

- The EIA process
- Pilot Scale Testing and sampling work completed to date
- The EIA timeline
- Baseline studies and environmental considerations
- Possible solutions and proposed solution for each Project component

Section 4.4.1 summarizes the issues raised.

***Date, Time, Location***

POH #1 was held on Thursday August 1, 2019 from 2:00 p.m. to 7:00 p.m. at the Fire Hall located in Pictou Landing, Nova Scotia. This location was selected because of its familiarity to public members, central location and venue size in order to accommodate the number of attendees anticipated. NSLI promoted POH #1 with community signs located outside the venue, one week ahead of the event.



***Notifications***

***Facebook***

A Facebook event was created and was made public on July 10, 2019 on the Nova Scotia Government Facebook page, which at the time had 34,620 followers.

Facebook ads ran from July 18 to July 31, 2019 and were targeted to Facebook members within 40 kilometres (km) of New Glasgow. Each individual the ad reached was served the event ad approximately 3.72 times. Facebook engagements, defined as the number of interactions people have with content, are as follows:

**Table 4.3-1 Engagements with Facebook Ad for POH #1**

Engagement Type	Number
Post Comments	26
Post Shares	139
Link Clicks	606
Post Reactions	184
Event Responses	259
Total Engagements	1214

***Radio***

Between July 25 and July 31, 2019 commercials ran on radio stations in and around New Glasgow, including 20 commercials on CKEC and 20 commercials on CKEZ. The ads ran on the same schedule on both stations:

- July 25 - 27, 2019 | Three spots (each day) airing between 5:30 a.m. – 8:00 p.m.
- July 28, 2019 | Two spots airing between 5:30 a.m. – 3:00 p.m.
- July 29 - 31, 2019 | Three spots (each day) airing between 5:30 a.m. – 8:00 p.m.

***Print***

Print ads were placed in the following three papers.

- Pictou Advocate | July 17 and July 24, 2019
- New Glasgow News | July 18 and July 25, 2019

- Chronicle Herald | July 27, 2019

These papers were selected to ensure the ad was published locally, regionally and province-wide. A copy of the ad can be found in Appendix E.

### **Attendance**

According to the sign-in sheet, 127 individuals attended POH #1, including local residents, property owners, business owners, interested members of the public, and several members of the PLFN community. A separate Open House was held with PLFN on August 27, 2019 and is discussed in Section 5.

### **Information Provided**

Table 4.3-2 outlines the information presented at POH #1 on display panels organized by Station. Appendix E provides a copy of the display panels.

**Table 4.3-2 Information Presented at POH #1**

Station	Overview	Information Presented
1	Welcome and Background	<ul style="list-style-type: none"> <li>• Purpose of the event and the process for submitting comments</li> <li>• Background information on the Project</li> <li>• Overview of the Project and timelines</li> <li>• What work has been completed to date</li> <li>• Pilot and bench scale testing, Consultation, and EIA documentation</li> <li>• Other materials: POH #1 Handouts, Pilot Scale Testing Infographic, EIS Guidelines, Project Description, Baseline Study Booklets</li> </ul>
2	Consultation, Engagement and Government	<ul style="list-style-type: none"> <li>• Consultation: PLFN and Public consultation and involvement to date</li> <li>• How does government play a role? Canadian Environmental Assessment Agency, NSLI, federal and provincial agencies</li> </ul>
3	Project Overview and EIA Process	<ul style="list-style-type: none"> <li>• What needs to be done and what has taken place?</li> <li>• Scientific and technical planning, regulatory phase, cleanup phase</li> <li>• The EIA Process</li> </ul>
4	Remedial Approach	<ul style="list-style-type: none"> <li>• Areas of Environmental Impact</li> <li>• Contamination Sampling</li> <li>• Pilot Scale Testing</li> <li>• Baseline Studies</li> <li>• How the decisions are made</li> <li>• Possible and proposed solutions for components of remediation</li> </ul>
5	Wrap Up	<ul style="list-style-type: none"> <li>• What's next and submitting comments</li> </ul>

#### 4.3.2.2 Public Open House #2

##### *Purpose*

The purpose of POH #2 was to provide public members with an opportunity to review information, ask questions, seek clarification, and provide comments to the Project Team (i.e., NSLI and GHD) on the following topics:

- Project Components and Activities
- Valued Components
- Impact Assessment and Proposed Mitigation Measures
- Accidents and Malfunctions
- Effects of the Environment on the Project
- Cumulative Effects Assessments
- Follow-up and Monitoring Programs

Section 4.4.1.1 summarizes the issues raised.

##### *Date, Time, Location*

POH #2 was held on Tuesday, December 10, 2019 from 4:00 p.m. to 8:00 p.m. at the same location as POH #1. NSLI promoted POH #2 with community signs located outside the venue, 1 week ahead of the event.

##### *Notification*

##### *Facebook*

A Facebook event was created and was made public on the Nova Scotia Government Facebook page, which at the time had 36,140 followers. Facebook ads ran from November 27 to December 10, 2019 and were targeted to Facebook members within 40 km of New Glasgow. Each individual the ad reached was served the event ad approximately 3.7 times. Facebook engagements, defined as the number of interactions people have with content, are as follows:

**Table 4.3-3 Engagements with Facebook Ad for POH #2**

Engagement Type	Number
Post Comments	45
Post Shares	126
Link Clicks	760
Post Reactions	164
Event Responses	163
Total Engagements	1258

*Radio*

Between December 4 and December 10, 2019 commercials ran on radio stations in and around New Glasgow. There were 20 commercials that ran on CKEC and 20 commercials that ran on CKEZ. The ads ran on the same schedule on both stations:

- December 4 - 9, 2019 | Three spots (each day) airing between 8:30 a.m. – 8:00 p.m.
- December 10, 2019 | Two spots airing between 8:30 a.m. – 3:00 p.m.

*Print*

Print ads were placed in in the following papers.

- Pictou Advocate | November 27 and December 4, 2019
- New Glasgow News | November 28 and December 5, 2019
- Chronicle Herald | December 7, 2019

**Attendance**

According to the sign-in sheet, 53 individuals attended POH #2, including local residents, property owners, business owners, interested members of the public, and several members of the PLFN community. A separate Open House was held with PLFN on December 9, 2019 and is detailed in Section 5.

**Information Provided**

Table 4.3-4 outlines the information presented at POH #2 on display panels, which like POH #1, were organized by Station. Appendix F provides a copy of the display panels.

**Table 4.3-4 Information Presented at POH #2**

Station	Station Overview	Information Presented
1	Welcome and Background	<ul style="list-style-type: none"> <li>• Welcome (title, date, time, photos)</li> <li>• Purpose of the event and the process for submitting comments</li> <li>• Background information on the Project</li> <li>• Overview of the Project and timelines</li> <li>• What's been done to date</li> <li>• Other materials: POH #2 Handouts, Pilot Scale Testing Infographic on Pilot Scale, POH #1 Summary Report, EIS Guidelines, Project Description, Baseline Study Booklets</li> </ul>
2	Project Components and Activities  Valued Components	<ul style="list-style-type: none"> <li>• Areas for Remediation</li> <li>• Water Management</li> <li>• Waste Management</li> <li>• Renderings of containment cell</li> <li>• Infrastructure</li> <li>• Valued Components</li> <li>• Other materials: containment cell infographic</li> </ul>

**Table 4.3-4 Information Presented at POH #2**

Station	Station Overview	Information Presented
3	Impact Assessment	<ul style="list-style-type: none"> <li>• Remediation (mitigation measures and residual effects)</li> <li>• Bridge and Infrastructure Decommissioning (mitigation measures and residual effects)</li> <li>• Waste Management (mitigation measures and residual effects)</li> <li>• Accidents and Malfunctions</li> <li>• Effects of Environment on the Project</li> <li>• Cumulative Effects Assessment</li> </ul>
4	Monitoring and Wrap Up	<ul style="list-style-type: none"> <li>• Proposed Follow-up and Monitoring Programs</li> <li>• What's included in the EIS</li> <li>• Next steps</li> </ul>

#### **4.3.3 IAAC's Public Notice to Invite Comments on EIS**

IAAC will post a Public Notice on the Canadian Impact Assessment Registry (website) inviting the public to comment on the potential environmental effects of the project and the proposed measures to prevent or mitigate those effects as described in a summary of the proponent's Environmental Impact Statement.

#### **4.3.4 Agency Consultation**

The purpose of the regulatory consultation is to provide a forum for in-depth discussions of Project issues with agencies having regulatory authority. The primary avenues for consultation with regulatory agencies include BHEAC meetings and government agency working group sessions (known as IAAC/Technical Advisory Committee (TAC) meetings). Consultation with federal and provincial agencies has been ongoing since 2014.

##### ***Agency Consultation Prior to CEA Agency/IAAC Notice of Determination***

Consultation that occurred with agencies prior to CEA Agency/IAAC Notice of Determination of Requirement for Federal Environmental Assessment included Agency Workshops that were held on August 25, 2017 and December 6, 2017 with representatives from the following agencies:

- Nova Scotia Office of Aboriginal Affairs
- Department of Indigenous Services Canada
- Fisheries and Oceans Canada
- Canadian Environmental Assessment Agency
- Environment and Climate Change Canada
- Nova Scotia Environment
- Nova Scotia Transportation and Infrastructure Renewal
- Nova Scotia Department of Lands and Forestry
- Transport Canada

- Health Canada

Topics discussed included preparing a Project Description for determination of environmental assessment process(es) applicable to the remediation of Boat Harbour, and Mi'kmaq consultation and engagement. Information from the Regulatory Workshops was incorporated into EIA planning process for the Project.

Additional meetings with agencies prior to the Notice of Determination of Requirement for Federal Environmental Assessment occurred on an as required basis. One meeting of relevance to the environmental assessment process was held on July 25, 2017. The purpose of the meeting was to determine the preliminary scope of the EIA based on preliminary project design. An outline of biological interactions with proposed project activities, human health considerations, and assessments that may be required were discussed.

### ***Agency Consultation During the EIA***

#### ***IAAC/TAC Meetings***

Discussions with IAAC subsequent to the Notice of Determination of Requirement for Federal Environmental Assessment took place to establish the IAAC/TAC and to set-up future IAAC/TAC meetings. A summary of the meetings with the IAAC/TAC that took place throughout 2019 and early 2020 are provided in Table 4.3-5. The purpose of these meetings was to provide agencies with regular Project updates as the project progressed through the EIA.

PLFN was invited to all IAAC/TAC meetings. See Section 5.3.2.7 for further discussion on PLFN's involvement in these meetings.

**Table 4.3-5 IAAC/TAC Meetings**

Date	Topic	Summary
June 14, 2019	<ul style="list-style-type: none"> <li>• Baseline Data Collection, Consultation</li> </ul>	<ul style="list-style-type: none"> <li>• Review of existing and historical baseline data requirements</li> <li>• Review of process expectations so it can be conducted and reported on in a timely manner</li> </ul>
September 25, 2019	<ul style="list-style-type: none"> <li>• Impact Assessment Methodology</li> </ul>	<ul style="list-style-type: none"> <li>• Review of additional baseline data collected, discussion with agency in terms of review parameters, questions, any further information required for effective analysis</li> <li>• Review of Impact Assessment Methodology, including VCs, boundaries, significance determination criteria, cumulative effects</li> </ul>
December 11, 2019	<ul style="list-style-type: none"> <li>• Preliminary Results of the Impact Assessment, Cumulative Effects Assessment, Monitoring, Consultation and EIS Submission Schedule</li> </ul>	<ul style="list-style-type: none"> <li>• Provide an update on the preliminary assessment results, review any gaps in analysis and thus data required, review engagement process with public and PLFN</li> </ul>

**Table 4.3-5 IAAC/TAC Meetings**

Date	Topic	Summary
February 19, 2020	<ul style="list-style-type: none"> <li>Review of the Draft EIS</li> </ul>	<ul style="list-style-type: none"> <li>Walk through the Draft EIS and provide an avenue for proactive dialogue in order to augment/alter the Draft prior to Final submission</li> </ul>

*Additional Agency Meetings*

An additional meeting of interest to the EIS was held on November 26, 2019 with IAAC, Health Canada and PLFN to discuss comments from Health Canada on the Human Health and Ecological Risk Assessment (HHERA) for the BHRP. Further information on the HHERA and PLFN involvement is included in Section 5 of this EIS.

Appendix G includes all agency Meeting Minutes.

**4.3.5 Consultation with Local Organizations**

Prior to the Notice of Determination of Requirement for Federal Environmental Assessment, NSLI carried out informal consultation with local organizations. A summary of these meetings is provided for context on preliminary consultation and outreach, as members of these organizations were invited through general means to the two POH events.

*Northern Pulp Workforce and Northern Pulp Executive Meetings*

The Northern Pulp Workforce meetings were held in 2016 for management and employees of Northern Pulp. The purpose of the meetings was to explain the basics of the BHRP and to position the planning process in the context of the site characterization, the approach to the remediation at the time as well as the remediation objectives. Following a presentation at each meeting, there was an opportunity for the attendees to ask questions of the Project Team members.

The Northern Pulp Executive Meetings were held on a semi-regular basis from April 2018 through pilot testing with senior executives of Northern Pulp and the Boat Harbour Effluent Treatment Facility (BHETF) management. The purpose of these meetings was to coordinate planning activities, including pilot scale testing, to ensure that ongoing operations of the facility were not impacted by planning activities, and to ensure effectiveness in implementing health and safety and environmental management plans.

*Environmental Services Association Maritimes*

A meeting and Site tour was held on October 6, 2017 to brief industry association representatives on Project plans and schedules and to provide general information on upcoming Project procurement requirements.

*Northumberland Fisherman's Association*

On December 12, 2016, NSLI was contacted by a representative of the Northumberland Fisherman's Association requesting a Project update. In response, NSLI met with the Association and provided a Project update. At that point in time, discussions focused on the planning process and the Project objective of an effective cleanup with the outcome of returning Boat Harbour to a



tidal estuary. As well, it was emphasized that in order to do so the Project would be required to be in compliance with the federal *Fisheries Act*. A written summary and a briefing to the Association Board of Directors, to be provided at the Association's request and convenience, was offered. The Association has not requested any additional information.

The Nova Scotia Department of Fisheries and Aquaculture, Coastal Secretariat, asked that the Project team prepare a Project Overview for distribution to their industry stakeholders. The Project Overview provided to them in April 2017 is provided in Appendix H. Other representatives of the Northumberland Fishermen's Association attended the public meetings in 2018 and actively participated in the meeting discussions.

#### **4.3.6 Boat Harbour Environmental Advisory Committee**

The BHEAC deals with the Project's strategies and plans from science, technology and legal perspectives and informs the decision-makers and collaborators. The Committee advises the Project Team on the full scope of scientific and regulatory matters including project boundaries; advises on development of an environmental management plan and environmental effects plan; bridges discussions between PLFN, Project managers, Project consultant resources, regulators, scientists, academic advisors and Aboriginal Affairs subject matter specialists; and, provides peer review of TOR and reports from work plans, assessments, studies, frameworks and other scientific data generated by the Project.

Some of the studies, reports and presentations arising out of the Committee, which have informed the EIA, include the following:

- A test of the ability of pre-industrial Boat Harbour sediment to support growth and survival of marine grasses
- Presentation and report on baseline contaminants in local lobster
- Marine and wetland sampling
- Presentation on Two-Eyed Seeing from Alanna Sylliboy of the Mi'kmaq Conservation Group
- Environmental assessment of the bulk geochemistry and water quality of Sitmu'k (Lighthouse Beach Lagoon, near PLFN)
- Report on the State of Science and Policy on Cumulative Risk Assessment as it pertains to Chronic Stress
- Monthly updates from the Planning and Design Consultant
- Presentations on the independent air monitoring program
- Handout and presentation comparing on-site and off-site containment options
- Report and presentation on fish surveys in Boat Harbour

## 4.4 Consideration of Key Issues Raised

### 4.4.1 Issues Raised and Proponent Responses

Public stakeholders were invited to submit comments directly through the Project website, via email to the specified Project email ([boatharbour@novascotia.ca](mailto:boatharbour@novascotia.ca)), or via mail to the NSLI office (PO Box 397, Station Central, Halifax, Nova Scotia, B3J 2P8). The Project email was maintained during the preparation of the EIA as a means for individuals interested in the Project to get in contact with a member of the Project Team or submit comments to be included in the EIS. The key issues raised and NSLI' responses are presented below.

#### 4.4.1.1 Public Open House #1

There were 20 comment forms submitted by members of the public at POH #1, in addition to numerous engaging discussions between the Project Team and attendees that took place during the POH itself. Project Team members recorded notes from the verbal conversations that took place. The written comments provided, which are summarized in Table 4.4-1 along with the responses provided by NSLI, capture the overall basis of the topics raised during POH #1. Hardcopies of individual Comment Sheets from POH #1 can be found in Appendix H. Consideration of these comments and how they were considered during the EIA is described in Section 4.4.2.

**Table 4.4-1 Comment and Responses from POH #1**

Public Comment	Response from NSLI
<b>General Comments</b>	
I am encouraged with the information I saw here and with the knowledge of the presenters. It is a complex cleanup. I am looking forward to a clean Boat Harbour which was a beautiful lagoon.	Thank you for providing your feedback.
Will this plan be needed again in 50 years to cleanup the Strait from Amherst to Cape George?	The scope of the Boat Harbour Remediation Project is the Boat Harbour Effluent Treatment Facility (BHETF) and its environs. The sampling and monitoring program undertaken for the Boat Harbour Remediation Project has demonstrated that contaminated sediment from the BHETF is contained within the active and former BHETF including the estuary. There is currently no plan to cleanup the Strait from Amherst to Cape George as this area is not impacted by the BHETF.
Boat Harbour is a good thing. Clean up is essential to the communities surrounding it. It must be cleaned up. It cannot be left laying there. Thank you.	Thank you for providing your feedback.
What is the treatment process tested during pilot scale?	The pilot scale test work involved assessment of the efficiency and effectiveness of water-based and land-based dredging in removal of the sludge off the bottom of Boat Harbour; the effectiveness of Geotubes® or equivalent technology in dewatering, containing and consolidation of waste; bulk water treatment technologies for the water in Boat Harbour; and treatment

**Table 4.4-1 Comment and Responses from POH #1**

Public Comment	Response from NSLI
	<p>technologies for the dewatered effluent from the Geotubes® or equivalent technology.</p> <p>The water-based dredging appears to be the most effective method of sludge removal off the bottom of Boat Harbour. The Geotubes® or equivalent technology performed effectively in dewatering, containing and consolidating waste. For water management, a precipitation, coagulation, and adsorption-based process is the most likely treatment method. Coagulation and flocculation (clarification) involve the addition of polymers that conglomerate the small, destabilized particles together into larger particles such that they can be more easily separated from the water. The addition of lime, as well as polymers, will help contaminants settle out. The treatment process was tested and optimized through pilot scale testing.</p>
<p>Who now owns the Lighthouse Beach? Since ownership of approx. 90 percent of this once beautiful beach was in my family until the early 1970s, given up with the promise by the government that it would be placed with, protected and conserved the then Department of Conservation, I would be interested to know ownership remains with them.</p>	<p>The Lighthouse Beach is currently divided into three parcels of land. The parcel at the outer end of the beach at the lighthouse is owned by Nova Scotia Transportation and Infrastructure Renewal; the middle of the beach parcel is also owned by Nova Scotia Transportation and Infrastructure Renewal; and the parcel closest to Pictou Landing First Nation is owned by Indigenous Services Canada, so it is federal Crown land.</p>
<p><b>Primary Topic: Containment Cell</b></p>	
<p>Concerns on the long-term containment of the Geotubes® or equivalent technology. The plan is to build on the existing area. With the added weight over time, will there be a threat to water table under Pictou Landing (Moodie Cove)?</p>	<p>The Geotubes® or equivalent technology are used as a tool to remove the water from the sludge and help consolidate the sludge. Prior to placing the Geotubes® or equivalent technology in the containment cell, the base liner and leachate collection system will be modified to improve the level of groundwater protection and facilitate rapid removal of dewatering effluent and leachate generated post-closure. These components together with the existing liner system will reduce risk to the water table beneath the containment cell. Groundwater near the containment cell flows towards Boat Harbour. Routine monitoring of the groundwater around the containment cell and around the existing BHETF has shown that the containment cell is performing effectively. Additional studies are being completed to document the groundwater flow around the containment cell and to develop a groundwater and surface water monitoring program for the long-term use of the containment cell. These measures combined will ensure that the groundwater surrounding Boat Harbour (including under Pictou Landing and Moodie Cove) are not impacted by</p>

**Table 4.4-1 Comment and Responses from POH #1**

Public Comment	Response from NSLI
	<p>the operation and long-term management of waste within the containment cell.</p> <p>As noted, once remediation is complete, a long-term maintenance and monitoring program will be implemented with appropriate reporting to regulators. Risks associated with the integrity of the containment cell will be actively and continually monitored in accordance with an established environmental monitoring plan.</p>
<p>Shut it down on time and ship all the sludge to Lunenburg municipality and also Inverness municipality.</p>	<p>The proposed solution is to use the existing containment cell onsite as it is the only one in Nova Scotia that is approved to hold the sludge from Boat Harbour. As a result, it will not be moved to another municipality within Nova Scotia.</p>
<p>Honour the closure of Boat Harbour. Still it has to be stored on site (sludge) and monitored forever (not good).</p>	<p>Thank you for providing your feedback on honour of the closure of Boat Harbour. Please see the responses above regarding the concern about storage and monitoring of sludge contaminants.</p>
<p>I am very pleased that Boat Harbour is going to be cleaned up and brought back to the tidal estuary that it once was. My main concern is the containment cell on site. How will this be in the long-term future of the area?</p>	<p>The proposed solution is to use the existing containment cell onsite. A containment cell is an engineered and proven way to ensure contaminants stay in a confined area. This technique is now used around the world for managing waste long-term. Proven technology ensures its efficacy and that it can be properly monitored.</p> <p>The existing containment cell will hold the waste securely, in a manner protective of human health and the environment. The existing liner and containment structures are effective in preventing contaminants from spreading into the ground, groundwater and surface water. This has been proven through routine monitoring programs required by Nova Scotia Environment. In addition, this was validated during GHD's site assessment.</p> <p>The existing containment cell will be refurbished with a new base liner. A leachate collection system will be added. These steps will result in a sound and safe solution for the containment of the waste long-term. Once remediation is complete, long-term maintenance and monitoring will be conducted and reported to regulators in accordance with a regulatory approved environmental management plan.</p>
<p><b>Primary Topic: Cost</b></p>	
<p>It was informative but still not enough information to evaluate the total cost of the Project.</p>	<p>The amount set aside to recognize liability for the cleanup is currently about \$252 million. This liability has been established based on the information we have available and the best measurement of related costs at a point in time. This liability is expected to change as further information is known and evaluated.</p>
<p>Very informative, spoke to NSLI and GHD. They seem to have their plans well in hand. Boat Harbour must close</p>	<p>The funding set aside to recognize liability for the cleanup, as noted in the response to Comment Sheet #9,</p>

**Table 4.4-1 Comment and Responses from POH #1**

Public Comment	Response from NSLI
<p>on time even if the EIA is not complete. Funds must be provided for future monitoring of the sludge. Honour the <i>Boat Harbour Act</i>. Thank you.</p>	<p>includes post-closure maintenance and monitoring for a period of 25 years.</p>
<p>Very thorough information. Hopefully the Harbour can be restored to a fully functioning ecosystem. We must trust the best science and best engineering to get this right. What is the cost?</p>	<p>We are committed to restoring Boat Harbour as effectively and efficiently as possible and ensuring it can be used by the community for generations to come. Project plans are subject to rigorous public, regulatory and technical reviews, including science academic advisors from four Nova Scotia universities.</p> <p>For the issue of cost, please refer to the responses to Comment Sheets 9 and 10.</p>
<p><b>Primary Topic: Environmental Safety</b></p>	
<p>I am very concerned about the impact of dredging up the toxic sludge will have on the environment and groundwater. I am skeptical it will be cleaned up to human/animal safe levels of environmental sustainability. I am hoping for the best, please don't let this community down.</p>	<p>The sludge and sediment will be removed from the infrastructure, freshwater wetlands and Boat Harbour in a manner and to regulatory criteria that are protective of human and ecological health. This will be an important consideration during dredging. A rigorous sampling program will be completed during remediation to ensure that the cleanup levels required by the regulators are actually achieved.</p> <p>All aspects of the Project are subject to rigorous regulatory, technical and scientific review. Aside from these reviews, the environmental assessment process also provides for substantive public input on developing final Project plans.</p>
<p><b>Primary Topic: Odour</b></p>	
<p>Currently, the odours from Boat Harbour overnight force us to close windows or get sick. Summertime with high temperatures makes it difficult without open windows. Will this get worse?</p>	<p>The odour experienced is likely emanating from a combination of sources including industries operating in the area and the existing treatment facility. Once the BHETF stops receiving effluent from the Mill, the odour is expected to reduce. Once remediation is complete, odours from the site are expected to be drastically reduced or eliminated completely. Further studies will be completed on this topic during the next stage of the EIA and at the next Public Open House.</p>
<p><b>Primary Topic: Pipeline Removal</b></p>	
<p>We have 2700 feet of pipeline on our property. When Boat Harbour closes down, what will happen to the pipeline?</p>	<p>Following closure, the pipeline and associated infrastructure will be decommissioned. There are three possible solutions to the decommissioning of the pipeline on land being considered:</p> <ol style="list-style-type: none"> <li>1. Clean, inspect, plug and abandon in place</li> <li>2. Clean, fill and abandon in place</li> <li>3. Complete removal</li> </ol> <p>When the pipe is no longer in use, additional investigation is needed along the pipeline corridor to determine if there is any contamination in the surrounding soils. The entire pipeline will be included in this investigation.</p>

**Table 4.4-1 Comment and Responses from POH #1**

Public Comment	Response from NSLI
	<p>For the section of the pipeline between the East River and Highway 348, we are in consultation with PLFN since a portion of the pipeline runs through an old burial ground. Once this consultation is complete, the final solution will be determined for this section of the pipeline. The portion of the pipeline running beneath Highway 348 may be capped and remain in place or there is the potential it will be removed. This is a project component to be determined.</p>
<p>All pipes should be removed. Alternative 3 - complete removal.</p>	<p>Refer to the response above. All three proposed solutions are being evaluated.</p>
<p>Issue: Pipeline where it enters the East River on the Abercrombie side has "concrete weight" on top of the pipeline to seemingly hold the pipe in place. From a recreational boater point of view, these concrete weights pose a hazard to boaters which if left there for the long-term should be removed.</p>	<p>The proposed solution is that the pipeline under the East River will be decommissioned, cleaned, inspected, plugged, and abandoned in place. This has been determined as the most protective of the aquatic environment.</p> <p>The necessity of "concrete weight" to remain in place will be evaluated to ensure the safety of the aquatic environment.</p>
<p>Land-based and water-based pipe remediation - consider complete removal as the Project has the funds available to complete this work now. Leaving in place should not be considered.</p>	<p>Following closure of the pipeline to effluent, the pipeline and associated infrastructure will be decommissioned. There are three possible solutions to the decommissioning of the pipeline on land currently being considered:</p> <ol style="list-style-type: none"> <li>1. Clean, inspect, plug and abandon in place</li> <li>2. Clean, fill and abandon in place</li> <li>3. Complete removal</li> </ol> <p>The proposed solution for the pipeline under the East River is that it will be decommissioned, cleaned, inspected, plugged and abandoned in place. This has been determined as being the most protective of the aquatic environment.</p> <p>When the pipe is no longer in use, additional investigation is needed along the pipeline corridor to determine if there is any contamination in the surrounding soils. The entire pipeline will be included in this investigation.</p> <p>In addition, we are in consultation with PLFN since a portion of the pipeline runs through an old burial ground. Once this is complete, the final solution can be best evaluated.</p>

**4.4.1.2 Public Open House #2**

No comment forms were submitted by members of the public at POH #2; however, many engaging discussions took place between the Project Team and attendees during the event. Project Team members recorded notes from the verbal conversations that took place.

The table below summarizes verbal questions asked during POH #2 and responses from NSLI. The table is a compilation and summary; in some cases, more than one person asked the same question, or one attendee may have asked the same question to more than one Project Team Member. The comments and responses captured below give an overall picture of the topics raised during the open house. Two questions received later via email are also included.

**Table 4.4-2 Comment and Responses from POH #2**

Public Comment	Response from NSLI
Containment Cell: Participants asked several questions about the containment cell, including: <ul style="list-style-type: none"> <li>• What kind of liner will the cell have?</li> <li>• How will runoff water be treated?</li> <li>• Why must the waste be kept in an onsite cell?</li> <li>• Can power lines to the cell be buried underground?</li> </ul>	NSLI prepared an infographic on the containment cell to answer questions about the construction, use and long-term maintenance of the cell. Copies were available at POH #2. The infographic is included in Appendix F of this report.
What will happen to the wetlands near Boat Harbour?	The wetlands will be remediated, and contamination removed. Work is still being done to determine the scope of remediation needed in the wetlands.
Will stakeholders have to worry about vibrations from hitting bedrock?	No, we will not be excavating to bedrock.
How will you prevent clean areas in Boat Harbour from re-contamination?	Double silt curtains will be used to isolate areas within Boat Harbour, so contaminants do not leak into already-cleaned areas.
Will groundwater be protected?	We have tested groundwater at different points in the pre-remediation process and there are no signs of contamination. Best practices will be in place to ensure groundwater remains clean.
Will the cleanup increase the smell around Boat Harbour?	An independent air monitoring program was in place throughout the pilot testing and there were no increase in contaminants or odours in the air during pilot testing. Air monitoring reports are available on the <a href="http://novascotia.ca/boatharbour">novascotia.ca/boatharbour</a> website. Air monitoring will continue throughout full-scale remediation.
When will full remediation begin and how long will it take?	Full-scale work can't begin until NSLI has an environmental approval from the federal regulators. It is anticipated this could happen by spring 2021 and remediation work could begin in late 2021. Remediation is expected to take 4-7 years.
Who will own the property that currently makes up the BHETF once cleanup is complete?	In 1996, the provincial government issued an Order in Council that BHETF property would be transferred to PLFN after remediation is complete.
Will there be more mosquitoes around Boat Harbour after it is returned to tidal after cleanup?	Returning Boat Harbour to a tidal, salt-water estuary may reduce the presence of mosquitoes.
Who did the archaeology work around Boat Harbour?	CRM and Boreas Heritage Consulting.

**Table 4.4-2 Comment and Responses from POH #2**

Public Comment	Response from NSLI
How will the land be used after remediation? Heard that a seniors' complex would be built along the shoreline.	PLFN is developing a future land use plan, with support from NSLI. Those decisions on future site use are still to come.
When Boat Harbour returns to tidal, will it have an impact on the volumes of sand along nearby shores?	Part of the work still outstanding for the Environmental Impact Assessment submission is transport modelling. This will predict where materials will be carried (accumulated and/or eroded) by tidal activities in and around the site after tidal conditions are returned. We do not know the results yet but will include the results in the Final EIS submission.
Is there a fixed budget to complete the work? What happens if the government changes?	The liability for Boat Harbour remediation is updated as accurately as possible, as new information is received. The current estimate is about \$250 million. The federal government has committed \$100 million and the Province of Nova Scotia will cover the rest. We are committed to restoring Boat Harbour as effectively and efficiently as possible and ensuring it can be used by the community for generations to come.
<i>Received via email:</i> I am wondering if the aerators will continue to be used in Boat Harbour after January 31, 2020.	A site decommissioning plan and an associated management plan are currently being developed.
<i>Received via email:</i> Can the project include a small boat launch site on the cleaned-up Boat Harbour? This body of water has received huge publicity over the last few years or decades, which will increase as the clean-up proceeds and the estuary's environment recovers.	A post-remediation land-use plan is being developed. Boat Harbour and the surrounding lands will be returned to the possession of PLFN, and the community will make final decisions around future site use.

Consideration of these comments and how they were considered during the EIA is described in Section 4.4.2.

#### **4.4.2 Summary of Key Project-Related Issues Raised and their Consideration**

NSLI considered the comments received and provided responses to address the concerns. With this in mind, the comments received, and issues raised and how they have been considered by NSLI during the EIA are summarized below.

##### *Containment Cell*

In response to the public and PLFN concerns relating to the sludge disposal cell, including the effectiveness and the longevity of the containment cell to contain the waste placed in it, as the Project progresses, NSLI will continue to engage with stakeholders on the topic of the containment cell. At this stage, to address concerns raised about the longevity and effectiveness of the containment cell, NSLI has designed an improved base liner system that will reduce the potential for



leachate to migrate through the liner to the groundwater and has modelled the effectiveness of the liner. In addition, NSLI will:

- Ensure that the liner is installed and tested in accordance with best practices using quality control and assurance procedures
- Develop a groundwater and surface water monitoring program to monitor the effectiveness of the containment cell during and post-closure of the modified cell
- Implement a long-term post-closure monitoring and care program for the containment cell to ensure its integrity, and make available the groundwater and surface water monitoring program and the long-term post-closure monitoring reports through the Project's website

### *Odour*

Remediation activities will result in a major improvement of air quality and odour at the Site. However, in response to the concerns about odour, mitigation measures have been proposed to limit any potential odours during remediation activities, which include, but, are not limited to

- Minimize potential odour emissions by properly covering the dredged sediment to reduce the exposed area and the potential odour emissions during transportation of the dredged material
- Implement Geotube® or equivalent technology enclosures
- Minimize the size/extent of open faces of the containment cell that have potential to emit odours or other contaminants

To ensure the above mitigation measures are successful in addressing an odour issues, air quality and odour monitoring will continue at the Site during the remediation activities.

### *Pipeline Decommissioning*

As noted in the table above there are three possible solutions for the decommissioning of the pipeline on land that are being considered:

1. Clean, inspect, plug, and abandon in place
2. Clean, fill, and abandon in place
3. Complete removal

The proposed solution for the pipeline under the East River is that it will be decommissioned, cleaned, inspected, plugged, and abandoned in place. This has been determined as being the most protective of the aquatic environment.

Based on the desire of PLFN, the pipeline will be removed in the area near the Mi'kmaq burial ground between Indian Cross Point and Highway 348. The portion of the on-land pipeline that goes under Highway 348 will be filled with concrete and left in place. The rest of the on-land pipeline would be decommissioned and abandoned in place. Additional investigation will occur along the entire pipeline corridor to determine if there is any contamination in the surrounding soils, which will confirm the proposed approach for decommissioning the pipeline. Due to the intrusive nature of the additional investigation, it must occur once the pipeline is no longer in use.

### *Environmental Safety*

Concerns around long-term safety and monitoring of the environment will be addressed through a long-term monitoring program. As part of the monitoring programs, sampling results and regular updates will be made available on the Project's website.

The objectives of the proposed monitoring programs that have been developed and outlined in Section 9 are to ensure that the necessary measures and environmental controls are implemented in order to decrease the likelihood for environmental degradation during all phases of the Project and to provide clearly defined action plans and emergency response procedures to account for human and environmental health and safety.

The details/methodology of monitoring programs presented in Section 9 will be finalized following discussions with regulators, public stakeholders, and PLFN. Furthermore, as the Project progresses through detailed design, permitting and approvals, and implementation, the methodology for each program will be documented and adjusted as necessary, following an adaptive management approach.

The results of the monitoring programs will be documented and where appropriate, summaries of compliance and effects monitoring programs will be made available in a timely manner on the NSLI Boat Harbour Remediation website: <https://novascotia.ca/boatharbour/monitoring>.

## **4.5 Addressing Outstanding Issues and Ongoing Engagement and Consultation**

All comments received by NSLI to date have been addressed as part of the Draft EIA.

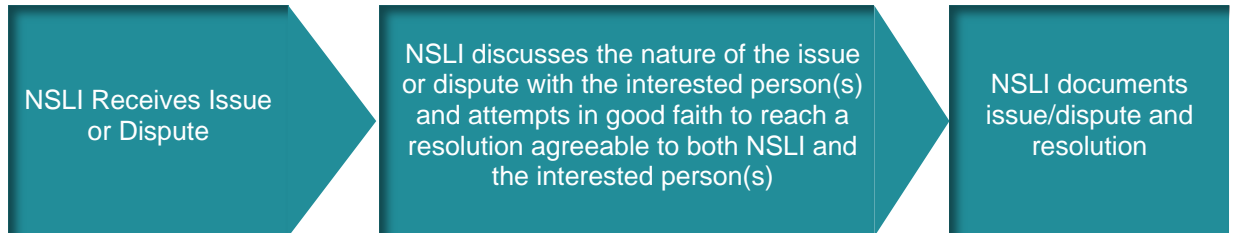
The Project as outlined in this document reflects the preferred approach and has been carried through the EIA process. Ongoing discussions with many parties through the Draft EIA process will potentially result in additional concerns and issues being raised. NSLI seeks to create a Project with maximum benefits and minimize negative impacts and so remains open to addressing issues that arise. Structured dialogue is occurring under the guidance of the Agency through the EIA process and will continue until a final decision on the Project is received by NSLI from the Agency.

With the above in mind, and subject to approval being received by the federal Minister of Environment and Climate Change, NSLI is proposing to continue engagement and consultation during subsequent stages of the Project to present follow-up and monitoring results.

### ***Compliant Protocol and Issues Resolution Strategy***

In addition to the ongoing consultation, a formal complaint protocol will be set-up prior to commencement of any construction activities. The protocol will set out provisions for dealing with and responding to complaints during all phases of the Project. The protocol will outline how members of the public can submit a complaint and the steps that will be taken to address the complaint. All complaints will be reviewed annually, summarized and reported on the Project's website.

NSLI will implement an issues resolution strategy in order to ensure that issues are effectively and appropriately addressed and resolved. In the event that a mutually agreeable resolution does not occur, NSLI will refer the matter to IAAC. The following summarizes the issue or dispute process that will be followed by NSLI:





# **Environmental Impact Statement**

## **Section 5 | Engagement with the Mi'kmaq of Nova Scotia and Concerns Raised**

Boat Harbour Remediation Project  
Pictou Landing, Nova Scotia

Nova Scotia Lands Inc.

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## 5. Engagement with the Mi'kmaq of Nova Scotia and Concerns Raised

### *Introduction and Overview*

Nova Scotia Lands Inc. (NSLI, the Proponent) has demonstrated a significant history of engagement, participation and consultation, both formal and informal, prior to the initiation of the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) process in early 2019 for the Boat Harbour Remediation Project (BHRP or Project). Using key values of openness, transparency, collaboration and respect, NSLI has consulted with a number of stakeholders since the launch of the Project in 2014 including the Mi'kmaq of Nova Scotia (Pictou Landing First Nation [PLFN]). The Made-in-Nova Scotia Process is the forum for the Mi'kmaq, Nova Scotia, and Canada to resolve issues related to Mi'kmaq treaty rights, Aboriginal rights, including Aboriginal title and Mi'kmaq rights; and therefore, has provided a framework for dialogue prior to the Environmental Impact Statement (EIS) Guidelines being issued, which provided additional direction. Consultation with the Mi'kmaq of Nova Scotia is documented in this Section while consultation with regulators and public stakeholders is described in Section 4.

Consultation undertaken prior to the commencement of the Environmental Impact Assessment (EIA), which was formally announced on April 10, 2019 by the Canadian Environmental Assessment Agency (CEA Agency) (now known as the Impact Assessment Agency of Canada [IAAC]), was used to inform the details of the Project in the early planning stages and to shape the engagement and consultation process for the EIA. The Notice of Environmental Assessment Determination that a federal environment assessment is required was issued on February 22, 2019 and the subsequent Notice of Commencement of an Environmental Assessment was issued on April 10, 2019. Consultation during the EIA was conducted in accordance with the federal EIA requirements and the final EIS Guidelines issued by IAAC on May 31, 2019.

In addition to the federal government's duty to consult with Indigenous Peoples, CEAA 2012<sup>1</sup> requires that CEA Agency consults with Indigenous People during environmental assessments and ensures Aboriginal traditional knowledge is considered. As stated in *IAAC's Interim Guidance: Indigenous Participation in Impact Assessment* (last modified December 6, 2019), the integration of Indigenous participation into EIAs supports the government's commitment to reconciliation through promoting effective and meaningful participation with Indigenous Peoples during the assessment process<sup>2</sup>. While the government's duty to consult cannot be delegated to proponents, procedural aspects can be delegated. The information gathered by the Proponent during its engagement with Indigenous Peoples helps to contribute to the Crown's understanding of any potential adverse impacts of the Project on potential or established Aboriginal or treaty rights, title and related interests, and the effectiveness of measures proposed to avoid or minimize those impacts.

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<sup>1</sup> As of August 28, 2019, CEAA 2012 has been repealed and replaced with the *Impact Assessment Act (IAA)*, 2019, however as per the transitional provisions of the *IAA*, projects that commenced before the *IAA* came into force will continue under CEAA 2012, unless a proponent requests to transition their proposed project under the *IAA*.

<sup>2</sup> Impact Assessment Agency of Canada. 2019. *IAAC's Interim Guidance: Indigenous Participation in Impact Assessment*. Retrieved from <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/interim-guidance-indigenous-participation-ia.html>

The process involves the Mi'kmaq of Nova Scotia as represented by the Assembly of Nova Scotia Mi'kmaq Chiefs and the provincial and federal governments. Both the federal and provincial governments have requirements for consultation under the Updated Guidelines for Federal Officials to Fulfill the Duty to Consult: 2011, and the Mi'kmaq-Nova Scotia-Canada Consultation Terms of Reference (TOR).

As per the draft EIS Guidelines and prior to issuance of the final EIS Guidelines, extensive engagement was completed. NSLI undertook significant engagement and participation of, and informal and formal consultation with, PLFN with respect to the inception of Project planning and wide-ranging discussions as planning proceeded over the period prior to the formal involvement in the federal EIA process. Early engagement allowed for contributions by the Mi'kmaq of Nova Scotia as Project planning unfolded.

As part of planning the Project, including preparation of the EIS, engagement continued with NSLI and the Mi'kmaq of Nova Scotia. Table 5.1-1 summarizes the early engagement, concerns raised, accommodation, NSLI's commitments, and on-going items. All Mi'kmaq engagement by the Proponent allowed for concerns to be raised and considered throughout the Project planning process.

For documentation purposes, Section 5 of the EIS has been organized as follows:

- Section 5.1 of the EIS describes and supports the extensive engagement and consultation undertaken prior to the initiation of the federal EIA process.
- Section 5.2 notes the formal consultation undertaken in the context of the Mi'kmaq-Nova Scotia-Canada Consultation TOR dated August 31, 2010. NSLI initiated formal consultation with the Mi'kmaq of Nova Scotia on April 18, 2018.
- Section 5.3 describes the Proponent's response to the requirement to engage with potentially affected Mi'kmaq of Nova Scotia for the purposes of developing the EIS in the context of the EIS Guideline and how concerns were addressed.

## **5.1 Informal Consultation and Community Engagement Prior to the Initiation of the Federal Environmental Impact Assessment Process**

Informal consultation, structured committees and informal engagement activities were undertaken to help facilitate PLFN's engagement in the process since planning on the Project was initiated in 2014. This early engagement helped frame the Project and develop key objectives for success. The discussions, committee work, and reports and studies produced during these engagement activities have assisted in informing the formal consultation process.

### ***History and Initial Engagement and Relationship-Building Activities with the PLFN***

In June 2014, a failure in the effluent pipeline from the Kraft Pulp Mill to Boat Harbour Effluent Treatment Facility (BHETF) led to a PLFN community protest and blockade. The Province of Nova Scotia (Province) negotiated an Agreement in Principle with PLFN on June 16, 2014. The follow-up action to the commitments outlined in this Agreement in Principle initiated the current and ongoing



remediation plans for the BHRP. Appendix I includes a copy of the Boat Harbour Agreement-in-Principle.

After the Agreement-in-Principle was put in place, focused PLFN community engagement commenced prior to the substantive discussions on moving forward with remediation of BHETF. Based on these preliminary discussions and engagement, TOR for the Boat Harbour Steering Committee was developed (July 2014). The initial Steering Committee meetings focused primarily on establishing the date for the closure of the BHETF, with a secondary focus on the remediation of Boat Harbour. Appendix I includes a copy of the Boat Harbour Steering Committee TOR.

The Proponent also negotiated an agreement with PLFN to provide funding for PLFN to participate and have appropriate resources to support their involvement with the Boat Harbour Steering Committee discussions. Appendix I includes a copy of the Memorandum of Agreement between the Province and PLFN for the provision of funding to the PLFN for the costs incurred in the negotiation of an agreement respecting the BHETF closure and remediation. A summary of the cost by years is provided in Table 5.1-1.

The Proponent and PLFN undertook discussions and negotiations over the latter part of 2014 and early 2015 to arrive at a reasonable timeline to close the BHETF, which established the date as January 31, 2020 formally enacted in legislation in May 2015 as the *Boat Harbour Act* (Appendix I).

Subsequent to enactment of the *Boat Harbour Act*, in 2015 the Proponent sought to better understand the PLFN community vision for Boat Harbour and helped facilitate and support a community member to undertake and report on a series of focus groups on the future of Boat Harbour.

These were among the first steps in engagement and relationship-building with the PLFN community. They were followed by the hiring of a Community Liaison Coordinator (CLC); the formation of the Boat Harbour Cleanup Committee (BHCC); providing a variety of strategic planning support and accommodation for activities foreseen during and post-remediation; initiation of a series of community meetings on Project-related issues; the formation of the Boat Harbour Environmental Advisory Committee (BHEAC); funding PLFN to engage a consultant to develop a land-use plan and future Site use exercise; holding a cultural awareness seminar; identification and support of training and employment opportunities; undertaking significant efforts in air monitoring on and around the Site; examining wetlands of concern for Human Health and Ecological Risk Assessment (HHERA) purposes; and supporting the development of communications materials. These are described in more detail in subsequent sections.

### **5.1.1 Identification, Preservation and Protection of Mi'kmaw Burial Grounds**

Among the agreement's requirements, along with enacting a timeline for closure of Boat Harbour to mill effluent, was an agreement to work with PLFN to identify Mi'kmaq burial sites or burial grounds at Indian Cross Point and to protect such sites. Given the sensitivity of the negotiation of the closure date and the need to develop a productive and constructive relationship, the Proponent saw an opportunity early on to take meaningful action in the matter of identification, preservation and protection of Mi'kmaq burial grounds.

In 2014, a tract of land known as the Baker Estate was offered for sale, which included most of an old Crown grant land parcel identified as "Indian Burying Ground" at Indian Cross Point

(Figure 5.1-1). The Province funded the purchase of the estate land for PLFN, as documented in an Agreement between the Proponent and the Pictou Landing Band in October 2014. Appendix I includes a copy of this agreement.

PLFN asserted in a letter that this demonstrated meaningful and significant progress toward fulfilling the Province's commitment to PLFN pursuant to Section 2(c) of the June 2014 Agreement in Principle. Appendix I includes a copy of the letter from PLFN.

NSLI continued to take direction from PLFN on the remediation process for the portion of the pipeline on land from the shoreline at Indian Cross Point to the west property line of Highway 348 (see Section 5.1.6, Community Meetings).

These accommodations were seen to be both the fulfillment of a condition of the June 2014 Agreement-in-Principle and a step toward developing and maintaining a productive and constructive relationship between the Province and PLFN in moving toward remediation.

Figure 5.1-1 Pictou Landing First Nation Property



### **5.1.2 Community Focus Groups on the Future of Boat Harbour**

In June and July 2015, NSLI supported and PLFN facilitated five focus groups to talk about the community vision for Boat Harbour. Three groups were held for youth, one for Elders, and one as a general community session. A PLFN community online Facebook forum was also run during this period by PLFN to gather community feedback. The focus groups had the following objectives:

- Create an opportunity for PLFN community members to express their ideas and vision of Boat Harbour post-remediation
- Establish a level of comfort and support through discussions with community members so that they come to understand that Boat Harbour will be cleaned up
- Identify how the community would like to be involved in the remediation process
- Identify the level of community knowledge on Boat Harbour that will help identify gaps in communication
- Capture any questions to take back to the BHCC for answers to be provided at future sessions

Approximately 44 community members participated in the sessions, and another 45 engaged in the online forum. The questions, feedback and information gathered during these sessions has helped shape the approach to community engagement and consultation over the Project. The report arising from these sessions was entitled PLFN – Boat Harbour Focus Groups and is referred to as the Vision Study.

In the Vision Study, the community asked many questions for which responses were provided by NSLI to the CLC for circulation to the community. Appendix I includes a copy of the Vision Study along with a summary of the community sessions and community questions and answers.

The outcome of these sessions served as the genesis for the overall principal remedial objective, which was the vision for Boat Harbour to be returned to a tidal estuary.

A vision statement for the remediation effort was later developed with the PLFN community:

**"Maw-Lukutinej Waqama'tuk A'se'k" "Let us work together and clean up Boat Harbour"**

### **5.1.3 Community Liaison Coordinator**

At the outset of the Project, PLFN Council expressed that the community would need support and capacity development to engage fully with such a large and technically complex Project. The Proponent agreed to assist in PLFN's staffing process for a CLC position by developing interview questions, helping to develop a work plan for the position, and funding the position and related activities.

Representatives of the Proponent, Nova Scotia Office of Aboriginal Affairs and PLFN participated in the hiring process leading to the appointment of the CLC.

The Proponent has provided funding since April 2016 for the full-time CLC pursuant to a funding agreement, as amended, which supports the CLC salary, office, support staff and costs through an annual funding formula. The initial agreement was subsequently amended to enable this position and function to carry on with this arrangement throughout the life of Project.

The Proponent also agreed to pay for a CLC office, a storefront space, as well as to provide an arrangement for meeting space in existing PLFN buildings for the life of the Project. This resulted in a funding agreement in 2015 along with a one-time disbursement from the Proponent to PLFN in the amount of \$100,000.

The CLC is a conduit to the wider PLFN community and checks in regularly with the Project Team, including (but not limited to) a weekly conference call. The CLC is based at the PLFN Band Administration Building and reports to the Chief and community. The CLC helps host and organize BHCC meetings; sits on the BHEAC; communicates regularly to PLFN community members through newsletters, social media posts and other methods; and calls and organizes various community meetings around issues related to the BHRP (see Section 5.1.6, Community Meetings). The CLC receives questions from the community on various aspects of the Project, and co-ordinates responses from the Proponent back to the community.

The CLC creates and distributes a regular newsletter, called A'se'k News, to provide information and updates to the community on the remediation process. NSLI provides regular updates to the CLC for inclusion in the newsletter to keep community members informed of Project progress and upcoming community meetings or events of interest. Appendix I includes copies of the issues of A'se'k News editions prepared.

The CLC also maintains a "storefront" in the reception area of the PLFN Band Administration Building which serves as a repository of information and updates on the Project. Other ancillary costs associated with the CLC function are supported and funded by the Province to ensure the effectiveness of engagement and community input to the development of various aspects of the Project plans. These include:

- Costs of conducting workshops, focus groups and meetings as well as the cost of community engagement tools
- Costs related to videography, communications products, research, capacity building or such other activities as required to enhance the effectiveness of community engagement and participation in activities related to planning and implementing the remediation of Boat Harbour
- Costs related to training and associated travel for the CLC
- Labour costs for community members' participation in Project planning activities, including research assistants, field guides, survey assistants, labourers, and CLC assistance
- Costs related to training, travel and accommodations for community members' participation in training (e.g., safety training, heavy equipment operator training)
- Costs related to the production of large format mapping for internal use by PLFN during meetings and Project presentations as well as for the Project Team's use in communicating with the community - a copy of the PLFN property map developed is included in Appendix I

Appendix I also includes documentation relating to the establishment of the CLC position, space, funding for the position, and the CLC's roles and responsibilities.

#### **5.1.4 Boat Harbour Cleanup Committee**

The BHCC includes members of NSLI, PLFN Council and community, and the Office of Aboriginal Affairs. This committee has met regularly – typically on a monthly basis - since mid-2015, with most meetings taking place within PLFN community. BHCC Agenda and Action Items, established and circulated in advance, comprise the records of the meetings. This Committee allows for timely and orderly exchange of information, views and concerns, allowing PLFN to understand, assess and respond to work on planning and engagement. The Committee negotiates any agreements and activities including funding. With the CLC, the committee gives direction and takes advice on public and community relations and manages and responds to community perspectives and expectations.

In the interest of keeping the PLFN community informed on various aspects of the Project, GHD has been tasked with preparing presentations to the community at the BHCC. These presentations to date have included:

- An introduction to GHD and an overview of their planning and design process (May 2017)
- An update on the planning process (November 2017)
- Containment Cell Design Overview, involving a presentation to both BHCC and to a series of focus group workshops with children, men, women, elders and three community meetings (June 2018)

At the BHCC meeting in June 2018, NSLI circulated a comparative analysis of use of the existing on-site sludge disposal cell vs. another similar type facility in Nova Scotia vs. a new facility/cell requiring approval (June 2018).

Appendix I includes Agendas and Meeting Minutes from BHCC Meetings prior to February 22, 2019, which represents the Start of the EIA Process.

#### **5.1.5 Strategic Planning Support and Accommodation During and Post-Remediation**

As an additional outcome of community engagement there have been several studies and assessments conducted by third parties, which have been either funded or supported by NSLI.

Some of the work produced to date includes:

- Future Land Use Plan (LUP), produced by Membertou Consulting Group, (managed by PLFN) for PLFN, funded by NSLI. This visioning plan for the future of the lands surrounding Boat Harbour, including all community assets, has helped the community understand the possibilities and options for investments in future Site use after remediation is complete. Funding for implementation of the LUP and for any investments in post-remediation development of the Site has been secured by the Province through Infrastructure Canada's Investing in Canada Infrastructure Program. Funding in the amount of \$15,000,000 has been earmarked for this investment. Further information on the LUP is provided in Section 5.1.7 and a copy of the draft LUP is included in Appendix I.
- An Analysis of Indigenous Economic Opportunities (Appendix I), was completed for PLFN by Group ATN Consulting and is intended to help the community optimize the economic, social,

and environmental benefits of the Project, funded by Indigenous Services Canada (ISC), with support and consultation with NSLI.

- Project Charter for Optimizing Community Beneficial Impact Arising from the Project produced for PLFN by Group ATN Consulting. This activity was funded by ISC, with support and consultation with NSLI. This charter is intended to help PLFN with a framework for internal governance in order to optimize benefits arising from the Project. Appendix I includes a copy of the PLFN Project Charter.

### **5.1.6 Community Meetings**

In collaboration with the CLC and GHD, NSLI has participated in multiple community meetings and open houses to gather input from PLFN community members on various aspects of the Project. Some of these sessions dealt with specific topics while others centered on general opportunities for community members to ask questions and voice concerns.

To facilitate the presentation of materials to the community, NSLI funded the purchase of audio-visual materials including a computer, projector and screen, and a public address system.

#### ***Waste Management Plan***

NSLI and GHD held six information sessions in September 2018 on the waste management plan for the Project, including the use of the existing containment cell located adjacent to the BHETF property. These sessions were done in small groups—including specific sessions for Elders and youth—in order to give community members an opportunity to ask questions and voice concerns. GHD presented the technical information at these meetings by way of a slide presentation and samples of typical liner materials with questions and answers throughout and after the presentation.

#### ***Indian Cross Point***

NSLI has sought direction from PLFN on how to remediate the effluent pipeline at Indian Cross Point, adjacent to a historic Mi'kmaq burial ground. This process has included hosting community meetings to present viable options: 1) leaving the pipeline in place after cleaning and cutting then capping to prevent future use without disturbing the surrounding area; 2) filling the pipe after cleaning followed by cutting and capping the pipe to prevent future use without disturbing the surrounding area; or 3) removing the pipeline completely.

Based upon the advice of the Senior Archaeologist, Archaeology Research Division, Kwilmu'kw Maw-klusuaqn Negotiations Office (KMKNO), NSLI engaged an archeological consultant, Boreas Heritage Consulting Inc., to provide the PLFN community with further information on the possible use of ground-penetrating radar (GPR) to do further surveys on an area adjacent to the pipeline and burial ground property, in order to develop a clearer sense of the archaeological characteristics of the area. This investigative technique is non-intrusive but has been viewed by some Indigenous groups as disturbing ancestors. Following PLFN decision to have the GPR completed, NSLI retained Boreas Heritage Consulting Inc., to complete a study of the area. Boreas Heritage Consulting Inc. completed the non-intrusive investigation program that was developed in conjunction with PLFN. Following completion of the program, a discussion on the findings was held with PLFN Band Council members followed by a community session, both on December 4, 2019.

Following council and community meetings, a community survey was completed in parallel with PLFN Open House (PLFN OH) #2, to receive community input on the best method of decommissioning the pipeline between Indian Cross point and the western property line at Highway 348. As previously noted, PLFN informed NSLI in January 2020 that the pipeline in this area should be fully removed.

### ***A'se'k Socials***

NSLI and GHD representatives participated in a series of "A'se'k Socials" held at the PLFN Fire Hall. These sessions allowed community members to ask questions about the Project and air any concerns they may have. NSLI has also funded and attended several community dinners to informally discuss issues and build relationships between the community and the Project team.

The following is a sample of remediation-related questions posed by community members, and answered by NSLI and GHD representatives during the general sessions:

- During the remedial process, would the sediment be released into the air when the water is lowered?
- Once the harbour is clean, a new bridge will be constructed to allow smaller vessels to be able to enter into the harbour. Will the harbour be clean enough to fish once again?
- Concerns of Hydrogen Sulphide (H<sub>2</sub>S) levels released into the environment. Are early warning detection and warning systems going to be implemented?
- Community concerns about how long it will take for vegetation and wildlife returning to the Boat Harbour area, and if it will be to the same level as if there were no treatment facility to exist there?
- Will soil and groundwater testing be conducted directly on the reserve? If so, what will be the process of remediation if testing reveals contamination?
- Will aerators continue to operate, even after the Kraft Pulp Mill has ceased flowing treatment into the harbour?
- Will the Project proceed year-round? Or during specific times of the year? How will this affect the H<sub>2</sub>S concentration carried by the winds?
- Will a community member be qualified and employed in the safety regulation of the H<sub>2</sub>S?
- Will lobsters be affected? Will monitoring of lobster life be done to ensure their well-being and survival?
- Will Boat Harbour aquatic life be repopulated manually? Or will we let nature take its course and do so itself?

These events gave NSLI and GHD an opportunity to hear and answer community questions and understand concerns from a community perspective prior to the initiation of the formal EIA process. These sessions also allowed the Proponent to provide information about opportunities.

A session in February 2018 provided a breakdown of the different skilled positions required during the remediation, prior to an opportunities fair held in the community in March 2018.



Twelve A'se'k Social (originally called Tuesday Talk) were held between August 2017 and March 2019. These sessions were generally developed to discuss a relevant topic, often driven by the BHCC Agenda. The meetings were generally unstructured, without a specific agenda and involved an oral presentation and free-flowing questions and answers and discussions. They were generally held in the late afternoon to enable youth to attend after school. In some cases, slide presentations were developed to help guide the discussions or where it was felt that visual aids were important, or following a process was useful, to inform the discussions. A selection of presentations and discussions include:

- BHRP and the Environmental Site Assessment presentation in September 2017
- High Level Planning Schedule presentation in November 2017
- Development of a Site-Specific Health and Safety Plan presentation in October 2018
- Remedial Action Plan Development presentation in March 2019

Appendix I includes a copy of the referenced presentations.

#### ***Meeting of PLFN Leadership and Community Members with Membertou First Nation Leadership***

NSLI helped facilitate and support a meeting for PLFN Chief and Council and BHCC members with Dan Christmas of Membertou First Nation on October 7, 2016.

Dan Christmas was a principal leader with Membertou First Nation in dealing with federal and provincial governments relative to consultation and engagement with Indigenous communities during the planning and implementation of the Sydney Tar Ponds and Coke Ovens Remediation Project (STPCORP). The meeting involved sharing perspectives and lessons learned during the STPCORP followed by a tour of the remediated Open-Hearth Park Site. The Site tour enabled both an appreciation of the visual outcomes of a similar-scale remediation Project and the opportunity for conversations with the public visiting the Site that day on public perspectives with the implementation and the outcomes of the Sydney experience.

#### ***Community Meetings at PLFN Fire Hall and Support to Local Emergency Response Capacity***

One of the convenient locations for the A'se'k Socials has been the PLFN community Fire Hall. Rental costs are funded through the annual contribution to the CLC. In addition, NSLI has indicated to the PLFN Fire Chief that the Project is willing to support the Fire Department's acquisition of off-road firefighting equipment, which will be an important emergency response asset for the Project during full-scale implementation.

In a related matter, NSLI has supported a request from the Pictou Landing Fire Department (off reserve) to develop the capacity, by funding training and purchase of equipment, for emergency response water-based capability. This is a beneficial emergency response rescue method for the Project for water-based activities. PLFN Fire Department staff were included in the training offered.

#### **5.1.7 Boat Harbour Environmental Advisory Committee**

An important forum for the Project has been the BHEAC. The TOR for the BHEAC were developed in January 2016 for the initial meeting of the committee. Since then, the TOR has been revised

primarily for accommodating an expansion of BHEAC membership. The TOR, provides direction on the purpose of the BHEAC, its responsibilities, the reporting structure and lists the representatives on the BHEAC. A copy of the TOR can be found in Appendix I.

BHEAC is comprised of subject matter experts from several provincial and federal departments (including Health Canada, Environment Canada and Climate Change, Fisheries and Oceans Canada, Indigenous Services Canada, Nova Scotia Environment, NSLI and Forestry, and Nova Scotia Office of Aboriginal Affairs), academic experts from Dalhousie, Acadia, St. Francis Xavier, and Cape Breton Universities, and PLFN. It also includes consulting engineering industry participation with the presence of GHD, the principal consultant to NSLI, and facilitates collaboration between GHD and the academic experts in both baseline studies and detailed design aspects. IAAC representatives sit as observers on the committee starting in September 2019. Based upon a request from PLFN in 2019, a representative of the Mi'kmaq Conservation Group also sits on the committee.

The purpose of the BHEAC, as stated in the TOR, is to provide expert advice on the environmental management of the Project throughout the life of the Project to ensure that it is carried out in a manner that is environmentally acceptable and safe to human health. In this regard, the BHEAC responsibilities include advice on:

1. Scientific studies required to adequately prepare discrete or broad scope Project descriptions as well as to adequately develop environmental effects monitoring.
2. Environmental monitoring programs, compliance monitoring, health and safety plans, contingency plans, environmental protection plans, emergency response plans, regulatory plans, compliance plans, etc.
3. Effectiveness of these plans throughout the life of the Project.
4. Progress in meeting Environmental Monitoring Plan and Environmental Effect Monitoring Plan requirements.
5. The mitigation of adverse environmental impacts.
6. Development and implementation of a follow-up program.
7. Opportunities for undergraduate/graduate studies in the engineering, environmental and social disciplines.

The committee deals with the Project's strategies and plans from science, technology, and legal perspectives and informs the decision-makers and collaborators. The committee advises the Project Team on the full scope of scientific and regulatory matters including Project boundaries; advises on development of an environmental management plan and environmental effects plan; bridges discussions between PLFN, Project managers, Project consultant resources, regulators, scientists, academic advisors, and Aboriginal Affairs subject matter specialists; and provides peer review of TOR and reports from work plans, assessments, studies, frameworks and other scientific data generated by the Project.

The committee continues to enable a more technical sharing of information with PLFN representatives to help the community make informed decisions. University partnerships and participation in BHEAC have also created educational and research opportunities for PLFN.

The committee has met an average of 10 times per year since January 2016, typically monthly except for August and December. Some of the studies, reports and presentations arising out of this group include:

- A test of the ability of pre-industrial Boat Harbour sediment to support growth and survival of marine grasses
- Presentation and report on baseline contaminants in local lobster
- Marine and wetland sampling
- Presentation on Two-Eyed Seeing from Alanna Sylliboy of the Mi'kmaq Conservation Group
- Environmental assessment of the bulk geochemistry and water quality of Sitmu'k (Lighthouse Beach Lagoon, near PLFN)
- Report on the State of Science and Policy on Cumulative Risk Assessment as it Pertains to Chronic Stress
- Monthly updates from the Planning and Design Consultant
- Presentations on Independent air monitoring program
- Handout and presentation comparing on-site and off-site containment options
- Report and presentation on fish surveys in Boat Harbour

A more detailed compendium of the University research projects has been included in Appendix I.

### **5.1.8 Land-Use Planning and Future Site Use**

#### ***Land-Use Planning***

Separate from remediation planning and design, end use of the remediated Site and adjacent lands is an important component informing the outcomes and enhancing the legacy of the Project. The Project Team, with PLFN, initiated and funded a land-use planning exercise for PLFN to help focus the community on the future and the asset that Boat Harbour will be when it is returned to the tidal estuary. The Project Team has long communicated that an investment in future Site use is an appropriate enhancement of the Project to the extent that it could generate meaningful and substantial economic benefits to PLFN, and the broader community, in areas of ecotourism and community and economic development opportunities.

As noted in Section 5.1. Membertou Geomatics Solutions was engaged at the request of PLFN to develop the LUP. Part of the process around land-use planning includes transferring ownership of lands adjacent to Boat Harbour and currently owned by the Province to the ownership of PLFN. NSLI, along with the Nova Scotia Office of Aboriginal Affairs and NSLI and Forestry, is involved in facilitating this transfer as one ongoing aspect of the Project.

These lands include a number of properties totaling in excess of 173 hectares, which surround most of the estuary and Boat Harbour.

### *The Proposed Bridge*

NSLI also sought input from the PLFN Fisheries Co-Op on the bridge that will be built on Highway 348 to replace the existing causeway, returning Boat Harbour to a tidal estuary. The vertical clearance (height) and dimensions of the proposed bridge will be similar to the bridge which was in place prior to the industrialization of Boat Harbour. A document was prepared for PLFN to assist them in their understanding of a comparison of the proposed new bridge and the old bridge at the mouth of A'se'k.

In September 2017, NSLI met with members of PLFN Fisheries Department, Fisheries Director Wayne Denny and Guardian Dominic Denny, to present the conceptual design of the replacement bridge across Highway 348. NSLI communicated that the height and opening of the bridge would be similar to the bridge that existed prior to being replaced by the causeway. PLFN's Fisheries Co-Operative agreed that this was a good approach; and requested that NSLI consider construction of a wharf, slipway and building within Boat Harbour following remediation. This was further discussed during BHCC meetings that followed the meeting with the Fisheries Co-Operative. NSLI acknowledged the request and the concept for these structures has been carried into the LUP discussed above.

As part of the design planning for the Project, NSLI also engaged with PLFN on a vision for the future bridge to be constructed along Highway 348. NSLI proposed a design that included a sidewalk on one side of the bridge. PLFN indicated their preference for a sidewalk on both sides of the bridge and that concept is being carried into detailed design.

Discussions at the BHCC are on-going to determine a means for PLFN to name the bridge. A community contest to name the bridge has been discussed. Discussions around decorative displays or educational panels along the bridge are underway. NSLI is prepared to support the decisions made by the community in terms of decorative/educational displays along the bridge.

Some concerns by PLFN community members were subsequently expressed about the opening size for marine traffic under the new bridge as proposed. The document referred to above was circulated to the community for information.

### **5.1.9 Cultural Awareness and Engagement**

#### *Cultural Engagement Seminar*

With the engagement of the community, the Province supported a Cultural Awareness Seminar held at PLFN in June 2017. The Request for Proposals (RFP) for the General Services Consultant (GSC), awarded to GHD included a requirement that the PLFN would offer, and the GSC would be expected to attend, a cultural sensitivity session to understand the culturally relevant history, impact and importance of cleanup to the membership of PLFN.

The Cultural Awareness Session was an all-day event held on June 15, 2017 at the PLFN school. This seminar was attended by the Project Team, federal and provincial stakeholders, members of the BHEAC, representatives from consultants and contractors involved in the Project, and members of the community. This seminar included a video presentation on A'se'k, an interactive session with Elders sharing their memories of A'se'k, a presentation on cultural pedagogy from an Indigenous perspective, and a presentation on the perspectives of PLFN women on A'se'k and the Project. NSLI

funded honorariums for elders and drummers, speaker gifts, catering and supplies. An Agenda was developed by PLFN and circulated in advance of the seminar and is included in Appendix I.

### ***Participation in Water Ceremony***

The NSLI Project Team attended a water ceremony on November 14, 2016 prior to the start of physical works on-site related to pilot scale testing. Michelle Francis-Denny, the CLC remarked to a reporter from a local paper (Pictou Advocate) that covered the event that the upcoming project provided an opportunity to conduct a cleansing prior to the work beginning. She was quoted in the article stating that "We felt this was an opportunity to spiritually reconnect with the water, the land, the positive guidance and the energy around it. The request for proposals for the beginning stages of the Project have gone out. It was important the Province allowed us the time for this ceremony and respected our traditions. It's a way to kick off the Project on a positive note. (Boat Harbour) signifies so many years of negative energy, to actually see things happening (at Boat Harbour), we want to offer prayer that this Project finishes." Appendix I includes a copy of the article that ran in the Pictou Advocate.

### ***Native Women's Association Greenhouse/Garden Box Project***

In April 2018, the Pikukewaq Native Women's Association requested support from the Project for the establishment of an education Project. The activity included learning how to plant gardens in raised beds. The intent was to build gardening capacity around traditional foods and plants and to use this knowledge in the future to maintain their own greenhouses/garden boxes. This proposal was discussed and approved for support at the BHCC in April 2018. The proposal indicated that if community members chose to create and maintain their own greenhouses/garden boxes, they would consider plants which can be transferred into or near A'se'k when it is timely to do so.

### ***Meals and Sharing of Food at Community Meetings and Events***

One aspect of relationship-building and ongoing engagement centers on sharing of food and discussion as an element of regular meetings and community events. These opportunities allow the Project Team and the PLFN leadership and community members to have wide-ranging conversations about the Project and about the community. They give special occasion for the Project Team to listen to stories, opinions and concerns of PLFN members who may be more willing to speak up in one-on-one conversations rather than in group settings.

Since 2014, NSLI funds the catering provided by PLFN community members for all Project focused meetings, events, community socials, and community dinners.

On September 23 and 24, 2016, the Project Team led a tour of Boat Harbour with community elders and interested community members. This was followed by a community dinner on September 24, 2016. The tours and dinner were advertised in a flyer, which is included in Appendix I.

### ***Jackets for PLFN Elders***

In November 2019, NSLI agreed to fund the purchase of jackets for community elders. PLFN elders have been engaged and have participated in numerous community events in relation to A'se'k over the years that includes collection of traditional knowledge to participation in the most recent wellness study. The jackets would be a visible representation of PLFN elders proud support for the remediation of A'se'k.

### *Mi'kmaq Translator*

NSLI agreed to support and fund translation costs for a Mi'kmaq to English translator to enable elders and Mi'kmaq speakers to participate in meetings while using their own language. This was seen to provide more effective communication to the project teams and representatives from the Mi'kmaq speakers.

### *Legacy Planning - A'sek Waqma'tayk: the social investment*

Since 2016, NSLI and PLFN have had general discussions in focus groups and other forums on legacy opportunities for the Project. One characterization of the discussions was laid out in a document prepared by PLFN on Social Investment. Social Investment refers to the component of the community which is not readily identified in discussions pertaining to the closure and clean-up of Boat Harbor. It could reconnect the connection the community had to land and traditional culture or it could refer to providing a role for community members who would otherwise be ignored by the clean-up process. The idea of social investment allows all community members to benefit from this community altering opportunity.

The following activities and outcomes were developed by PLFN community members. NSLI has remained supportive of these activities as a positive cultural legacy of the Project.

- Creation of pictures of community activities that were done at A'se'k, which could be used in the development of an interpretative trail along the A'se'k shoreline with panels describing the history of A'se'k.
- A canoe building project using traditional skills, with the canoe(s) being part of closure and project completion ceremonies.
- A leather work/regalia making project, with regalia being worn during ceremonies throughout the process of the Project.
- Workshops involving storytelling, a spot in the woods for benches and a teapot. Instead of stories being told in a structured setting (around a table with technology), sharing of stories would happen outdoors, around a fire. Story telling would be a part of the entire clean-up process. An individual will be the lead in informing persons working in the actual clean-up or it would serve as an information process for other folks (i.e., government people, media, anyone interested in our story, anyone needing to hear our story).
- Cooking, entrepreneurship skills workshops. A person could create a business where they serve meals to the workers.
- Mi'kmaq language classes. Prayers and ceremony would be done in Mi'kmaq. This would be really great at the final ceremony because we could do a "transfer" of the harbor back to the community. It would also be a strong connection of past activities, current activity and looking forward.

### **5.1.10 Training and Opportunities**

NSLI has supported and funded Project-relevant training for PLFN community members to participate in remediation Project activities, where possible. This has included a number of surveys to the community to determine individual and business capacities. NSLI also developed an

educational resource document aligned with the Project-related opportunities that outlined links between specific opportunities, the nature of the work required, and educational or training institutions providing relevant courses and programs. Subsequent to the responses received from the surveys, NSLI supported and funded the development of a database to manage the information. This database was developed by Membertou Geomatics Solutions in accordance with their proposal.

Training has included helping one community member receive training to work with the independent air monitoring component of the Project, helping several community members to work on the pilot-scale test phase, the purchase of a drone and drone training for several community members to capture aerial video footage at Boat Harbour, and an internship for a high-school student with GHD, the principal consultant to NSLI.

NSLI also worked with PLFN to offer an Opportunities Fair on March 23, 2018 to promote an overall awareness of post-secondary education, career focus and employment opportunities for community members and high-school youth. The event focused on three streams: post-secondary studies, career focus and Boat Harbour remediation opportunities. Community members and students from North Nova Education Centre attended the session. An invitation for the Opportunities Fair was circulated widely.

Other opportunity/training-related events included:

- Resume workshops (May 17 and 18, 2018)
- Information session on work packages and tenders (July 13, 2018)
- Information/recruiting session for customized Safety Certified Labour Program with Maritime Environmental Training Institute (August 9, 2018)
- Job Fair with Sanexen to retain workers for participation in the Pilot Scale Testing Program (October 2, 2018)
- Funding contribution to community youth participation in Clean Nova Scotia's Summer Internship Program

Appendix I includes documentation of the training and opportunities provided to PLFN as a result of this Project.

#### **5.1.11 Independent Air Monitoring Contractor**

Pictou Landing communities, especially PLFN, have expressed long-standing concerns with the quality of the air that residents breathe and how Boat Harbour impacts air quality. In planning and carrying out the remediation of Boat Harbour, we understand that local residents have concerns about how this work may affect air quality. In any remediation project, the management of how the work is carried out and how it affects air quality requires significant attention. The development of the Boat Harbour Air Quality Monitoring Program is quite technical and scientific in nature, and the document which explains the program is rather complex. A Plain Language Summary Document was developed to explain the Interim Boat Harbour Air Quality Monitoring Program in a more understandable way. A copy of this document is provided in Appendix I.

On March 14, 2017, NSLI presented the report Boat Harbour Interim Air Quality Monitoring: Plain Language Summary Document to PLFN. Along with the report, a similarly titled presentation document was utilized to guide the information sharing and discussion.

In 2018, NSLI hired an independent consultant, Stantec, to perform independent air monitoring services at Boat Harbour and PLFN prior to, during and following pilot scale remediation work. Real-time data was collected during pilot scale on-site work at Boat Harbour, and 24-hour sampling was conducted every six days (every three days during active pilot scale testing periods) at a fixed air monitoring station located near PLFN cemetery. A PLFN community member was an employee of the consultant's technical air monitoring team. Another PLFN community member was engaged to monitor, pursuant to a checklist, the physical area around the fixed air monitoring station. This monitoring program will continue on a six-day cycle in order to continue gathering baseline data.

NSLI had originally planned to upgrade and use an existing fixed air monitoring station located in PLFN that had been previously established by the Joint Environmental Health Monitoring Committee. The station had been set up near a residential property. The occupant of the residence indicated they were not happy with the location of the station and would prefer it be moved to another spot on PLFN reserve land. NSLI funded and coordinated the relocation of the station to a site near the PLFN cemetery, in addition to the planned upgrades.

Regular updates on the air monitoring results are provided by Stantec and regularly shared with the community by the CLC and posted at: <https://novascotia.ca/boatharbour/monitoring>. Stantec also delivered a presentation on their air monitoring program to PLFN on November 22, 2019 during a Lunch and Learn session. See Section 5.3.2.4 for further information on the air monitoring program presentation.

#### **5.1.12 Consultation with PLFN Regarding Pilot Scale Testing**

The pilot scale testing for the Project was carried out in three phases. The first involved the construction of a berm in one cove of Boat Harbour furthest away from the PLFN community and within the industrial work confines of the BHETF. This berm was constructed in early 2017 to isolate that cove. The subsequent pilot scale infrastructure involved development of a staging area in one corner of the isolated cove and the construction of a treatment pad area to enable testing the efficiency of Geotube® in managing and consolidating waste as well as testing wastewater treatment technologies to treat effluent discharged by the Geotube®. The infrastructure construction was completed in the latter part of 2018 and the pilot scale testing started in late 2018 and finished in July 2019. This work provided valuable information to inform the selection and design of remedial solutions as noted in Section 2.

Significant consultation was undertaken with PLFN relative to the planning and implementation of the pilot scale work as follows:

1. BHCC

The pilot scale work was on the agenda for the March, April, May, and June 2018 BHCC meetings. It has also been kept in view and mentioned in almost all BHCC meetings since early 2017 with the construction of the berm, which isolated the cove for the pilot scale work. These meeting discussions included the rationale for the location of the pilot scale work (a cove furthest from community); the need for the pilot scale work; the nature and timing of



the work. While no concern was expressed about the work, the predominant discussion was around PLFN participation from an engagement and employment viewpoint, and safety of workers.

2. BHEAC

This committee includes representation from PLFN's CLC and Lands Manager. An update on pilot scale work has been included in meeting since October 2017, becoming more specific as detailed planning advanced and the results were assessed.

3. PLFN Community Participation in Pilot Scale Work

The community has participated in the pilot scale work to date including two heavy equipment operators on construction of the berm, community woodcutters completed the initial efforts at clearing the area for the treatment pad, and an intern was retained by GHD to participate in oversight of the water treatment facility, dredging and dewatering operations, and to gain an understanding of construction contract administration. There were several discussions about the RFP and PLFN work plan component for all three tenders issued for the pilot scale works as well as participation of the PLFN CLC at the bidder's meetings. Approximately 58 percent of local and non-specialized Nova Scotia labour hours for the pilot scale testing programs were performed by PLFN community members.

In addition, the driver for the independent air monitoring program being launched was to ensure that air quality impacts during pilot work were being monitored. A preliminary meeting with PLFN and the independent air monitor was held prior to the initiation of air monitoring. A PLFN community member served in a full-time role as one of the two on-site air monitoring technicians for the independent air monitor during pilot scale testing works completed in 2018-2019.

4. PLFN Community Meetings

At the A'se'k Socials, meetings to which the whole community has been invited, NSLI informed, discussed and answered questions on the Pilot Scale Testing programs since early 2017. NSLI have passed out two handouts (Pilot Infrastructure and Pilot Test Plans) on the pilot scale work. Appendix I includes a copy of the handouts. These meetings generally have themes and are wide ranging in discussion with the most notable concerns around the ability to remediate; the range of contamination; and where the waste generated will go. There were no specific concerns raised on pilot work.

5. Information on Social Media to the Community

The CLC distributed the Pilot Infrastructure and Pilot Test Plans documents on social media. The CLC informed the Project Team that she had received no response or expressions of concern on the documents.

6. Public Information Sessions

PLFN was invited to the public open house information sessions for the pilot work infrastructure construction and implementation of the pilot work held in April and May 2018. One comment came back in the written submissions to the Remediation Team. It was related to participation of PLFN in the pilot works. As noted above, members from the PLFN

community were selected by the contractors to work with them on implementation of the works.

### **5.1.13 Assessment of Wetlands Adjacent to Boat Harbour**

There are approximately 25 wetlands in and around Boat Harbour, as identified in the Environmental Baseline Sampling work and assessed during the Phase 2 Environmental Site Assessment carried out by GHD. A large wetland comprising about 36 hectares (ha) of federal Crown and adjacent land was impacted significantly in the first five years of industrial activity (1967-1972) at Boat Harbour when untreated effluent from the Kraft Pulp Mill was routed directly into the wetland complex. The Province has an interest in preserving any remaining ecological integrity and value of these wetlands and commissioned a HHERA to assess in detail a risk-based approach to determining areas requiring remediation.

The HHERA approach was recommended by PLFN, with concurrence from the Province. The HHERA was prepared by qualified assessors and the draft HHERA was reviewed by federal and provincial regulators in advance of submission of this EIS. The Province is also funding an independent qualified assessor to review the HHERA on behalf of PLFN, at the community's request. The development of the HHERA is first discussed in Section 2.

### **5.1.14 Communications Materials**

#### ***Infographics and Fact Sheets***

To help PLFN community members and the broader community understand the scope and impact of the Project, the Project Team produced several infographics and fact sheets to convey important aspects of the Project. The graphics and fact sheets have been circulated in the community and posted online at <https://novascotia.ca/boatharbour> under the History and Resources tabs. A copy is provided in Appendix I.

The graphics and fact sheets have been developed on the following topics:

- Project Overview and Timeline
- Boat Harbour Sludge – Our Problem
- Ambient Air Monitoring Program
- Pilot Scale Testing

Additional infographics will continue to be prepared as opportunities arise throughout the Project.

#### ***Film Project***

PLFN identified that a film project documenting the story of the BHRP would be a useful tool in communicating with other First Nations, potential partners and stakeholders, and the broader public. With support and funding from NSLI, PLFN invited proposals and engaged a film company; the firm Journeyman to begin this work. Appendix I includes the Journeyman's proposal for documenting the remediation of Boat Harbour. Journeyman has completed Phase 1 of their proposed approach to building the story "Reclaiming A'se'k: Documenting the Remediation of Boat Harbour". The video can be viewed at the following link: <http://plfn.ca/departments/boat-harbour-rem>.

### *Remediation Industry Conference Address*

NSLI facilitated and supported PLFN Chief Andrea Paul in delivering the keynote address at the Real Property Institute of Canada's Federal Contaminated Site's Regional Workshop in Halifax on June 5, 2019. The address sought to provide an understanding of Indigenous community impacts of living near contaminated sites as well as the importance of engagement and considering Indigenous perspectives when managing contaminated sites.

### *Story Boards on the A'se'k Water Cycle*

In conjunction with a third-party consulting engineer's assessment of hydrology and hydrogeology characteristics of A'se'k, NSLI commissioned the creation of story boards to explain the water cycle in a manner consistent with conveying an understanding to an Indigenous audience. The seven storyboards are detailed in the consultant's report which was provided to the community and included in Appendix I.

### *Assessment of Sitmu'k*

An early concern expressed by the PLFN community involved the potential impact by industrial effluent at Lighthouse Beach and Moodies Cove, or Sitmu'k. Although the Phase 2 Environmental Site Assessment prepared by GHD concluded that the contaminants from BHETF did not extend to these land parcels or waters, NSLI engaged Dr. Ian Spooner of Acadia University to assess sediments and waters of Sitmu'k. This assessment was funded by NSLI and information was shared with PLFN community members and BHEAC. This work included the participation of students, Dylan Wyles and Baillie Holmes, with two PLFN university students. Dr. Ian Spooner and his team presented the findings to the PLFN community. Appendix I includes the Sitmu'k Project Update presentation given by Dr. Spooner and his team.

### **5.1.15 Summary of Issues Raised and Actions Taken**

Early engagement allowed for contributions by the Mi'kmaq of Nova Scotia and specifically the designated Band (PLFN) for the Project as planning unfolded. The key issues raised from the consultation documented above is summarized in Table 5.1-1, which outlines the concerns raised, how NSLI addressed the issues, commitments made, and if any follow-up was required. All Mi'kmaq engagement undertaken prior to the commencement of the EIA was used to inform the details of the Project in the early planning stages and to shape the Mi'kmaq consultation process for the EIA.

**Table 5.1-1 Documentation of Actions Taken: Rights Holder/Stakeholder Input Received**

Issue Raised	Raised by: (group or individual, with relevant date, if available)	Method/Event (email, in-person, Open House comment, etc.)	Ways in which NSLI Addressed the Issue	Mi'kmaq Agreement/Response with Action(s) Taken	Follow-Up
Funding for PLFN to participate in Boat Harbour Steering Committee process	PLFN – 2014	Discussions between NSLI and PLFN	Negotiated agreement with PLFN to resource participation in steering committee - one-time disbursement of \$100,000 plus \$40,000 for additional costs. NSLI has provided annual funding to PLFN since 2016 through a Memorandum of Agreement, as amended, for the operations of the BHCC and support to the CLC function and activities. Funding provided is as follows: fiscal year 2016-17 - \$163,182 2017-18 - \$144,210 2018-19 - \$150,906 2019-20 - \$298,305	Signed memorandum of agreement, September 30, 2014 and subsequent memoranda.	Funding to PLFN is ongoing.
Timeline for closure of BHETF	PLFN/ Proponent (2014-15)	Discussions, legislation	Provincial legislation in May 2015 established the closure date of BHETF as January 31, 2020	Agreement with closure date.	

**Table 5.1-1 Documentation of Actions Taken: Rights Holder/Stakeholder Input Received**

Issue Raised	Raised by: (group or individual, with relevant date, if available)	Method/Event (email, in-person, Open House comment, etc.)	Ways in which NSLI Addressed the Issue	Mi'kmaq Agreement/Response with Action(s) Taken	Follow-Up
Need to preserve and protect historic Mi'kmaq burial grounds	PLFN - 2014	Discussions	Province funded purchase of land known as the Baker Estate, including land parcel identified as "Indian Burying Ground" at Indian Cross Point. NSLI engaged archaeological consultant, Boreas Heritage Consulting, Inc., in 2019 to conduct GPR survey at Indian Cross Point to determine archaeological characteristics of the area.	Indicated that the land purchase demonstrated "meaningful and significant progress toward fulfilling the Province's commitment to PLFN pursuant to section 2(c) of the June 2014 Agreement in Principle". Informed PLFN decision to request full removal of the pipeline from Indian Cross Point to the west property line of Highway 348.	An adjacent property to the Baker Estate, owned by the Palmer family, also has evidence of burial grounds and the PLFN is in discussion with the family in the interest of acquiring title. NSLI has agreed to fund any costs related to such transfer of title.
Understanding community vision for future of Boat Harbour	PLFN - summer 2015	Community focus groups	NSLI participated in facilitation of five focus groups - three for youth, one for Elders, one general, plus online Facebook group.	44 community members took part in focus groups and 45 participated online. Feedback helped develop the overall Project goal of returning Boat Harbour to a tidal estuary.	

**Table 5.1-1 Documentation of Actions Taken: Rights Holder/Stakeholder Input Received**

Issue Raised	Raised by: (group or individual, with relevant date, if available)	Method/Event (email, in-person, Open House comment, etc.)	Ways in which NSLI Addressed the Issue	Mi'kmaq Agreement/Response with Action(s) Taken	Follow-Up
Resources/personnel support needed for PLFN throughout Project	PLFN Council - 2014-15	Discussions	Since April 2016, NSLI has funded the full-time CLC position, including salary, office, support staff and costs.	Supportive of establishing CLC position; worked with NSLI and Office of Aboriginal Affairs (OAA) on hiring process.	Funding for CLC office is ongoing.
Need for ongoing engagement, collaboration with PLFN	PLFN/ Proponent (2014-15)	Discussions	BHCC established in 2015, with members of PLFN Council and community, Proponent and OAA. Has met regularly (monthly or bimonthly) since 2015.	Council and community members participate on BHCC.	BHCC will continue throughout life of the remediation Project.
PLFN access to training and employment in connection with remediation activities and opportunities	PLFN	Discussions, community meetings	NSLI has conducted surveys to identify individual and business capacities and supported and funded project-related training where possible (Refer to Table 5.2-1 for details). This includes an Opportunities Fair (3/23/18); training for a PLFN member to work with independent air monitor; drone training; health and safety training, trades training, internship for high-school student with GHD, principal consultant to NSLI.	Community members have participated in training events and opportunities.	Work in this area will be ongoing during procurement for full-scale remediation.
PLFN resident unhappy with location of existing	PLFN resident	In person discussion	NSLI moved the station to a different location before performing upgrades and re-	Resident happy with decision to relocate the station.	No further follow-up required.

**Table 5.1-1 Documentation of Actions Taken: Rights Holder/Stakeholder Input Received**

Issue Raised	Raised by: (group or individual, with relevant date, if available)	Method/Event (email, in-person, Open House comment, etc.)	Ways in which NSLI Addressed the Issue	Mi'kmaq Agreement/Response with Action(s) Taken	Follow-Up
fixed monitoring station for air quality			activating the station for the purposes of the BHRP.		
Concerns about impact of remediation activities on air quality at PLFN	PLFN	Discussion, community meetings	NSLI hired Stantec to serve as independent air monitor prior to, during and following pilot scale remediation work. Stantec has produced regular summaries and reports that are posted on the Boat Harbour website.	Community member worked with Stantec on air monitoring at fixed station in PLFN community - An additional community member was hired to monitor the infrastructure and take note of activities surrounding the fixed station on monitoring days.	Stantec presented on the air monitoring work that was completed during the pilot scale work to PLFN on November 22, 2019 at a community Lunch and Learn session.
Concerns about contamination of the wetlands adjacent to Boat Harbour	PLFN	Discussion	NSLI supported PLFN's recommendation to conduct a HHERA to assess in detail a risk-based approach to remediation in the wetlands. Federal and provincial regulators completed a review of the draft HHERA prior to submission in support of the HHERA as well as participated in meetings with PLFN and GHD on exposure scenarios. NSLI has funded an independent qualified assessor to review the	Awaiting independent review of the final draft HHERA and regulatory review of the final draft HHERA in parallel with the EIS.	Address comments from independent monitor and regulators as needed.

**Table 5.1-1 Documentation of Actions Taken: Rights Holder/Stakeholder Input Received**

Issue Raised	Raised by: (group or individual, with relevant date, if available)	Method/Event (email, in-person, Open House comment, etc.)	Ways in which NSLI Addressed the Issue	Mi'kmaq Agreement/Response with Action(s) Taken	Follow-Up
Concerns about poor quality of Highway 348, the main road through PLFN, and the impact of remediation-related traffic on roadway already in poor condition	PLFN - 2017	Discussion	<p>HHERA for PLFN, at the community's request.</p> <p>NSLI raised concerns about the Project's impact on Highway 348 traffic to NS Transportation and Infrastructure Renewal (TIR) executive in 2017. TIR made adjustments to address Highway 348 repairs in a timely manner in the capital plan. 7.3 kilometre (km) of Highway 348 was repaved in 2018.</p>	Pleased with highway repairs. A contractual requirement was included in the tender that led to employment of several community members during construction.	No further follow-up required.
Concerns about waste management - expansion and continued use of containment cell on provincial lands adjacent to Boat Harbour. Many PLFN community members have expressed that they do not want waste to remain on-site and continuing to use the containment cell falls short of returning A'se'k to its original pre-industrial state.	PLFN - ongoing	Discussions, community meetings, open house events, written questions	NSLI and GHD held six information sessions in 2018 on waste management, including the containment cell. In the initial Remedial Options Decision Document (RODD) presented to PLFN in 2018, and in a document responding to community questions following an open house in August 2019, NSLI presented the rationale for why the existing containment cell is the best option and the significant risks and potential delays posed by alternatives. NSLI has acted to secure ownership	Some community members accept that the on-site cell is the best option; many still insist it will be detrimental to the community to continue to use the existing cell.	NSLI will continue to work with community on developing the future Site use plan and other possible mitigations to offset the use of the containment cell that will remain post- remediation



**Table 5.1-1 Documentation of Actions Taken: Rights Holder/Stakeholder Input Received**

Issue Raised	Raised by: (group or individual, with relevant date, if available)	Method/Event (email, in-person, Open House comment, etc.)	Ways in which NSLI Addressed the Issue	Mi'kmaq Agreement/Response with Action(s) Taken	Follow-Up
			<p>of several parcels of provincial lands which comprise most of the shoreline boundary of both the east and west sides of the estuary outside the existent causeway and dam structure. This has been done to gain access to these lands and to conduct remediation activities on or adjacent to these lands. Once these lands are no longer required for remediation and have been remediated where necessary, it is the intention to transfer these lands to the PLFN.</p> <p>These land transfers provide some accommodation to PLFN relative to any diminished use of lands used by PLFN due to the existence of the containment cell.</p>		
<p>Concerns about contamination of vegetation, trees, bushes around Boat Harbour; wondering whether wood harvested near Boat Harbour would be safe to burn</p>	<p>PLFN - individual</p>	<p>Open house written comment (Aug. 2019)</p>	<p>NSLI responded that sampling has shown that vegetation such as trees and bushes in and around the areas of sediment and surface water contamination at the Boat Harbour area are not contaminated and would be safe to burn.</p>		<p>No further follow-up required.</p>

**Table 5.1-1 Documentation of Actions Taken: Rights Holder/Stakeholder Input Received**

Issue Raised	Raised by: (group or individual, with relevant date, if available)	Method/Event (email, in-person, Open House comment, etc.)	Ways in which NSLI Addressed the Issue	Mi'kmaq Agreement/Response with Action(s) Taken	Follow-Up
New bridge at Highway 348 to replace current causeway: PLFN requested sidewalks on both sides of the bridge, and one community member asked why the bridge would not be built higher to accommodate larger boats in Boat Harbour	PLFN	Discussions; written question	NSLI agreed to incorporate sidewalks on both sides of the bridge. NSLI responded to the height question with information about the height of the bridge (15 feet from the water at low tide) and the depth of Boat Harbour - the harbour is not generally deep enough to accommodate larger boats. NSLI had discussions with PLFN's Fisheries Co-Operative to discuss the dimensions and opening of the bridge.	Community members seemed satisfied with response. Members of PLFN's Fisheries Co-Operative and BHCC indicated agreement with the size of the bridge opening and asked for a new dock and slipway within Boat Harbour following clean up.	Bridge design is still being finalized. The dock and slipway have been included as elements in PLFN's LUP.
Questions about flora and fauna around Boat Harbour - are lobsters contaminated, will fish and grasses be manually returned to Boat Harbour	PLFN community members	Discussions, community meetings, written questions	Since April 2016, BHEAC members representing NS Universities have carried out studies including on lobster and fish, mammals and birds, and reproducing eel grasses and marsh grasses at Boat Harbour.	PLFN has had representation on BHEAC since its inception. PLFN members regularly ask questions, raise concerns and contribute to presentations and knowledge-sharing at BHEAC meetings.	Some studies are ongoing. As completed, results will be communicated to BHEAC (including PLFN) and BHCC. BHEAC will continue through the life of the Project, with representation from PLFN.
Future Site use of Boat Harbour and surrounding grounds	PLFN	Discussions, community meetings	With NSLI support, PLFN commissioned Membertou Geomatics to draft a future	Community participated in	Finalization and implementation of future Site use

**Table 5.1-1 Documentation of Actions Taken: Rights Holder/Stakeholder Input Received**

Issue Raised	Raised by: (group or individual, with relevant date, if available)	Method/Event (email, in-person, Open House comment, etc.)	Ways in which NSLI Addressed the Issue	Mi'kmaq Agreement/Response with Action(s) Taken	Follow-Up
			LUP. NSLI is also working with other provincial/federal departments to enable transfer of Crown land near Boat Harbour to PLFN ownership.	development of future Site use plan.	plan is ongoing. Transfer of lands to PLFN is ongoing.

During the period of engagement with PLFN, NSLI accommodated various needs of the community to enable their active participation in discussions, sharing of information, and direct involvement in planning Project activities. Table 5.1-2 summarizes the total payments made to PLFN for various purposes associated with their engagement with NSLI over the period since 2014.

**Table 5.1-2 Payments to PLFN from October 2014 to March 2020**

Year of Payment	Purpose of Payment	Total
2014	Funds for purchase of Baker Estate Lands at Indian Cross Point	\$102,877
2016	Funds for office and meeting room space in Band Administration Building over the life of the Boat Harbour Remediation Project	\$100,000
2014 - 2020	Funds related to: <ul style="list-style-type: none"> <li>• Salaries of CLC and Support</li> <li>• Labour costs for PLFN community members participating in project work activities</li> <li>• Training costs for community members</li> <li>• Professional fees</li> <li>• Cost of LUP</li> <li>• Cost of Wellness Study</li> <li>• Cost of communications products</li> <li>• Cost related to meetings</li> </ul>	\$1,117,963
<b>Total</b>		<b>\$1,320,840</b>

## **5.2 Formal Consultation Prior to CEA Agency/IAAC Notice of Determination of Requirement for Federal Environmental Impact Assessment**

Prior to the CEA Agency Notice of Determination on February 22, 2019, formal s. 35 Aboriginal and Treaty rights consultation on this Project was initiated in April 2018 by the Province. This consultation was led by NSLI as the Crown agency responsible for implementing the Project. Consultation undertaken was carried out as per the Mi'kmaq-Nova Scotia-Canada Consultation TOR (August 31, 2010). NSLI provided formal correspondence to all Nova Scotia First Nations on April 18, 2018. Appendix J includes a copy of these correspondences.

Aside from the following formal consultation records with PLFN, NSLI has not received any requests from the remaining 12 Nova Scotia First Nations for formal consultation.

With respect to formal consultation with PLFN, a summary of the Remedial Option Decision Document was presented to PLFN at a formal consultation meeting on April 19, 2018. Appendix J includes a copy of the presentation. PLFN's position on the remedial options presented on April 19, 2018 was formally communicated to the Project Team by correspondence dated May 29, 2018. A response to this letter was provided by NSLI on August 23, 2018. Appendix J includes documentation of this correspondence.

The concerns and impacts to Aboriginal and Treaty Rights that were articulated by PLFN in their response were incorporated into the analysis leading to recommendations presented to Nova Scotia Executive Council in August 2018. Based on direction by Executive Council, NSLI finalized the

Project concept and moved forward with the proposed solutions outlined in the Project Description, subsequently finalized and accepted by CEA Agency/IAAC in January 2019.

Table 5.2-1 provides a summary of the issues and concerns raised in the May 30, 2018 correspondence from PLFN; the responses outlining the ways NSLI addressed the issues and concerns as of August 23, 2018; and, subsequent follow-up.

**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
<b>Sludge Disposal/Containment Cell</b>		
<p>The Remedial Options Decision Document (GHD 2018) and the Preferred Alternative Document (Section 3) identifies the existing containment cell as the most likely location for depositing the sediment and other material removed from Boat Harbour and surrounding lands during the remediation process. In part, this is due to the absence of another facility within a reasonable distance from Boat Harbour and the length of time it would take to bring a new facility on-line. Chief and Council are strongly opposed to any contamination being left near Boat Harbour. They are prepared to wait on the approval of another containment facility rather than proceed with a long-term containment cell at Boat Harbour. Part of it is a desire to remove all vestiges of past environmental insults - they feel that their community has shouldered the environmental burden of this misadventure for long enough. Part of it is also the peace of mind that would come from not having to worry about deficiencies in the design and monitoring of the containment cell and related infrastructure. While some in the community might benefit</p>	<p>The Project Team's current estimates are that approximately 930,000 cubic metres (m<sup>3</sup>) of waste will be generated as contaminated sediment when removed from the BHETF and adjacent wetlands. This waste includes dioxins and furans at levels required to be deposited in an approved containment cell. The existing containment cell, which is located adjacent to the BHETF on provincially owned lands, is approved for the containment of the contaminated sediment, while an amendment to the approval for an increase in capacity will be required. The existing containment cell has the engineering integrity and, with some modification and refurbishment, will have the capacity to securely contain it. Subject matter experts have advised the Project Team that an approval process for a new containment cell could take 5-8 years and is therefore not a timely option. As well, approval to construct and operate a new containment cell is not a certain outcome. In addition, Nova Scotia Environment (NSE) has advised the Project Team that</p>	<p>The containment cell, which is sited on lands owned by the Province, adjacent to the BHETF and Boat Harbour was constructed in the mid-1990s and started containing waste in 1996, receiving about 70,000 m<sup>3</sup> initially. It has continued to receive waste in routine dredging from the aeration stabilization basin (ASB) totaling an additional 110,000 m<sup>3</sup>. In context that NSE had advised NSLI that the Boat Harbour facility was the only approved facility in Nova Scotia to accept disposal of Boat Harbour sludge, PLFN expressed a concern that the containment cell may be used for other contaminated materials. NSLI, by correspondence dated August 8, 2018, advised PLFN that the Industrial Approval requires that "Article 4.b: Only sludges from the Boat Harbour effluent treatment facility are to be placed in the disposal cell.", and that NSLI is committed to comply with this stipulation. On June 18, 2018 at the BHCC, NSLI with GHD provided a technical presentation on the engineering features of containment cells, referred to as Containment Cell Design Overview. NSLI and GHD held six information sessions in September 2018 on the waste</p>

**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
<p>from work associated with monitoring the containment cell, this could just as easily be accomplished if a new containment cell was approved within commuting distance of the community.</p>	<p>there are no other off-site containment cells in Nova Scotia currently approved to accept the material by correspondence dated July 12, 2018.</p> <p>Direction from Provincial Cabinet approves use of the existing containment cell, with a commitment to develop and fund PLFN capacity and a PLFN entity for long-term maintenance and monitoring of the cell.</p>	<p>management plan for the Project, including the use of the on-site containment cell. These sessions were done in small groups—including specific sessions for elders and youth—in order to give as many community members as possible an opportunity to ask questions and voice concerns. GHD presented the technical discussion at these meetings by way of a slide presentation.</p> <p>NSLI commissioned the rendering of a 3D model of the containment cell, inclusive of the visioning of its vertical expansion as of Project completion. This was developed for presentation to the BHCC on December 4, 2019 and for the Public Open Houses held in Pictou Landing and PLFN Communities in December 2019. NSLI is committed to continuing to share information on the containment cell and has committed to developing an information video on containment cells, at the request of PLFN Chief and Council made February 21, 2020.</p>
<p><b>Lands</b></p>		
<p>The Design Requirements Document (Section 4.3.4) states that the Province has yet to determine whether treatment facility land is to be transferred to the community. As noted above, the transfer of the land to PLFN has been an ongoing commitment since the mid-1990s. In fact, the community has asserted elsewhere that these commitments are legally binding in that they were made in exchange for the forbearance by the community</p>	<p>The Project Team has consistently confirmed to PLFN that treatment facility lands will be offered to be transferred to the Band after the remediation is complete. There are also several provincially owned properties adjacent to the community that will also be offered to the Band.</p> <p>These commitments will be respected.</p>	<p>Nova Scotia Order in Council # 96-621 dated August 14, 1996 authorizes transfer of such portion of the BHETF lands as the Minister deems appropriate at no charge to the PLFN when the lands are no longer required.</p> <p>NSLI has acted to secure ownership of several other parcels of provincial lands which comprise most of the shoreline boundary of both the east and west side of the estuary outside the existent causeway and dam structure. This has been done to</p>

**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
<p>in respect of the continued use of Boat Harbour as an effluent treatment facility. Chief and Council were surprised that transfer of the land is now being questioned.</p>		<p>gain access to these lands and to conduct any remediation activities on or adjacent to these lands. Once these lands are no longer required for remediation and have been remediated where necessary, it is the intention to transfer these lands to the PLFN. These land transfers provide some accommodation to PLFN relative to any diminished use of lands owned or used by PLFN due to the existence of the containment cell.</p>
<b>Remediation Targets</b>		
<p>Throughout the Design Requirements Document reference is made to a "risk-based approach" to remediation. This approach contemplates that some contaminants may remain in place and that certain measures may or may not be required for their long-term management. While Chief and Council do not expect every single molecule of contaminant to be removed, what is not clear from the document is the extent to which contaminants will remain in Boat Harbour and on the surrounding lands. In the past it has been stated that the extent of remediation will be governed by existing regulations. At this time, Chief and Council request that a list of known contaminants be created which would indicate, for each contaminant: (a) the known or potential location of the contaminant, (b) the properties of the contaminant focusing on the possible harmful effects of each; (c)</p>	<p>The Phase II Environmental Site Assessment, conducted by GHD in late 2017 and early 2018, has been finalized. This Assessment details some of the noted information and has been provided to PLFN. The HHERA of the wetlands, referred to later in this correspondence under the heading Wetlands, will provide the balance of the information requested.</p>	<p>The Phase II Environmental Site Assessment was provided to PLFN. The HHERA study first draft was shared with regulators, ECCC, Health Canada (HC), Indigenous Services Canada (ISC) and NSE for comment. Based upon their comments, a disposition Table had been prepared and it was determined that there were requirements for a supplementary field work program, then further lab analysis for dioxins and furans, along with final draft preparation. NSLI agreed to fund a third-party consultant retained by PLFN to independently review the final draft HHERA study. The HHERA draft study and disposition Tables were shared with PLFN's consultant in September 2019. The final draft of the HHERA will be shared with PLFN (and their consultant) for review and comment when available.</p>

**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
<p>the specific regulation that governs the amount of the contaminant to be removed or to remain as the case may be; and (d) the "regulated" level of the contaminant i.e., the amount of the contaminant that is permitted under the regulation.</p> <p>Chief and Council have not had this information available to date. They recognize that they could obtain this information through independent consultants, but it is not clear that funds are available for this or that it is necessary in light of the fact that this information is known to the Province and its consultants and can be readily made available.</p>		
<b>Scope</b>		
<p>Chief and Council are concerned that the environmental assessment and, if necessary, the remediation of Lighthouse Beach and Moodie's Cove do not appear to have been within the scope of the proposed work. These areas are adjacent Reserve lands and have been historically an important recreational resource for the community. Chief and Council would also like confirmation that Indian Cross Point is included in the scope of the restoration.</p>	<p>The Phase II Environmental Site Assessment has determined that the impacts of contamination from the BHETF, which would trigger remediation, do not reach as far as Lighthouse Beach or Moodie's Cove.</p> <p>Notwithstanding that determination, additional assessment of the sediments in Moodie's Cove will be undertaken in summer 2018 by Acadia University's Dr. Ian Spooner with participation of community members on the assessment team.</p> <p>Indian Cross Point is within the scope of the Project.</p>	<p>The study of Moodie's Cove, or Sitmu'k, was completed in the summer of 2018 with two community members on the study team. This project focused on an environmental assessment of the lagoon and barrier beach to determine influences of environmental change through time in Sitmu'k by conducting a paleolimnological assessment of the geochemical changes recorded in the sediment archive. Collectively the data suggest that much of the water quality degradation noted in the past 50 years is likely a result of both natural landward migration of the barrier-beach complex resulting in reduced water depth and circulation coupled with increased local anthropogenic land use; the data did not</p>



**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
		<p>indicate significant industrial impact at the Site.</p> <p>The pipeline, and therefore lands adjacent to the pipeline at Indian Cross Point, is within the Project scope. NSLI has provided PLFN an opportunity to decide on the remediation approach, either leaving in place or removing, the pipeline between Indian Cross Point and Highway 348. NSLI engaged the Senior Archaeologist, Archaeology Research Division, KMKNO for advice on assessing the area for burial ground potential. Based upon KMKNO recommendations, NSLI funded an archaeological survey, using ground penetrating radar, of several sections of the pipeline right of way and an area in its proximity. The purpose of this survey was to assess the potential for existence and disturbance of burial grounds in or adjacent to the pipeline. The report of results of the survey were conveyed to PLFN and a community meeting was held on December 4, 2019 to explain and discuss the matter. In January 2020, PLFN informed NSLI that they would like the pipeline in this area removed. This request is being incorporated into the EIS and remediation plan.</p>
<b>Economic Benefits</b>		
<p>The Design Requirements Document (Section 4.8.2) appears to imply that the bidding process will not be designed to generate targeted economic benefits to PLFN. Instead the "ultimate driver is effective and cost-effective cleanup" of Boat Harbour. Frankly, Chief and Council hope that this interpretation is</p>	<p>The Project Team confirms that the ultimate driver for the BHRP is, in fact, "effective and cost-effective cleanup". This issue and its tie-in with economic benefit to the community has consistently been discussed with PLFN. To date, PLFN has participated in virtually every aspect of planning field work,</p>	<p>The Project Team supported, with ISC funding, an assessment of opportunities for PLFN associated with the project and its outcomes. The study was conducted by Group ATN Consulting Inc. An Analysis of Indigenous Economic Opportunities and completed in February 2019.</p>

**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
<p>not correct as it seems to be at odds with the discussions that have taken place to date. While Chief and Council appreciate that there may be some individuals in the community who will be suited for employment during the cleanup and subsequent monitoring activities, they are adamant that more general and direct economic benefits are appropriate in light of the history of Boat Harbour, the devastating impacts it has had on the community and the inconvenience that the cleanup process will have on the community going forward. Some may recall that in 2010 Bernd Christmas had outlined a funding program based on the administrative and capacity deficits identified by the community. The program outlined expenditures of some \$5 million over a 3-year period and as well provided for the construction of a new administration building. While the administration building has been built, the other deficits remain. The costs of addressing them are likely higher than when first proposed. In the meantime, capital projects such as housing and a new school have become urgent priorities as has capital and operating funding for economic development. Chief and Council would like to see the bid process designed to generate meaningful and substantial economic benefits to PLFN and as such are not satisfied</p>	<p>Site surveys, Site assessments and construction. The intent is that this will continue. All research projects, consulting studies and construction have had community members hired and paid to participate. Virtually all procurement for consulting studies and construction has required the bidders to submit work plans which detail the bidder's engagement and participation of PLFN's community members in the procured services, and these work plans were scored as part of the proposal evaluation process. The intent is that this procurement approach will continue.</p> <p>In addition, the Project Team had initiated and supports a Land Use Planning process with PLFN, which will have focus on end Site use of Boat Harbour after remediation is complete. The Project Team has long communicated that an investment in future Site use is an appropriate enhancement of the Project to the extent that it could generate meaningful and substantial economic benefits to PLFN, and to the broader community, in areas of ecotourism and economic development.</p> <p>We had received approval of early engagement on the consideration of an enhanced investment in future Site use based upon the successful Sydney Open Hearth Park model.</p>	<p>The Land Use Planning report and associated mapping, A'se'k (Boat Harbour) LUP, was completed by Membertou Geomatics Solutions in February 2019. In late 2019, PLFN prioritized elements of the land use plan with a view to collaborating with NSLI on the early implementation of aspects of the plan.</p> <p>NSLI received approval and a source of funds for \$15 million for investment in future Site use from the Investing in Canada Infrastructure Program.</p> <p>In early discussions on procurement for the full-scale implementation of the project, PLFN has been engaged with a point of contact with Nova Scotia Department of Internal Services, Procurement.</p> <p>NSLI intends to have an evaluated requirement in proposals from proponents bidding on the full-scale implementation for a PLFN engagement and participation work plan. Similar requirements have been laid out in all project procurement to date.</p> <p>In the interest of individual capacity development to participate in Project employment opportunities, NSLI has supported and funded the following training for community members:</p> <ul style="list-style-type: none"> <li>• CLC – November 2016 to May 2017 – Schulich School of Business, Masters Certificate in Project Management</li> <li>• Two Project Support Coordinators – January to</li> </ul>

**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
<p>with the direction suggested by the Design Requirements Document. Bids should be scored in part on the economic benefits to PLFN and that scoring factor should be assigned sufficient weight to generate significant net benefits to the community. Chief and Council do not feel that is appropriate to put forward a hard number at this time and would like to discuss same further.</p>		<p>March 2018 – Facilitation, Microsoft SharePoint, Respectful Working Environment, Communications in the Workplace, Multimedia and Storytelling</p> <ul style="list-style-type: none"> <li>• 11 Community Members – September to November 2018 – Safety Certified Laborer</li> <li>• One Community Member – September 2018 to February 2019 – Environmental Health and Safety Diploma</li> <li>• One Community Member – October to December 2018 – Earthmoving Operator Program</li> <li>• One Community Member – October to December 2018 – Commercial Safety College – Heavy Equipment Operator Program</li> <li>• One Community Member – October 2018 to January 2019 – NSCC Heavy Duty Equipment Operator</li> </ul>
<b>Environmental Monitoring</b>		
<p>There will be a need for ongoing monitoring of the environment in and around Boat Harbour. Chief and Council see this as something that the community can take on either directly or through private or community owned companies. Since this capacity will take time to create, Chief and Council would like a commitment from the Province to design and implement a program to assist Pictou Landing in developing this capacity and to transfer responsibility for environmental monitoring to the community, with</p>	<p>The Project Team has discussed this with PLFN and is supportive of this approach.</p>	<p>NSLI continues to support and fund training for community members upon PLFN's request. NSLI supported and provided funding to enable one community member to complete an environmental studies undergraduate degree. One community member was dedicated as a full-time air monitoring technician on NSLI Independent Ambient Air Monitoring Program during pilot scale work in 2018 and 2019. One community member, enrolled in a science program at Nova Scotia Community College, was mentored by GHD</p>

**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
appropriate funding for adequate monitoring into the future.		professionals during pilot scale testing.
<b>Development of Boat Harbour</b>		
<p>Chief and Council are unclear as to the process to be put in place for determining the structures and modifications that may form part of the environs around Boat Harbour for the use and enjoyment of the community and as a point to reflect upon the Boat Harbour legacy. It appears to be recognized in parts of the report. Chief and Council do believe that the existing treatment support building could be repurposed as part of future developments around Boat Harbour. Chief and Council would also like to see a dock and slipway as well as facilities for canoe and kayak storage.</p>	<p>The Project Team has funded and supports a Land Use Planning process for PLFN, which will focus on end Site use of Boat Harbour after remediation is complete. The Project Team has communicated that an investment in future Site use is an appropriate enhancement of the Project; and received approval to engage on this matter. The understanding is that the repurposed treatment support building and the dock and slipway will be elements of this land use plan and any commensurate future investment in the Site.</p>	<p>As noted above, the LUP report and associated mapping, A'se'k (Boat Harbour) LUP, was completed by Membertou Geomatics Solutions in February 2019. In late 2019, PLFN prioritized elements of the land use plan with a view to collaborate with NSLI on the early implementation of aspects of the plan. As noted above, NSLI received approval and a source of funds for \$15 million for investment in future Site use from the Investing in Canada Infrastructure Program.</p>
<b>Habitat Restoration</b>		
<p>In more than one instance the report states (Section 4.3.4 and 4.5) that long-term ecological maintenance and restoration is not part of the scope of the work. Chief and Council will need to understand what is being proposed in this regard and why it is not part of the Project.</p>	<p>The Project Team will communicate this information to enable such understanding and will address this through the BHCC discussions.</p>	<p>These discussions are on-going. While the long-term ecological maintenance and restoration planning is not part of the scope of work undertaken by NS Land's current consultant, studies are being undertaken by several of our University advisors. The results will help inform the requirement for long-term programs. NSLI will continue to communicate with PLFN as studies are completed and long-term plans are made.</p>

**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
<b>Indian Cross Point</b>		
<p>Chief and Council would like more work done to determine whether the pipeline can be completely removed in the area of Indian Cross Point without further disturbing the Site. They expect that the removal of the pipeline would not disturb any artifacts given the excavation of the Site to install the pipeline. However, they reserve further comment pending consultation with archeologists. As noted above their preference is not have any lingering infrastructure on their lands.</p>	<p>The Project Team confirms that this requested assessment will be addressed, and this has been discussed at the BHCC.</p>	<p>As noted above, the pipeline, and therefore lands adjacent to the pipeline at Indian Cross Point, is within the Project scope. NSLI has provided PLFN an opportunity to decide on the remediation approach, either leaving in place or removing, the pipeline between Indian Cross Point and Highway 348. NSLI engaged the Senior Archaeologist, Archaeology Research Division, KMKNO for advice on assessing the area for burial ground potential. Based upon KMKNO recommendations, NSLI funded an archaeological survey, using ground penetrating radar, of several sections of the pipeline right of way and an area in its proximity. The purpose of this survey was to assess the potential for existence and disturbance of burial grounds in or adjacent to the pipeline. The report of results of the survey were conveyed to PLFN and a community meeting was held on December 4, 2019 to explain and discuss the matter. PLFN notified NSLI that they would like the pipeline removed. NSLI has incorporated this decision in the EIS and remediation plan.</p>
<b>Wetlands</b>		
<p>Complete removal of wetlands is noted in Section 3 to be the best option as opposed to remediation in place. Chief and Council have heard from Environment Canada that further information will be required in order to determine the impact of such a process. Chief and Council reserve comment on that approach</p>	<p>The Project Team intends to conduct a HHERA of the wetlands which will serve to inform the regulators (including ECCC), the Project Team, and PLFN on the optimal approach to manage the wetland remediation and/or risk-based approach. We have been directed to do so and we have engaged</p>	<p>As noted above, the HHERA study first draft was shared with regulators, ECCC, HC, ISC and NSE for comment. Based upon their comments, a disposition Table had been prepared and it was determined that there were requirements for a supplementary field work program, then further lab analysis</p>

**Table 5.2-1 Summary of Issues Raised by PLFN and Proponent Response and Commitments**

Issues or Concern from PLFN Correspondence of May 30, 2018	NSLI Response as of August 23, 2018	Subsequent Follow-Up and Additional Information
until further information and advice is obtained.	<p>NSE, ECCC, Health Canada (HC) and ISC to advise on a proposed work plan for this assessment.</p> <p>While GHD's recommended remedial option and feasible concept was to undertake complete removal of the sediment, the Project Team is of the position that a risk-based approach is more appropriate. The risk-based approach is also an appropriate response to PLFN's position.</p>	<p>for dioxins and furans, along with final draft preparation.</p> <p>NSLI agreed to fund a third-party consultant retained by PLFN to independently review the final draft HHERA study. The HHERA draft study and disposition Tables were shared with PLFN's consultant in September 2019.</p> <p>The final draft HHERA will be shared with PLFN (and their consultant) for review and comment when available. The final draft HHERA recommends that some areas undergo complete removal.</p>
<b>Technical Matters</b>		
<p>There are a number of other technical matters that have been raised by the Mi'kmaq Conservation Group (MCG). These will be supplied under separate cover as they don't appear to affect the overall Project. Chief and Council also have more technical questions and requests for further information which will be addressed at the same time.</p>	<p>Your letter notes that there are several other technical matters that have been raised by the MCG and that these will be supplied separately.</p> <p>The Project Team notes this position, has received the report from MCG, and has responded to technical matters raised.</p>	<p>The MCG is one of the programs under the umbrella of the Confederacy of the Mainland Mi'kmaq. A representative of the Confederacy of the Mainland Mi'kmaq is sitting on the BHEAC effective October 2019.</p>

### **5.3 Engagement with the Mi'kmaq of Nova Scotia and Concerns Raised During the Federal Environmental Impact Assessment**

During the federal EIA process, formal s. 35 Crown consultation was to be led by CEA Agency/IAAC for the duration of the process. The Provincial Crown will rely fully upon the federal CEA Agency/IAAC process to meet its requirements for its duty to consult and has communicated this to PLFN. The letter documenting this communication is included in Appendix K. However, the existing committees and other engagement methods previously mentioned will continue throughout the EIA process. The framework for stakeholder consultation during the EIA was developed in collaboration with NSLI, NS Office of Aboriginal Affairs and IAAC (Table 5.3-1).

**Table 5.3-1 Roles Related to Engagement and Formal s. 35 Consultation with PLFN Concerning the BHRP, September 2019**

Representative	Role	Details
Impact Assessment Agency of Canada	EA Coordination and Crown Consultation Lead	<ul style="list-style-type: none"> <li>• Develop and implement a Crown consultation plan that is consistent with a Whole of Government approach to Crown consultation by the federal Crown through close collaboration with regulatory departments and agencies and with support from other federal authorities, as appropriate</li> <li>• Coordinate the involvement of regulatory departments and agencies, including Nova Scotia Office of Aboriginal Affairs, and federal authorities regarding federal Crown consultation activities with PLFN as it relates to the EIA</li> <li>• Represent the Crown with regulatory departments and agencies during consultation activities, and work with those authorities to appropriately consider and address issues raised by PLFN</li> <li>• Compile the Crown consultation record, including a tracking Table for those issues, and coordinate input from the regulatory departments and agencies and federal authorities, where appropriate</li> <li>• Relay information and concerns to relevant authorities and/or jurisdictions that are raised but fall outside the scope of the EIA</li> <li>• Coordinate discussions amongst the regulatory departments and agencies for the purposes of identifying a lead Crown consultation coordinator for activities related to the regulatory phase, if required</li> </ul>
Nova Scotia Lands Inc.	Lead Provincial Department and Project Proponent	<ul style="list-style-type: none"> <li>• Lead Crown consultation on behalf of the Province</li> <li>• Provincial Crown Agency responsible for the implementation of the Project</li> <li>• Responsible for all project-related engagement activities with PLFN</li> <li>• Share all Project information with all parties through SharePoint site</li> </ul>
GHD	Project Consultant	<ul style="list-style-type: none"> <li>• Collect, analyze, and present Project information</li> <li>• Coordinate EA submission</li> <li>• Provide technical advice and support</li> </ul>
Pictou Landing First Nation	Mi'kmaq Community Representative	<ul style="list-style-type: none"> <li>• Advise Proponent and Crown on consultation process with input from the Mi'kmaq</li> <li>• Communicate impacts to Aboriginal and Treaty Rights resulting from the Project</li> </ul>

**Table 5.3-1 Roles Related to Engagement and Formal s. 35 Consultation with PLFN Concerning the BHRP, September 2019**

Representative	Role	Details
		<ul style="list-style-type: none"> <li>• Share Indigenous knowledge to assist in developing appropriate accommodations as needed</li> <li>• Review and provide feedback on Project information</li> </ul>
Office of Aboriginal Affairs	Provincial Consultation Advisor	<ul style="list-style-type: none"> <li>• Participate in IAAC-led consultation process</li> <li>• Coordinate consultation and communication related to Crown consultation with provincial departments</li> </ul>
Nova Scotia Environment	Provincial Authority, Technical Advisory Committee	<ul style="list-style-type: none"> <li>• Provide technical advice</li> <li>• Participate in Crown consultation where department authorizations are required</li> </ul>
Department of Lands & Forestry	Provincial Authority, Technical Advisory Committee	<ul style="list-style-type: none"> <li>• Provide technical advice</li> <li>• Participate in Crown consultation where department authorizations are required</li> </ul>
Department of Communities, Culture and Heritage	Provincial Authority, Technical Advisory Committee	<ul style="list-style-type: none"> <li>• Provide technical advice</li> <li>• Participate in Crown consultation where department authorizations are required</li> </ul>
Indigenous Services Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> <li>• Provide technical advice</li> <li>• Contribute to federal Crown consultation activities</li> </ul>
Environment and Climate Change Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> <li>• Provide technical advice</li> <li>• Contribute to federal Crown consultation activities</li> </ul>
Health Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> <li>• Provide technical advice</li> <li>• Contribute to federal Crown consultation activities</li> </ul>
Fisheries and Oceans Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> <li>• Provide technical advice</li> <li>• Contribute to federal Crown consultation activities</li> </ul>
Transport Canada	Federal Authority, Technical Advisory Committee	<ul style="list-style-type: none"> <li>• Provide technical advice</li> <li>• Contribute to federal Crown consultation activities</li> </ul>

The informal and formal consultation undertaken before the Notice of Determination of Requirement for federal EIA was issued was used to inform the details of the Project in the early planning stages and to shape the engagement and consultation process for the EIA. For example, it became apparent through the informal and formal consultation that the most significant environmental concern of the PLFN community members is the waste management aspect of the use of the containment cell adjacent to Boat Harbour. As such, the information presented through the engagement activities discussed below was developed to build off the past engagement work completed regarding the containment cell and to highlight the potential effects, proposed mitigation measures and monitoring and follow-up associated with the containment cell.



Consultation during the EIA was conducted in accordance with the CEAA 2012 requirements, IAAC's *Interim Guidance: Indigenous Participation in Impact Assessment* and final EIS Guidelines issued by IAAC on May 31, 2019. As per the IAAC's interim guidance, the proponent is to provide Indigenous communities with an opportunity to participate early in the planning process of a project to allow them to:

- Learn about the impact assessment process
- Identify potential impacts on Aboriginal and treaty rights, and provide input and comments on important issues, interests or values, which will inform a Summary of Issues
- Share their views on opportunities for participation in the impact assessment process
- Identify Indigenous knowledge or studies that may inform the impact assessment and decision-making phases
- Provide comments on the initial project description and the need for an impact assessment

The final EIS Guideline issued by CEA Agency on May 31, 2019 also gives guidance to the Proponent to complete specific aspects of Mi'kmaq engagement including ensuring early engagement and structuring engagement activities to provide adequate time for groups to review and comment on the relevant information. The final EIS Guidelines states, "...the proponent engages with the Mi'kmaq of Nova Scotia that may be affected by the project, to obtain their views on:

- The Project
- Effects of changes to the environment on Aboriginal peoples (health and socio-economic conditions; physical and cultural heritage, including any structure, site or thing that is of historical, archaeological, paleontological or architectural significance; and current use of lands and resources for traditional purposes) pursuant to paragraph 5(1)(c) of CEAA 2012
- Potential adverse impacts of the Project on potential or established Aboriginal or Treaty rights, in respect of the Crown's duty to consult, and where appropriate, accommodate Aboriginal peoples"

In light of the consultation requirements with Indigenous communities and to build off the extensive engagement activities related to the remediation of Boat Harbour that have occurred with PLFN, NSLI developed the following objectives for carrying out consultation with PLFN as part of the Project:

- Enhance awareness and the communication of Project information
- Provide multiple consultation opportunities
- Collect input and demonstrate consideration of issues raised
- Ensure the solicitation and documentation of feedback

The objectives noted above highlight the importance of meaningful engagement that involves notifications, reasonable timing for review, accessible information and transparent results. Each of the objectives are further elaborated upon in Table 5.3-2.

**Table 5.3-2 Objectives of Consultation During the EIA**

<b>Objective 1   Enhance Awareness and the Communication of Information</b>
<ul style="list-style-type: none"> <li>• Enhance awareness of the EIA process and provide multiple opportunities for PLFN to get involved</li> <li>• Educate on the technical information presented during the EIA process to enhance the understanding of the issues and opportunities</li> <li>• Provide PLFN with timely, clear, and understandable information so that they can be meaningfully involved in the EIA process</li> <li>• Continue meaningful communication among NSLI, GHD, and PLFN to facilitate information discussions on issues and opportunities</li> <li>• Utilize web-based and print materials to ensure that PLFN have full access to information and documentation</li> </ul>
<b>Objective 2   Provide Multiple Consultation Opportunities</b>
<ul style="list-style-type: none"> <li>• Engage PLFN through a variety of accessible and timely methods and opportunities to participate throughout the EIA process</li> <li>• Be flexible and hold additional consultation activities if extra dialogue with PLFN stakeholders is required</li> <li>• Ensure equal access to participation by hosting events at venues that are accessible, conveniently located</li> </ul>
<b>Objective 3   Collect input and Demonstrate Consideration of Issues Raised</b>
<ul style="list-style-type: none"> <li>• Ensure that consultation is relevant by considering input, concerns, and suggestions received from PLFN and updating Project approaches and plans when possible/appropriate</li> <li>• Work proactively with PLFN to resolve concerns through the various phases of the Project; where concerns cannot be resolved, fully document the reasons why</li> </ul>
<b>Objective 4   Ensure the Solicitation and Documentation of Feedback</b>
<ul style="list-style-type: none"> <li>• Provide full documentation of input received throughout the EA process in the EIA including stakeholder questions, comments, and concerns</li> <li>• Prepare summaries of input from consultation events and notes of meetings</li> <li>• Regularly post Project updates, reports, meeting notes, and summaries from consultation events on the Project website and social media sites, as appropriate</li> <li>• Provide timely responses to questions, comments, and concerns that are received, providing electronic responses or otherwise, as requested by the recipient</li> </ul>

### **5.3.1 Mi'kmaq of Nova Scotia Groups Consulted**

As per the EIS Guidelines, for Indigenous groups with potential to be most affected by the Project (PLFN), it was expected that the Proponent would strive toward developing a productive and constructive relationship based on ongoing dialogue with the groups in order to support information gathering and effects assessment. However, the proponent is still required to ensure, at a minimum, that the following groups that may be impacted, but to a lesser degree, are notified about the key steps in the EIS development process and of opportunities to provide comments on key EIA documents and/or information to be provided regarding their community:

- Groups represented by the KMKNO:
  - Acadia First Nation
  - Annapolis Valley First Nation
  - L'sitkuk (Bear River) First Nation

- Eskasoni First Nation
- Glooscap First Nation
- Membertou First Nation
- Paq'tnkek First Nation
- Potlotek First Nation
- Wagmatcook First Nation
- Waycobah First Nation
- Millbrook First Nation
- Indian Brook First Nation

As stated in Section 5.2, NSLI provided formal correspondence to all Nova Scotia First Nations on April 18, 2018. Aside from the following formal consultation records with PLFN, NSLI has not received requests from the remaining 12 Nova Scotia First Nations for formal consultation.

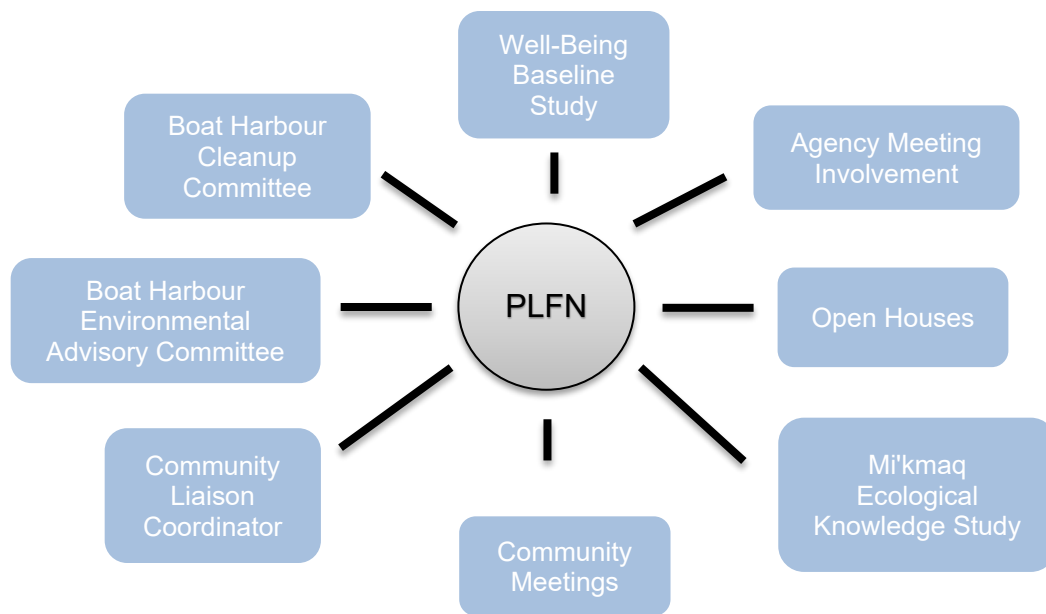
As PLFN has the potential to be the most affected by the Project, PLFN was delegated the authority of the Nova Scotia Mi'kmaq to speak on behalf of all Nova Scotia First Nations relating to the remediation of Boat Harbour (Appendix K). As such, engagement, consultation and Mi'kmaq participation in the Project is focused on the PLFN community.

The Native Council of Nova Scotia was informed of the Project and were provided with details regarding the Project components. They were provided with a copy of the Executive Summary of the Project Description and were met with on March 9, 2020 to discuss the Project further. Correspondence is included in Appendix K.

### **5.3.2 Engagement Activities Undertaken**

As stated, the existing committees and other engagement methods previously mentioned have been continued throughout the EIA process including the BHCC meetings, BHEAC meetings, the role of the CLC, and community meetings. During the EIA, NSLI undertook additional activities to receive further input from the PLFN community including the commissioning of a Mi'kmaq Ecological Knowledge Study (MEKS), hosting two EIA Open Houses for PLFN, PLFN's inclusion in agency meetings, and the commissioning of a Well-Being Study. Figure 5.3-1 presents all methods of engagement with PLFN, which are further discussed below.

**Figure 5.3-1 Methods of Engagement with PLFN during the EIA**



**5.3.2.1 Boat Harbour Cleanup Committee**

As described earlier, the purpose of the BHCC, which includes members of NSLI, PLFN Council and community, and the Office of Aboriginal Affairs, is to allow for timely and orderly exchange of information, views and concerns, allowing PLFN to understand, assess and respond to work on planning and engagement. In addition to the BHCC meetings discussed in Section 5.1.3 that occurred before the Notice of Determination of Requirement for federal EIA was issued, the BHCC continued to meet throughout the duration of the EIA process and is anticipated to continue to the end of the Project.

On February 22, 2019, the BHCC membership, including PLFN Chief and Council, met with NSLI and the Office of Aboriginal Affairs in Halifax to discuss progress with the BHCC and how the BHCC should reorient its relationship and governance moving forward over the coming years. The basis for moving forward was articulated from a review of where we've been over the prior years since mid-2015 and considered challenges and communications as well as a 3rd party consultant's Report - An Analysis of Indigenous Economic Opportunities by Group ATN Consulting. Appendix I includes a copy of this Report.

The meeting held on February 22, 2019 and additional meetings during the EIA are summarized in Table 5.3-3. Appendix L includes copies of the Agendas and Meeting Minutes from the BCCC meetings during the EIA.

**Table 5.3-3 Summary of BHCC Meetings During EIA**

Meeting Date	Key Items discussed	Questions/Action Items
February 22, 2019	<ul style="list-style-type: none"> <li>Where We've Been Since 2014 and Moving Forward</li> <li>Challenges moving forward</li> <li>Moving Forward on the Strategic Plan</li> <li>Communications and Future BHCC Meetings</li> </ul>	<p>Discussions regarding the pipeline, waste management, information learned during pilot testing, questions regarding the Kraft Pulp Mill, and opportunities for training.</p> <p>CLC to follow up with PLFN community to obtain feedback on what they would like to see done with the pipeline.</p>
May 31, 2019	<ul style="list-style-type: none"> <li>Update on Pilot-Scale Testing Program</li> <li>Lands Transfer from Nova Scotia to PLFN</li> <li>EIA</li> <li>Archaeological and GPR Survey Indian Cross Point</li> <li>Air Monitoring Update</li> <li>Federal Funding Announcement</li> </ul>	<p>Discussion of Northern Pulp's closure plan and pumping clean water after closure date for BHETF. Discussed the A'se'k Education Initiative, land transfer of Palmers property to PLFN. Discussion of the LUP. Confirmed that a qualified firm is to review the HHERA report being completed by GHD. Discussed Indigenous Reconciliation Awareness Model. Discussed dates for the Community Air Monitoring Session.</p>
October 8, 2019	<ul style="list-style-type: none"> <li>EIS/Consultation</li> <li>BH fish survey</li> <li>Country foods survey</li> <li>Sludge thickness tender</li> <li>Wellness study</li> <li>Land use plan</li> <li>Detour/temporary bridge</li> </ul>	<p>Discussion of Northern Pulp's closure plan and pumping clean water after closure date for BHETF. Discussed the A'se'k Education Initiative, land transfer of Palmers property to PLFN. Confirmed that a qualified firm is to review the HHERA report being completed by GHD. Reschedule Pilot Scale Debrief meeting for October. Discussed dates for the Community Air Monitoring Session.</p>
December 4, 2019	<ul style="list-style-type: none"> <li>EIS/Consultation</li> <li>BH fish survey</li> <li>Country foods survey</li> <li>Sludge thickness tender</li> <li>Wellness study</li> <li>Land use plan</li> <li>Bridge Update &amp; Detour Options</li> <li>3D containment Cell and/or infographic</li> <li>Land transfer commitments</li> </ul>	<p>Followed up on discussion with Northern Pulp about their closure plan.</p> <p>An update was provided on the transfer of Palmers property to PLFN and on the LUP. An update on the Community Air Monitoring Session on November 22, 2019 was provided.</p>

### 5.3.2.2 Boat Harbour Environmental Advisory Committee

As discussed in Section 5.1.7, the BHEAC advises the Project Team on the full scope of scientific and regulatory matters including Project boundaries; and bridges discussions between PLFN, Project managers, Project consultant resources, regulators, scientists, and academic advisors and Aboriginal Affairs subject matter specialists. As a representative on the BHEAC, PLFN has been provided an opportunity to advise on the environmental management of the Project throughout to

ensure that it is carried out in a manner that is environmentally acceptable and safe to human health. The BHEAC met throughout the EIA process and will continue to meet throughout the remainder of the EIA process and continue on during Project implementation.

The key action items and the status of each item discussed at the BHEAC meetings during the EIA are provided in Table 5.3-4. Appendix M includes a copy of the complete list of action items discussed in each meeting.

**Table 5.3-4 Summary of BHEAC Meetings During EIA**

Meeting Date	Key Action Items Discussed and their Status
March 13, 2019	<ol style="list-style-type: none"> <li>1. Pilot scale implementation ongoing</li> <li>2. Interim Air Quality Monitoring ongoing –Reports regularly posted to website: <a href="https://novascotia.ca/boatharbour">https://novascotia.ca/boatharbour</a></li> <li>3. Ongoing facilitation with GHD and universities to make sure GHD is making best use of the work completed by universities</li> <li>4. Clarification of regulatory strategy - NSE determination of Class 2 EA announced; CEAA decision February 22, 2019, federal EA is required; discussions with CEAA continue</li> <li>5. Public Communications are ongoing</li> <li>6. LUP ongoing</li> </ol>
April 10, 2019	<p><i>Action item #s 1 to 6 listed above were discussed – no change since last meeting</i></p> <ol style="list-style-type: none"> <li>7. Pipeline Options Meeting with PLFN Community – complete – held on March 21, 2019 in PLFN</li> </ol>
May 15, 2019	<p><i>Action item #s 1 -3, 5 and 6 listed above were discussed – no change since last meeting</i></p> <ol style="list-style-type: none"> <li>4. NSE determination of Class 2 EA withdrawn; Notice of commencement of federal EIA issued on April 10, 2019, EIS Guidelines expected on May 24, 2019</li> <li>7. Ongoing discussions of pipeline options with consultant</li> </ol>
June 12, 2019	<p><i>Action item #s 1 -3 and 5-7 listed above were discussed – no change since last meeting</i></p> <ol style="list-style-type: none"> <li>4. Environmental Impact Assessment – Final Guidelines issued May 31, 2019</li> </ol>
July 10, 2019	<p><i>Action item #s 1 -4, 6 and 7 listed above were discussed – no change since last meeting</i></p> <ol style="list-style-type: none"> <li>5. Communications NS updated the Project website</li> </ol>
September 11, 2019	<p><i>Action item #s 1 -3, 5 and 6 listed above were discussed – no change since last meeting</i></p> <ol style="list-style-type: none"> <li>4. Environmental Impact Assessment – Public &amp; PLFN Open Houses – July 31, Aug 27</li> <li>7. Pipeline Options Meeting with PLFN Community. (Existing pipeline at Indian Cross Point) - Ground penetrating radar survey complete</li> </ol>
October 9, 2019	<p><i>No change in status of action items since September 11, 2019 meeting</i></p>
November 13, 2019	<p><i>Action item #s 1 -3, and 5 listed above were discussed – no change since last meeting</i></p> <ol style="list-style-type: none"> <li>4. Environmental Impact Assessment – EIS under development</li> <li>6. Pipeline Options Meeting with PLFN Community- Community meeting December 4, 2019</li> </ol>

**Table 5.3-4 Summary of BHEAC Meetings During EIA**

Meeting Date	Key Action Items Discussed and their Status
January 15, 2020	<p><i>Action item #s 1 -5 listed above were discussed – no change since last meeting</i></p> <p>6. Pipeline Options Meeting with PLFN Community- Community decision received January 2020</p>

**5.3.2.3 Community Liaison Coordinator**

As discussed in Section 5.1.3, the CLC helps host and organize BHCC meetings; sits on the BHEAC; communicates regularly to PLFN community members through newsletters (A'se'k News), social media posts and other methods; and calls and organizes various community meetings around issues related to the BHRP. The CLC's role has continued over the course of the EIA and will occur until remediation has been completed.

During the EIA, two A'se'k News newsletters were published by the CLC. In June 2019, an A'se'k News issue was published to provide an update on the Project from NSLI. The update included information on funding for the Project, the pilot-scale dredging activities that were occurring at the time, the air monitoring ongoing at this Site during the pilot-scale and the link to the Project's website where the air monitoring reports can be viewed, the federal EIA process underway, and an update of the options for remediating the pipeline at Indian Cross Point.

Another A'se'k News issue was published in October 2019 to provide an additional update on the Project. The update included information on the Open House held in August, design components that NSLI will be seeking PLFN input on, the sludge thickness, fish and well-being surveys that will be completed, and an update on the Indian Cross Point Archaeological Study. Appendix N includes the A'se'k News issues published during the EIA.

**5.3.2.4 Community Meetings**

***A'se'k Socials***

As mentioned, a series of "A'se'k Socials" were held at PLFN to invite community members to ask questions about the Project and raise any concerns they may have. A total of 12 socials were held between August 2017 and March 2019 and are further discussed in Section 5.1.6. The one held on March 12, 2019 during the EIA presented the Remedial Action Plan (Appendix O). Discussions centered on how the goals and remedial options were developed and key components of the remedial action plan, including the proposed bridge to replace the box culvert causeway, infrastructure decommissioning, wetland restoration, and waste management.

***Remediation of the Pipeline at Indian Cross Point***

In March 2019, NSLI and Heather MacLeod-Leslie, Senior Archaeologist, Archaeology Research Division, KMKNO' attended a public meeting in PLFN to discuss options for remediating the pipeline at Indian Cross Point. The meeting helped narrow down the options 1) leave the pipeline in place after cleaning and cutting and capping to prevent future use without disturbing the surrounding area; 2) filling the pipe after cleaning followed by cutting and capping the pipe to prevent future use without disturbing the surrounding area; or 3) removing the pipeline completely.

Based upon the advice of Heather MacLeod-Leslie and PLFN concurrence, NSLI retained Boreas Heritage Consulting Inc., to complete a study of the area. Boreas Heritage Consulting Inc., completed the non-intrusive investigation program that was developed in conjunction with PLFN. Following completion of the program, a discussion on the finding was held for PLFN Band Council members followed by a community session on December 4, 2019.

Following council and community meetings a community survey was completed in parallel with PLFN OH #2, to receive community input on the best method of decommissioning the pipeline between Indian Cross point and the western property line at Highway 348.

As previously noted, PLFN informed NSLI in January 2020 that the pipeline in this area should be fully removed.

#### ***Community Air Monitoring Lunch and Learn Session***

Stantec held a Lunch and Learn session with the PLFN on November 22, 2019 to present on the air monitoring program that occurred during the pilot scale testing work. The results from the ambient air monitoring at the Fixed Monitoring Station along with the real-time monitoring that occurred during pilot scale activities were presented. Appendix P includes a copy of the presentation.

#### **5.3.2.5 Mi'kmaq Ecological Knowledge Study**

The Mi'kmaq people have a long-existing, unique and special relationship with the land and its resources, which involves the harvesting of resources, the conservation of resources and spiritual ideologies. To understand this relationship and to ensure it was considered in the assessment of potential environmental effects, NSLI hired Membertou Geomatics Solutions, a Membertou First Nation to prepare a MEKS for the BHRP. While NSLI understands that the preparation and acceptance of this report is not considered consultation within itself, nor is it deemed to fulfill the Duty to Consult owed by the Crown to the Mi'kmaq, it is discussed within this Section as an opportunity to obtain PLFN's views on the existing environment and surrounding land use.

The Mi'kmaq Traditional Land and Resource Use Activities component of the MEKS utilized interviews as the key source of information regarding Mi'kmaq use within the Site Study Area. Over 44 individuals were asked to provide information in regard to past and present traditional use activities. Informants were shown topographical maps of the Site Study Area and asked to identify where they undertake their activities as well as to identify where and what activities were undertaken by another Mi'kmaq, if known.

The information obtained from the MEKS was used in the establishment of baseline conditions in the Site Study Area.

#### **5.3.2.6 PLFN Open Houses**

As part of the EIA, NSLI hosted two Open House events for the PLFN community at key decision-making milestones.



### 5.3.2.6.1 PLFN Open House #1

#### Purpose

The purpose of the OH #1 was to provide PLFN with an opportunity to review information, ask questions, seek clarification, and provide comments to the Project Team (i.e., NSLI and GHD) on the following:

- EIA process
- Pilot scale testing and sampling work completed to date
- The EIA process and timeline
- The Baseline studies and environmental considerations
- The possible solutions and preferred solution for each Project component

#### Date, Time, Location

The Open House was held on August 27, 2019 from 3:00 to 6:00 p.m. at the Fire Hall located at PLFN, Nova Scotia.

#### Notification

NSLI notified PLFN community members about the Open House through the following means:

**Facebook** – OH #1 was advertised on the PLFN Facebook page on August 13, 14, 15, 20, 22 and 26 leading up to the Open House. The PLFN Facebook page has 911 members. The Open House was also shared as an event in the closed A'se'k Facebook group, with 263 invitees (Figure 5.3-2).

**Print** – OH #1 was also advertised through a print poster that was placed on bulletin boards throughout the PLFN community, including the PLFN council office (Appendix Q).

The methods were selected and implemented in consultation with the CLC, who works directly with the PLFN community on the BHRP.

#### Attendance

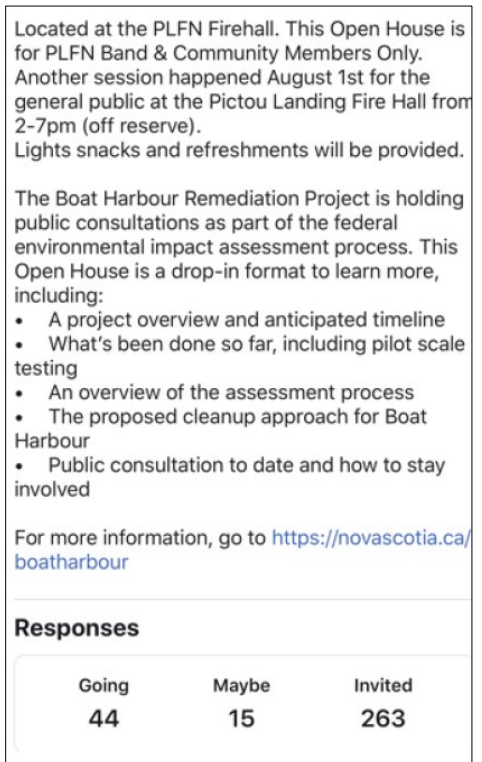
31 individuals attended OH #1, including local residents of PLFN, including Chief and Council.

Representatives from the IAAC and federal agencies connected to the EIA process also attended the OH.

#### Information Provided

OH #1 was arranged as an informal drop-in session where members of PLFN could stop by any time during the given hours, review the information, and meet individually with Project Team

**Figure 5.3-2 PLFN OH Event on Facebook**



members to discuss the Project. The session began with an introductory presentation to those in attendance.

Project information was presented on large coloured display panels arranged in stations around the perimeter of the room with Project Team members in attendance to encourage discussion and answer questions from the community (Table 5.3-5). To provide additional detail for those attendees wishing to gain a deeper understanding of specific Project elements, a resource Table provided additional information on environmental baseline studies and other relevant reference material. Copies of the Display Panels and Baseline Studies Booklet and are included in Appendix Q.

**Table 5.3-5 Information Presented at OH #1**

Station	Overview	Information Presented
1	Welcome and Background	<ul style="list-style-type: none"> <li>• Purpose of the event and the process for submitting comments</li> <li>• Background information on the Project</li> <li>• Overview of the Project and timelines</li> <li>• What work has been completed to date</li> <li>• Pilot and bench scale testing, Consultation, and EIA documentation</li> <li>• Other materials: OH #1 Handouts, Pilot Scale Testing Infographic, EIS Guidelines, Project Description, Baseline Study Booklets</li> </ul>
2	Consultation, Engagement and Government	<ul style="list-style-type: none"> <li>• Consultation PLFN and Public consultation and involvement to date</li> <li>• How does government play a role? CEAA/IAAC, NSLI, federal and provincial agencies</li> </ul>
3	Project Overview and EIA Process	<ul style="list-style-type: none"> <li>• What needs to be done and what has taken place?</li> <li>• Scientific and technical planning, regulatory phase, cleanup phase</li> <li>• The EIA Process</li> </ul>
4	Remedial Approach	<ul style="list-style-type: none"> <li>• Areas of Environmental Impact</li> <li>• Contamination Sampling</li> <li>• Pilot Scale Testing</li> <li>• Baseline Studies</li> <li>• How the decisions are made</li> <li>• Possible and proposed solutions for components of remediation</li> </ul>
5	Wrap Up	<ul style="list-style-type: none"> <li>• What's next and submitting comments</li> </ul>

**Feedback**

Many engaging discussions took place at the event between Project Team Members and members of PLFN. PLFN members were encouraged to write down their feedback on the comment sheets provided, while NSLI staff also recorded notes from verbal conversation following the presentation. A summary of comments received are provided in Table 5.4-1. Appendix Q includes hard copies of comments received.

#### **5.3.2.6.2 PLFN Open House #2**

##### ***Purpose***

The purpose of OH #2 was to provide PLFN with an opportunity to review information, ask questions, seek clarification, and provide comments to the Project Team (i.e., NSLI and GHD) on the following topics:

- Project Components and Activities
- Valued Components (VC)
- Impact Assessment and proposed mitigation measures
- Accidents and Malfunctions
- Effects of the Environment on the Project
- Cumulative Effects Assessments
- Follow-up and Monitoring Programs

##### ***Date, Time, Location***

OH #2 was held on, December 9, 2019 from 3:00 to 6:00 p.m. at the same location as OH #1.

##### ***Notification***

NSLI notified PLFN community members about OH #2 through the following means.

***Facebook*** – OH #2 was advertised on the PLFN Facebook page on November 27 and December 9, 2019 leading up to the OH, using the flyer included in Appendix R. The PLFN Facebook page has 1,311 followers as of January 16, 2020. The OH was also shared as an event in the closed A'se'k Facebook group, which is limited to PLFN community members.

***Print*** – OH #2 was also advertised through a print poster that was placed on bulletin boards throughout the PLFN community, including the PLFN council office. (See flyer included in Appendix R).

The methods were chosen and implemented in consultation with the CLC, who works directly with the PLFN community on the BHRP.

##### ***Attendance***

There were 23 people in attendance at the OH #2. A separate Open House was held with the general public on December 10, 2019 (Section 4.3.2.2).

Representatives from the IAAC and federal agencies connected to the EIA process also attended OH #2.

##### ***Information Provided***

OH #2 was arranged as an informal drop-in session where members of PLFN could stop by any time during the given hours, review the information, and meet individually with Project Team members to discuss the Project. The session began with an introductory presentation to those in

attendance. A video featuring a graphic rendering of what the containment cell might look like was also presented (Figure 5.3-3).



**Figure 5.3-3 Rendering of the Containment Cell after Closure**

Project information was presented on large coloured display panels arranged in stations around the perimeter of the room with Project Team members in attendance to encourage discussion and answer questions from the community (Table 5.3-6). To provide additional detail for those attendees wishing to gain a deeper understanding of specific Project elements, a resource Table provided additional information on environmental baseline studies and other relevant reference material. Copies of the display panels, presentation and handouts are included in Appendix R.

**Table 5.3-6 Information Presented at OH #2**

Station	Overview	Information Presented
1	Welcome and Background	<ul style="list-style-type: none"> <li>• Welcome (title, date, time, photos)</li> <li>• Purpose of the event and the process for submitting comments</li> <li>• Background information on the Project</li> <li>• Overview of the Project and timelines</li> <li>• What's been done to date</li> <li>• Other materials: OH #1 Panels, Pilot Scale Testing Infographic, EIS Guidelines, Project Description, Baseline Study Booklets</li> </ul>
2	Project Components and Activities and VCs	<ul style="list-style-type: none"> <li>• Areas for remediation</li> <li>• Water Management</li> <li>• Waste Management</li> <li>• Renderings of sludge disposal cell</li> <li>• Infrastructure</li> <li>• VCs</li> </ul>

**Table 5.3-6 Information Presented at OH #2**

Station	Overview	Information Presented
3	Impact Assessment	<ul style="list-style-type: none"> <li>• Other materials: sludge disposal cell infographic (NSLI)</li> <li>• Remediation (mitigation measures and residual effects)</li> <li>• Bridge and Infrastructure Decommissioning (mitigation measures and residual effects)</li> <li>• Waste Management (mitigation measures and residual effects)</li> <li>• Accidents and Malfunctions</li> <li>• Effects of Environment on the Project</li> <li>• Cumulative Effects Assessment</li> </ul>
4	Monitoring and Wrap Up	<ul style="list-style-type: none"> <li>• Proposed Follow-up and Monitoring Programs</li> <li>• What's included in the EIS</li> <li>• Next steps</li> </ul>

**Feedback**

Participants asked questions about the project during and following the presentation, with many questions and comments focused on the waste management plan and containment cell. The PLFN CLC also hosted a station at the Open House where participants could give their feedback to PLFN Chief and Council on options for two aspects of the project— whether to use a detour or a temporary bridge during construction of a new bridge at Highway 348, and whether to cap and fill or completely remove the section of the pipeline where it comes ashore at Indian Cross Point. The CLC relayed participants' responses to Chief and Council. Participants were encouraged to write down their feedback on the comment sheets provided. Participants also had the option of submitting comments via email or mail, or through the CLC. A summary of comments received are provided in Table 5.4-1.

**5.3.2.7 Agency Meeting Involvement**

PLFN representatives were invited to attend all meetings held with IAAC during the EIA. This included PLFN's participation in the government agency working group sessions (known as IAAC/TAC meetings).

**IAAC/TAC Meetings**

Discussions with IAAC subsequent to the Notice of Determination of Requirement for federal EIA took place to establish the IAAC/TAC and to set-up future IAAC/TAC meetings. A summary of the meetings with the IAAC/TAC that PLFN were invited to/attended during the EIA are provided in Table 5.3-7. The purpose of these meetings was to provide agencies with regular updates as the Project progressed through the EIA.

**Table 5.3-7 IAAC/TAC Meetings**

Meeting Date	Topic	Summary
June 14, 2019	<ul style="list-style-type: none"> <li>Baseline Data Collection, Consultation</li> </ul>	<ul style="list-style-type: none"> <li>Review of existing and historical baseline data requirements</li> <li>Review of process expectations so it can be conducted and reported on in a timely manner</li> </ul>
September 25, 2019	<ul style="list-style-type: none"> <li>Impact Assessment Methodology</li> </ul>	<ul style="list-style-type: none"> <li>Review of additional baseline data collected, discussion with IAAC in terms of review parameters, questions, any further information required for effective analysis</li> <li>Review of Impact Assessment Methodology, including VC's, boundaries, significance determination criteria, cumulative effects</li> </ul>
December 11, 2019	<ul style="list-style-type: none"> <li>Preliminary Results of the Impact Assessment, Cumulative Effects Assessment, Monitoring, Consultation and EIS Submission Schedule</li> </ul>	<ul style="list-style-type: none"> <li>Provide an update on the preliminary assessment results, review any gaps in analysis and thus data required, review engagement process with public and PLFN</li> </ul>
February 19, 2020	<ul style="list-style-type: none"> <li>Review of the Draft EIS</li> </ul>	<ul style="list-style-type: none"> <li>Provide a walkthrough of the Draft EIS and an avenue for proactive dialogue in order to augment/revise the Draft prior to Final submission</li> </ul>

**Additional Meetings**

An additional meeting of interest to the EIS was held on November 26, 2019 with IAAC, Health Canada (HC), and PLFN to discuss comments from HC on the HHERA for the BHRP. Items discussed included potential exposure via food that may be consumed from the BHETF area after remediation, sediment exposure scenarios and receptors, and ingestion rate for sediment exposure.

Further information on the HHERA and PLFN involvement is included in Section 5.1.12.

Appendix G includes all agency Meeting Minutes as well as the meeting minutes from the additional meeting with IAAC and HC held on November 26, 2019.

**5.3.2.8 Well-Being Baseline Study**

The Well-Being Baseline Study (Well-Being Study) was completed to identify any concerns on the mental and/or social well-being of PLFN members as result of this Project and determine how NSLI should engage PLFN in the design, implementation, management, interpretation and communication of results from any monitoring of mental and social well-being effects that may be required. The study was funded by NSLI but led by PLFN and their choice of researchers who developed the research methods and completed the survey and reporting. NSLI accepted the results of the study as written, with the understanding by PLFN that the report would become public.

The approach taken to data collection involved conducting one quantitative baseline survey and several qualitative focus groups and interviews. The focus groups and interviews were held in both English and in Mi'kmaw between November 10, 2019 and November 14, 2019.

The baseline survey was conducted over a four-day period (November 15 to 18, 2019), at walk-in data collection sites that were open between 8:00 a.m. and 8:00 p.m. daily. There were a total of 261 survey respondents, which based on the total on-reserve population of 491, represents a response rate of 53 percent.

The main concerns related to the Project activities included:

- Sludge disposal cell | Do not want pollution in A'se'k. This will leave lands and people not fully healed.
- Very concerned about euthanization of contaminated fish and the painful implication for PLFN | They feel what all living beings feel, these are their lands and kin. Important this is done in culturally sensitive manner that they approve of.
- Indian Cross Point pipeline (near burial ground) and wetland remediation | Majority of community not aware of or have enough information about these activities.
- Accidents and malfunctions | "Concern over the effects of exposures to hydrogen sulfide (H<sub>2</sub>S) was raised several times in community meetings, especially concern for workers who may be exposed on-site during remediation, and then go home to families during off-hours and continue to be exposed to it in the air coming from the nearby remediation site."

The Well-Being Study identified PLFN's concerns related to specific VCs. As stated in the Well-Being Study, "two-thirds of survey participants are very concerned about the air and land around them. Three-quarters of survey participants are very concerned about the water around the community. Over half are very concerned about the tap water in the community. About half are concerned about the trees around them and using the trees for wood fires or bonfires. Just under a half of survey participants are very concerned about the availability of native plants and animals around them. Half are very concerned about the fish and shellfish around them. Finally, over two-thirds are very concerned about the odours and smells around them and the mist that settles around their community."

Information provided in the Well-being Study has been considered in Section 6, Potential or Established Aboriginal or Treaty Rights; Section 7.1, Project Setting and Baseline Conditions; Section 7.3, Effects Assessment; and Section 7.4, Other Effects to Consider.

#### **5.3.2.9 Decision Regarding Pipeline Removal at Indian Cross Point**

As stated in Section 5.1.5, NSLI has sought direction from PLFN on how to remediate the effluent pipeline where it comes ashore at Indian Cross Point, adjacent to a historic Mi'kmaq burial ground. Three viable options were presented to PLFN: 1) leaving the pipeline as-is; 2) capping and filling to prevent future use without disturbing the surrounding area; or 3) removing the pipeline completely. PLFN has established that their preferred option is removing the pipeline completely from the shoreline until Highway 348.

#### **5.3.2.10 Meeting with PLFN to Review the Draft EIS**

A half day meeting was held on February 21, 2020 to review the draft EIS with PLFN. The purpose of the meeting was to provide an overview of the meetings held with the Federal Regulators on February 19, 2020, an overview of the Draft EIS, and a summary of the impact assessment. An overview was also provided on how the information from the MEKS and the Well-Being baseline reports were incorporated into the EIS. Specific items relating to PLFN issues raised in the EIS discussion at the February 21, 2020 meeting included:

- Bridge bypass
- Pipeline removal
- Enhanced containment cell
- Culturally sensitive destruction of fish
- Return to tidal including wetlands
- Exposure scenarios for the HHERA
- Mitigation measures
- Land use planning and transfers
- Job creation – pilot scale testing and air monitoring
- Technical and trades training
- Climate change resilience in design
- Spatial and temporal boundaries from the MEKS

IAAC attended this meeting and provided an overview of the EIS regulatory review process and noted that while the public comment period has a defined timeline (30 days), engagement with PLFN will continue throughout the approval period.

Appendix L includes a copy of the minutes from the meeting.

#### **5.3.2.11 Plain Language Summary of Draft EIS**

To assist in the PLFN's review of the draft EIS, NSLI has prepared a plain language non-technical summary of the EIS, which was translated into the Mi'kmaq language. The summary highlighted the key results of the EIS focusing on the aspects which are of the most interest to the PLFN (i.e., potential effects of the containment cell and remediation of the pipeline). The plain language summary provides the section of the EIS that an individual can review if they would like to see further detail on a particular item.

## **5.4 Consideration of Key Issues Raised**

### **5.4.1 Issues Raised and Proponent Responses**

The major issues raised included the storage of the impacted waste in the containment cell, removal of the pipeline and contamination levels in the surrounding environment.



In regards to the pipeline removal, as noted in Section 5.3.2.6.2, PLFN OH #2, feedback was requested on two aspects of the Project— whether to use a detour or a temporary by-pass causeway during construction of the new bridge at Highway 348, and whether to cap and fill or completely remove the section of the pipeline where it comes ashore at Indian Cross Point. As per the PLFN's feedback, NSLI updated the design and plans to include a temporary by-pass causeway during removal of the existing causeway and construction of the new bridge and complete removal of the section of the pipeline where it comes ashore at Indian Cross Point until it reaches the right-of-way for Highway 348.

As recommended in the EIS Guidelines, NSLI prepared a tracking Table to document issues raised by PLFN and responses provided by the Proponent. The tracking Table, Table 5.4-1 documents the issues and comments raised by PLFN through the various engagement activities carried out, NSLI response to the issues, and the consideration of the issue in the EIA.

**Table 5.4-1 PLFN Issues/Comments and NSLI Responses During the EIA and how they were Considered in the EIA**

Topic	Method/Event (email, in-person, Open House comment, etc.)	Issue/Comment	NSLI Response	Consideration in the EIA
General Comments	OH #1 Comment Form	CEAA approval, approval with conditions, or rejection - is there an appeals process if the project is rejected? What will happen if the project is rejected?	If the project is rejected, then we would have to seek advice from decision makers in moving forward with another plan.	Comment documented in EIS.
	OH #1 Comment Form	Are you trustworthy? How long will it take to clean? Will the plants like seaweed grass grow back? Our medicines. We are looking forward to seeing this cleaned up in our lifetime.	The current estimation for cleanup time is 4-7 years once all approvals are secured and remediation can begin. A study done by university researchers who sit on the BHEAC indicates that grasses like eel grass and salt marsh grass are likely to grow back in Boat Harbour over time. We are hopeful that the remediation process will allow the area to be used for traditional purposes once again.	Project timelines associated with activity of the remediation are documented in Section 3.2. As proposed in the preliminary follow-up program for aquatic environments detailed in Section 9.1 the success in establishing high quality aquatic habitat after remediation has been completed will be confirmed.
	OH #1 Comment Form	I just feel lost in the meetings because I don't have perfect English. I wish it could be explained in laymen works words? Other than that, I think the project is coming along great and receive excellent feedback on one to one basis.	Thank you for the comment. As part of the Boat Harbour Remediation Team, we have a full-time CLC who works within PLFN to help community members understand and engage with the project. Please feel free to contact the CLC at any time with any questions about the project.	As per Section 5.3.6.9 of the EIS, NSLI has prepared a plain language summary to assist in the PLFN's review of the draft EIS, which was translated into the Mi'kmaq language. The summary highlighted the key results of the EIS focusing on the aspects which are of the most interest to the PLFN i.e., potential effects of the sludge disposal cell and remediation of the pipeline. The plain language summary provides the section of the EIS that an individual can review if they would like to see further detail on a particular item.
	OH #1 Comment Form	When the work starts at Boat Harbour and there is no one actually able to give those that have heavy machinery operators cert. Make it so the people that are the hired contract give these people the training and experience needed.	Our number-one priority is to ensure that Boat Harbour will be cleaned up effectively and in a manner protective of human health and the environment. We will take whatever steps we can to ensure that there are opportunities for employment during the remediation. We will support associated training needs. The procurement process for the full-scale implementation of the remediation will request that proponents who bid provide a work plan explaining how they will have the engagement and participation of the PLFN community members and businesses in their plan.	As discussed in Section 5.1.10, NSLI is committed to providing training and opportunities to members of the PLFN to facilitate their involvement in the remediation works. As noted in NSLI response the procurement process for the full-scale implementation of the remediation will include a request that proponents who bid provide a work plan explaining how they will have the engagement and participation of the PLFN community members and businesses in their plan.
	OH #1 Comment Form	As a member of this community I find it frustrating voicing my concerns meeting after meeting. This whole process is starting to get repetitive and once again our concerns are not being heard. The only voice that seems to be heard or valued is the project manager. They want to hear our concerns and they are ignored. Ever wonder why the crowds are getting smaller?	Thank you for the comment. Remediating Boat Harbour is a large, complex project and we are working to ensure community members are informed and engaged at every step. We understand that community members may have concerns and frustrations around some aspects of the project. It is our hope that a restored A'se'k will be a benefit to the community for generations to come. We have held multiple meetings on the containment cell design to ensure all community members have detailed information on containment cells as well as an opportunity to ask questions. We understand that this has	Comment documented in EIS.

**Table 5.4-1 PLFN Issues/Comments and NSLI Responses During the EIA and how they were Considered in the EIA**

Topic	Method/Event (email, in-person, Open House comment, etc.)	Issue/Comment	NSLI Response	Consideration in the EIA
	OH #1 Comment Form	Who is "we?" Who is responsible for making decisions, project oversight, approvals, etc.	<p>been repetitive, but the frequent sessions were requested by PLFN.</p> <p>Nova Scotia Lands Inc. is the proponent and is managing the Boat Harbour Remediation Project on behalf of the Province. The project is undergoing an Environmental Assessment requested by the IAAC. IAAC is the federal regulator who will either approve the project, approve with conditions, or reject the project. Once IAAC makes its decision, NSLI will proceed (if approved) to obtain activity-specific approvals from NSE and other federal agencies, such as the Department of Fisheries and Oceans, to remediate Boat Harbour. NSLI will be responsible for implementing the remedial solution in accordance with the EA and activity-specific approval conditions.</p>	Comment documented in EIS.
	OH #2 Comment Form	<p>Very disappointed with Jim Williams who sat on the BHEAC. Didn't consider PLFN's suffering. Doesn't help the trust. He was a <u>quest</u>.</p> <p>Can the project description be rejected considering lots of PLFN band &amp; community members don't want it?</p> <p>If so, how long will it take for a new project description? And to go through that process?</p> <p>A lot of community members feel as if we weren't consulted on other options... Just told that why other alternatives can't be an option.</p>	<p>Mr. Williams' opinion expressed in his editorial was his own and was neither discussed with nor supported by the BHEAC.</p> <p>The project description outlines the overall project and was used by federal regulators to determine a federal environmental assessment is required. Once the remediation team submits the environmental impact statement, the federal agency can accept the project, accept it with conditions, or reject it. If federal regulators reject the project, we would have to seek advice from decision-makers to develop and move forward with a new plan. If a new plan is developed, a new project description would need to be prepared to determine the environmental assessment pathway that would need to be taken (i.e., federal, provincial or both). Depending on the components of the project and the approvals required, this process would likely take several years.</p> <p>The Project Team looked closely at alternative options for several aspects of the project, including waste management. Given the risk of significant delay, increased environmental, health and safety risks, increased project duration and the estimated costs of siting and constructing an off-site containment cell, using the on-site cell is the preferred option. The Project Team initiated formal consultation with PLFN leadership in April 2018, including presentation of a document outlining options for waste management and why the existing cell is</p>	<p>Comment documented in EIS.</p> <p>Alternatives examined and the rationale for preferred alternative is provided in Section 2.</p>

**Table 5.4-1 PLFN Issues/Comments and NSLI Responses During the EIA and how they were Considered in the EIA**

Topic	Method/Event (email, in-person, Open House comment, etc.)	Issue/Comment	NSLI Response	Consideration in the EIA
			the preferred option. The Project Team also held six community sessions focused on waste management.	
Containment Cell	BHCC Meeting on February 22, 2019	PLFN concerned about the small explosions (off gassing) that can happen from containment cell (from Project description).	NSLI committed to following up on this particular issue. Additional information will be included within the EIS when the studies are completed.	Information on GHG and Air Quality was included in the EIS. Gas generation will be minimal based on the type of material within the containment cell.
	OH #1 Comment Form	Strong belief that the contamination cell should not be kept on location. I'm sure there are other options available. Who is to say this cell will not break down over time? It has been around long enough to determine the actual longevity of this membrane?	<p>The proposed solution is to use the existing containment cell on-site. A containment cell is an engineered and proven way to ensure contaminants stay confined. This technique is used around the world for managing waste long-term.</p> <p>The existing containment cell will hold the waste securely, in a manner protective of human health and the environment. The existing liner and containment structures are effective in preventing contaminants from spreading into the ground, groundwater and surface water. This has been proven through routine monitoring programs required by Nova Scotia Environment. In addition, this was validated during GHD's site assessment.</p> <p>The existing containment cell base liner is constructed with partial leachate collection system, natural clay (low permeable soil) and underdrain water collection system. A second geomembrane liner and will be constructed over the top of the clay liner for added protection and a leachate collection system will be added over the new liner to remove liquids from the containment cell.</p> <p>These steps will result in a sound and safe solution for the containment of the waste long-term. Once remediation is complete, an expanded long-term maintenance and monitoring program will be conducted with regular reporting on the cell performance to regulators in accordance with a regulatory approved environmental management plan.</p>	<p>In response to PLFN concerns relating to the containment cell, including the effectiveness and the longevity of the sludge disposal cell to contain the waste placed in it, as the Project progresses, NSLI will continue to engage with PLFN on the topic of the sludge disposal cell.</p> <p>At this stage, to address concerns raised about the longevity and effectiveness of the sludge disposal cell, NSLI has designed an improved base liner system that will reduce the potential for leachate to migrate through the liner to the groundwater and has modelled the effectiveness of the liner. In addition, NSLI will:</p> <ul style="list-style-type: none"> <li>• Ensure that the liner is installed and tested in accordance with best practices using quality control and assurance procedures</li> <li>• Develop a groundwater and surface water monitoring program to monitor the effectiveness of the SDC during and post closure of the modified cell</li> <li>• Implement a long-term post closure monitoring and care program for the sludge disposal cell to ensure its integrity make available the groundwater and surface water monitoring program and the long-term post closure monitoring care report through the Project's website</li> </ul> <p>Proposed follow-up and monitoring programs are discussed in Section 9.</p>
	OH #1 Comment Form	PLFN wants to be able to be happy and celebrate the work that has been happening in remediation. At this point, we are not happy with the waste management plan of the containment cell. We feel we have not been heard on this or presented with any other real options. Since you are containing sludge inside containment cells, they should be safe to remove. Remove by truck, boat, train, whatever. Get it out of here. Sick of being re-victimized!	We understand that community members do not wish to see the current containment cell used for storing sludge removed from Boat Harbour. In preparing the project plan, we did look at other options for waste management. The current containment cell is the only one in	Alternatives examined and the rationale for preferred alternative is provided in Section 2.

**Table 5.4-1 PLFN Issues/Comments and NSLI Responses During the EIA and how they were Considered in the EIA**

Topic	Method/Event (email, in-person, Open House comment, etc.)	Issue/Comment	NSLI Response	Consideration in the EIA
			<p>Nova Scotia approved to hold the waste material from Boat Harbour.</p> <p>Construction of a new, off-site containment cell would require going through extensive public consultations and regulatory processes with municipal, provincial and federal regulators. We estimate that process could take 5-8 years, along with another year for construction. This would potentially push back the start of remediation at Boat Harbour by 6-9 years. It is not certain that a proposed off-site cell would receive the required approvals.</p> <p>Removing the estimated 500,000-1,000,000 m<sup>3</sup> of sludge from Boat Harbour to an off-site cell would create a large amount of truck traffic and pose a greater risk to public health and safety. Our estimate is removing materials and containing off-site would also increase project costs by at least \$60 million.</p> <p>Given the risk of significant delay, increased health and safety risks and the estimated costs of siting and constructing an off-site containment cell, using the on-site cell is the preferred option.</p>	
	OH #1 Comment Form	Hope the containment will be moved. Water line.	See responses provided above regarding the sludge disposal cell.	Comment documented in EIS.
	OH #1 Comment Form	I have very deep and overwhelming concern over the proposed containment cell. The gestures will forever serve as a painful reminder of all the loved ones that we have lost due to cancer and other diseases. I have talked to a lot of people from Pictou Landing that won't even go to any of these meetings because they don't want to lose control of their emotions in public. We are very proud people that deserve to be treated as such. I want there to be another option to contain these geo sleeves somewhere else, or even better. Dispose of the waste in a proper facility designed to do so. In the most professional way possible.	We understand that continuing to use the existing containment cell is an emotional subject for some community members. The current cell is a proper facility designed to receive and hold the waste from Boat Harbour. Hopefully the responses above regarding the sludge disposal cell will give some context as to why the existing cell is the preferred option for timing, cost and safety reasons. Along with the concerns listed above, moving the waste off-site would create other negative environmental effects, including a large increase in truck traffic in the area and increased carbon emissions.	Comment documented in EIS. Alternatives examined and the rationale for preferred alternative is provided in Section 2.
	OH #1 Comment Form	At the present time the containment cell is necessary, however at the end of the clean up the ideal outcome is for it to be removed. Ultimately, the cleanup and returning Boat Harbour to its original purpose is the greatest desire. Hopefully the remainder of what the containment cell represents can and will be removed.	We understand the community concern around the containment cell. For an explanation of why the current cell is the preferred option for timing, cost and safety reasons, please see responses provided above regarding the sludge disposal cell.	Alternatives examined and the rationale for preferred alternative is provided in Section 2.
	OH #1 Comment Form	Containment cell - I do not want the containment cell solution to be used. Is this solution based on finances alone? If so, what are the financial implications of removing the containment cell versus the 25-year maintenance/monitoring plan?	The proposed use of the current containment cell as the preferred option is not a solution based on finances alone. It is the preferred option for several reasons, including public	Alternatives examined and the rationale for preferred alternative is provided in Section 2.

**Table 5.4-1 PLFN Issues/Comments and NSLI Responses During the EIA and how they were Considered in the EIA**

Topic	Method/Event (email, in-person, Open House comment, etc.)	Issue/Comment	NSLI Response	Consideration in the EIA
		My primary concern is removing this containment cell from this community. There is remediation and then there is recovery. Having a constant reminder in the community will not aid in recovery of the community! This trauma has impacted generations and it needs to be removed in order to recover.	concern, project timing, regulatory approvability, environmental impact, risk and cost. In general terms, the use of the existing containment cell would likely cost around \$30 million, while using an alternate site would likely cost between \$90- \$100 million. We understand the concern around leaving the containment cell in place. It is our sincere hope that a remediated and restored A'se'k will be a lasting benefit to the community.	Comment documented in EIS.
	OH #1 Comment Form	What do we really know about the containment cell? How long do they last? What will happen if they leak, and how will they fix it? Who will be responsible for damage control?	Please see responses provided above regarding the sludge disposal cell. The containment cell will be constructed with a combination of natural and synthetic materials to provide a service life greater than the contaminating life span of the waste placed within it. These calculations are performed as part of detailed design and are used to select that final material properties for the liner and cover materials. The Province will be responsible for any long-term liability associated with the containment cell maintenance and monitoring.	To address concerns raised about the longevity and effectiveness of the sludge disposal cell, NSLI has designed an improved base liner system that will reduce the potential for leachate to migrate through the liner to the groundwater and has modelled the effectiveness of the liner. In addition, NSLI will: <ul style="list-style-type: none"> <li>• Ensure that the liner is installed and tested in accordance with best practices using quality control and assurance procedures</li> <li>• Develop a groundwater and surface water monitoring program to monitor the effectiveness of the sludge disposal cell during and post closure of the modified cell</li> <li>• Implement a long-term post closure monitoring and care program for the sludge disposal cell to ensure it integrity Make available the groundwater and surface water monitoring program and the long-term post closure monitoring can care report through the Project's website</li> <li>• Additional engagement relating to the containment cell will be carried out with PLFN. This will include the development of a short video that explains what the containment cell is, how leachate is managed, and the monitoring to occur during the post-closure phase</li> </ul> Proposed follow-up and monitoring programs are discussed in Section 9.
	OH #1 Comment Form	Just heard about this and whatever is dug up. I was worried about the removal of the sludge.	The proposed solution for the sludge removed from Boat Harbour is to remove excess water in Geotube®, manage the removed water, and store the remaining material in the existing containment cell on-site. For more information on the containment cell, please see responses provided above regarding the sludge disposal cell.	Comment documented in EIS.
	OH #1 Comment Form	If the effluent is going to be dump into the Northumberland Strait, why cannot the waste be ship(ped) to Quebec?	For an explanation of alternatives explored and why the current containment cell is the preferred option, please see the response to comments above.	Alternatives examined and the rationale for preferred alternative is provided in Section 2.

**Table 5.4-1 PLFN Issues/Comments and NSLI Responses During the EIA and how they were Considered in the EIA**

Topic	Method/Event (email, in-person, Open House comment, etc.)	Issue/Comment	NSLI Response	Consideration in the EIA
	OH #1 Comment Form	I do not agree with filling the containment cell with sludge. The community feels highly against, but I also don't want this to hold up the project and if it needs to be done, it should.	Thank you for the comment. The on-site containment cell is the only approved location for disposal of the waste within the Province. As noted in response to the comments above, all other options would have a significant delay on the start of remediation.	Comment documented in EIS.
	OH #1 Comment Form	I do not think the poison should be stored behind A'se'k. I want to live to see A'se'k cleaned. I used to swim in A'se'k.	Thank you for your comment. We understand the concern around the continued use of the containment cell. For a fuller explanation of how the existing containment cell works and why it is the preferred option, please see the response to comments above.	Comment documented in EIS.
	OH #1 Comment Form	A'se'k being turned into a treatment facility is environmental racism. Having a containment cell is not returning it to its original state. This isn't reconciliation. Take the contaminants somewhere else. To Quebec, anywhere. We don't want it. We also don't want to hear about how the containment cell is 'an economic opportunity' for jobs over the next 25 years. We don't care or want it. I want remediation but tired of PLFN constantly trying to explain ourselves, how we feel about this. Leaving the waste here isn't right, even if we can't see it. This affects us mentally, emotionally, physically. "We cannot heal in an environment that made us sick"	Thank you for your comment. We know that many community members do not want the containment cell to remain as a permanent fixture. We did investigate alternate options, and the current containment cell is considered the safest and most effective option for human health and the environment. For a fuller explanation of how the cell will safely contain the waste and why it is the preferred option, please see the response to comments above.	Alternatives examined and the rationale for preferred alternative is provided in Section 2. Comment documented in EIS.
	OH #1 Comment Form	My main concerns are on the containment cells and the impact it would have on our community. I believe it is not a solution to our major problem, just a big Band-Aid and this is a serious issue that needs to be addressed right away.	We understand the concern around the continued use of the containment cell. For a fuller explanation of how the existing containment cell works and why it is the preferred option, please see the response to comments above.	Comment documented in EIS.
	OH #1 Comment Form	I really don't want a containment cell. Rather see it put somewhere else, no matter how many jobs it might create.	Thank you for your comment. We did explore other options. The responses to comments above help explain why the existing containment cell is the preferred option.	Alternatives examined and the rationale for preferred alternative is provided in Section 2.
	OH #1 Comment Form	Why bother cleaning up Boat Harbour if we are just going to get stuck with the containment cell? Cleaning Boat Harbour means it's gone completely, not sitting there for months, or years.	The goal of remediating Boat Harbour is to remove the contaminants and restore the harbour to tidal so the community can benefit from using the land once again. For a fuller explanation of how the existing containment cell works and why it is the preferred option, please see the responses to comments above.	Comment documented in EIS.
	OH #1 Oral comment	What are the alternatives to existing cell? Will the federal assessment process lead to alternatives? Can material be trucked off-site to Quebec? Members of PLFN community don't want waste to remain at Boat Harbour.	For an explanation of why the current containment cell is the preferred option, please see the response to comments above. We have looked at alternatives to the existing cell during our planning processes and the use of the existing cell is an integral part of our proposed remediation plan. This proposed plan is being evaluated through the federal environmental assessment.	Alternatives examined and the rationale for preferred alternative is provided in Section 2. Comment documented in EIS.

**Table 5.4-1 PLFN Issues/Comments and NSLI Responses During the EIA and how they were Considered in the EIA**

Topic	Method/Event (email, in-person, Open House comment, etc.)	Issue/Comment	NSLI Response	Consideration in the EIA
			The federal assessment can result in an approval, an approval with conditions, or a rejection. It will not provide alternatives.	
	OH #2 Comment Form	How do we go about getting approval for another containment cell somewhere else and using this plan for temporary storage. Move it later after another cell is approved.	Construction of a new, off-site containment cell would be a separate project that would require going through extensive public consultations and regulatory processes with municipal, provincial and federal regulators. We estimate such an approval process might take 5-8 years, along with another year for construction. The current project cannot be submitted without an approved long-term solution in place.	Alternatives examined and the rationale for preferred alternative is provided in Section 2.
	OH #2 Comment Form	To bring it back to its natural state, we did not have a containment cell. What respect have you as a working group done to show the land and water through ceremony? Have you reached out for your tobacco and asked what our ancestors want? Instead of what government wants? (Where) there is a will there is a way to make the best of everything happen. No more short cuts and being treated second class.	Members of the remediation team have taken part in several ceremonies held by PLFN members and elders over the course of the project so far, including at Boat Harbour in September 2016 and at Lighthouse Beach in November 2016. Members of the remediation team also attended a cultural awareness session graciously hosted by PLFN. We are very grateful to the community for including us in these sacred traditions. We understand community concerns around the containment cell. The answer to comment #1 above gives some background on why the existing cell was chosen as the preferred option for the project. Please see the containment cell Q&A available on the Resources page at <a href="http://novascotia.ca/boatharbour">novascotia.ca/boatharbour</a> . We are working diligently to make sure Boat Harbour can be cleaned up and returned to a tidal estuary in a manner that is effective and protective of human health and the environment.	Comment documented in EIS.
Removal of the Pipeline	OH #1 Comment Form	I want to make sure that all cultural considerations have been explored with regards to the pipe removal, testing and closure at Indian Cross Point.	There are three potential solutions for decommissioning the pipeline at Indian Cross Point: a) Clean, inspect, plug and abandon in place b) Clean, fill and abandon in place c) Complete removal NSLI has engaged a consultant to do a GPR survey to help determine which areas near the pipeline, or along the pipeline right of way, may be historic burial sites. The PLFN community will have the final say on which decommissioning option is chosen at Indian Cross Point.	PLFN determined in January 2020 that their preference is the removal of the pipeline from the area between Indian Cross Point and Highway 348. NSLI has carried this approach in the EIS document and project design.
Contamination	OH #1 Comment Form	What about the contaminated wetlands? How are the contaminated wetlands going to be disposed of?	Regarding the wetlands, we are still determining which areas of the wetlands may need to be remediated, and what the preferred solution will	As noted in NSLI response sampling has shown that vegetation such as trees and bushes in and around the areas of sediment and surface water contamination at the



**Table 5.4-1 PLFN Issues/Comments and NSLI Responses During the EIA and how they were Considered in the EIA**

Topic	Method/Event (email, in-person, Open House comment, etc.)	Issue/Comment	NSLI Response	Consideration in the EIA
		Is there any contamination or concern around the trees and bushes surrounding Boat Harbour, like if we wanted to burn the wood surrounding Boat Harbour, would this be safe to do so?	be. Sampling has shown that vegetation such as trees and bushes in and around the areas of sediment and surface water contamination at the Boat Harbour area are not contaminated and would be safe to burn.	Boat Harbour area are not contaminated and would be safe to burn. However, as committed to in Section 9 of the EIS, additional monitoring will be completed to ensure vegetation is safe for use.
	Comment from OH #2	Also, during this session, you said the vegetation isn't afflicted but from an L'nu (Mi'kmaq) perspective it is. The water is contaminated, to us all of Boat Harbour is affected because of the contaminated water. And because we haven't been able to use it the way creator intended for us to use it.	We recognize that the BHETF has severely hindered PLFN's ability to use the harbour and surrounding lands. Our goal is to return Boat Harbour to a tidal estuary so community members can benefit from its use for generations to come. Our studies indicate that vegetation surrounding Boat Harbour will be safe for use in the years following the Project. As part of the Project, we will do further monitoring to ensure vegetation is safe for use.	Comment documented in EIS. As committed to in Section 9 of the EIS, additional monitoring will be completed to ensure vegetation is safe for use.

## **5.5 Ongoing Engagement and Consultation**

As stated previously, the BHCC and BHEAC meetings and the role of the CLC will continue throughout the remainder of the EIA process and through the implementation of the Project. BHEAC and BHCC meetings will typically be held on a bi-monthly basis.

In addition, ongoing discussions with PLFN through the EIS phase will potentially result in additional concerns and issues being raised. NSLI seeks to create a Project with maximum benefits and minimize negative impacts so remain open to addressing issues that arise. Structured dialogue is occurring under the guidance of the IAAC through the EIA process and will continue until a final decision on the Project is received by NSLI from the IAAC.

With this in mind, and subject to approval being received by the federal Minister of Environment and Climate Change, NSLI is proposing to continue engagement and consultation with PLFN during subsequent stages of the Project to present follow-up and monitoring results. This could include, but is not limited to, additional community meetings, workshop and visioning sessions.



# **Environmental Impact Statement**

## **Section 6 | Impacts to Potential or Established Aboriginal or Treaty Rights**

Boat Harbour Remediation Project  
Pictou Landing, Nova Scotia

Nova Scotia Lands Inc.

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## 6. Impacts to Potential or Established Aboriginal or Treaty Rights

### 6.1 Identifying Potential or Established Aboriginal and Treaty Rights

Section 6 of this Environmental Impact Statement (EIS) addresses the requirement, as set out in the EIS Guidelines, to identify potential or established Aboriginal and Treaty rights, including but not limited to location of the right being practiced or exercised, the context in which the right is practiced or exercised, how the right was practiced historically, and how the Mi'kmaq of Nova Scotia's cultural traditions, laws and governance systems inform the manner in which they exercise their rights. For purposes of this analysis, and as designated in the EIS Guidelines, the primary group expected to be most affected by the Project and practicing the right is the Pictou Landing First Nation (PLFN). As noted in Section 5, PLFN is the designated party for the Mi'kmaq of Nova Scotia for the purposes of the EIS process.

Section 5.1(c) of the *Canadian Environmental Assessment Act, 2012* (CEAA 2012), the governing Act for this EIS, states that the environmental effects that are to be taken into account in relation to an act or thing, a physical activity, a designated Project or a Project are "with respect to Aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on (ii) physical and cultural heritage, (iii) the current use of lands and resources for traditional purposes".

The purpose of the Project is to remediate the Boat Harbour Effluent Treatment Facility (BHETF) and adjacent lands and restore Boat Harbour to a tidal estuary.

Through the proposed Project, it is PLFN's desire that Boat Harbour (known to PLFN as A'se'k) be restored to allow the community to re-establish its relationship with the water and land of A'se'k. In this regard, the Project's effects on health, socio-economic conditions, and physical and cultural heritage as a result of changes caused through remediation activities are net positive in relation to PLFN.

The majority of adverse effects and limitations related to PLFN's Aboriginal and Treaty Rights and their relationship with the water and land of A'se'k are related to European settlement and environmental contamination because of the BHETF resulting in lost access and use. While the historical context of Aboriginal and Treaty right practice and limitations are included here as required by EIS Guidelines, it is important to note that effects of the Project are net positive in relation to PLFN, with lesser potential adverse effects related to Project remediation activities, along with the proposed mitigation, outlined in subsequent Sections of this EIS.

The following additional Aboriginal and Treaty Rights have been identified in the PLFN Well-Being Baseline Study (Well-Being Study) conducted by the Union of Nova Scotia Mi'kmaq in November 2019. A copy of the Study is provided in Appendix S. This Well-Being Study has been provided to Nova Scotia Lands Inc. (NSLI) by PLFN and is included here, addressing the requirements in the EIS Guidelines to use this information and to identify where and how this information is used.

An Aboriginal right is an inherent right that flows from an Indigenous group's continued use and occupation of an area since before European contact. A Treaty right flows from a historical or modern-day Treaty. These rights are enshrined in the *Constitution Act, 1982*, s. 35(1) which states that "the existing Aboriginal and Treaty rights of Aboriginal peoples of Canada are hereby recognized and affirmed" (Canada, 2018a, para. 1). The Crown has a constitutional and legal obligation to consult and accommodate Aboriginal and Treaty rights and must justify any action that might infringe a right, or the infringement can be deemed unconstitutional (Morellato, 2008).

*"Oral history transferred from generation to generation in Mi'kma'ki speaks of the spirit and intent of Mi'kmaq Treaties – that being the spirit and intent was rooted in the need to preserve a way of life for the Mi'kmaq Nation – that way of life is the way of life that was intended for Mi'kmaw people by Kisu'lk. Performing customary practices like hunting, gathering and fishing for sustenance is existential to our distinct Mi'kmaq identity. Teachings stem from these activities and these activities have specific Mi'kmaw language associated with them – changing our landscape and our ability to access these Rights are hindering our ability to transfer Mi'kmaq knowledge and our language over generations." – PLFN Community Member.*

The Assembly of First Nations recognizes "that First Nations self-determination over health systems is fundamentally rooted in Treaty, inherent and international rights to health." (Assembly of First Nations, 2014, p. 6). The inherent right derives from the Creator, and our collective right to care for one another (Assembly of First Nations, 2014, p. 8). The Treaty right derives from written and oral promises made in the negotiation of historic treaties (Assembly of First Nations, 2014).

Further, the Mi'kmaq have asserted Aboriginal title over Nova Scotia and are in a process of negotiation with the provincial government to define the parameters of what that means. Aboriginal title includes the right to be involved in decisions about how the territory is used (Morellato, 2008).

Beyond Aboriginal and Treaty rights and Aboriginal title, the Mi'kmaq can assert protections under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In 2016, Canada formally announced its commitment to endorse the Declaration without qualification (Fontaine, 2016). The following articles are relevant (United Nations, 2008):

- Article 5 | Protects Indigenous peoples' right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions.
- Article 18 | Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- Article 20 | Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
- Article 21 | Protects Indigenous peoples' right to improve their economic and social conditions, including in the area of health.
- Article 25 | Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands,

territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

- Article 29 | Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources.
- Article 32 | 1) Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources; and 2) States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any Project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources; and 3) States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impacts.

In December 2016, the Prime Minister of Canada committed to a process to advance reconciliation with Indigenous peoples by committing to implement the Calls to Action released by the Truth and Reconciliation Commission (Justin Trudeau, n.d.). The calls to action address health inequities experienced by Aboriginal peoples as a result of their colonial experience in Canada.

Canada, along with 172 UN Member Nation States, committed to the United Nations Sustainable Development Goals (SDG) (Canada, 2019). Canada commits to end poverty, end hunger and achieve food security, ensure health and well-being, reduce inequalities, promote sustainable ecosystems including halting land degradation and achieve justice for all (Canada, 2019).

The Government of Canada is further guided by ten principles for reconciliation to ensure that Indigenous peoples live in strong, healthy and thriving communities (Canada, 2018b). This will be achieved by ensuring that Indigenous people have a right to be self-determining, that the Crown will be honourable in all of its dealings with Indigenous peoples, that treaties, agreements, or other arrangements must be respected, that government engagement must ensure free, prior, and informed consent when actions may impact Indigenous peoples rights including their lands, territories, and resources, and that any infringement on those rights must meet a high threshold of justification (Canada, 2018b).<sup>1</sup>

In summary, the Aboriginal and Treaty rights presented here outline how PLFN cultural traditions, laws, and governance systems inform the manner in which they exercise their rights (this information addresses EIS Guidelines) related to physical and cultural heritage and the use of lands and resources for traditional purposes (the latter required under CEAA 2012).

## **6.2 Use and Importance of Lands and Resources for Traditional Purposes**

The following section outlines the location of the rights being practiced or exercised and how the rights were practiced historically (required by EIS Guidelines), as well as the current use of lands and resources for traditional purposes (required by CEAA 2012).

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<sup>1</sup> Pictou Landing First Nation Well-Being Baseline Study, 2019. Union of Nova Scotia Mi'kmaq.

The contrast between historical and current use of lands and resources for traditional purposes is an important distinction related to the establishment and commencement of use of the BHETF beginning in 1967 and the impact this has had on PLFN's loss of their relationship with A'se'k related to food, medicines, spirituality, culture, well-being, recreation and refuge. A detailed description of historical and current land and resource interactions is provided in Section 7.1.9, Mi'kmaq of Nova Scotia.

### **6.2.1 Historical Relationship with Lands and Resources**

The following excerpt from the Well-Being Study characterizes historical Indigenous relationships with the land in Nova Scotia:

*"Mi'kmaw ways of knowing and being are rooted in Mi'kmaw lands, language, customary practice, and spirituality. We Mi'kmaq, believe that we were created in this place we know as Mi'kma'ki and that we did not come from anyplace else. "We did not migrate to this land – Weji skaliatiek'ip tet (we sprouted here)". Bernie Francis (Sable, Francis, Lewis, & Jones, 2012).*

According to the Well-Being Study, Indigenous people's presence in the Pictou Harbour area can be dated to 3,000-500 Before Present. It has been documented that Mi'kmaq people have lived in the general area for thousands of years as well as since European contact. Also recorded in the historical record was the presence of one other indigenous group, the Kennebec people of present-day Maine, though the group left the area.

Land use prior to European settlement is described in the Well-Being Study as:

*"The Mi'kmaw way of life included what Lewis (2007) refers to as seasonal rounds which followed terrestrial, marine, freshwater resources inland and out to the coastline, based on the availability of the resource. Pictou Harbour was described as "a land of abundance, of large meadows with ample game and waters filled with large quantities of 'immense oysters'" (Boreas Heritage, 2019, p. 21)."*

The Boat Harbour Remediation Mi'kmaq Ecological Knowledge Study (MEKS) (Appendix T) outlines that deer and rabbit hunting, as well as berry gathering were found to be the most common activities in the area. Traditional uses in the broader study area were most commonly reported as deer hunting and salmon fishing, followed by trout, smelt, mackerel and bass fishing, as well as rabbit hunting and blueberry gathering. Overall, the activities took place in what the MEKS report categorizes as the Historic Past and the Recent Past.

The MEKS also noted that the waters surrounding PLFN had often been used for water recreation activities (swimming, canoeing, etc.). They were often described as occurring in Pictou Harbour, Chance Harbour, Boat Harbour, and other waters in the area.

Seasonal migration related to cultural, spiritual, and food and medicine-based practices is seen as disrupted by the arrival of European settlers, their occupation of traditional lands in Pictou County and adjacent to Boat Harbour, and their preference for Mi'kmaq seasonal migration practices to cease and for settled reserves to be created. European settlement of Pictou and the Boat Harbour area accelerated after the assertion of British sovereignty, with Europeans focusing on the taking up of lands on the foreshore that were previously used by the Mi'kmaq.

The establishment and commencement of use of the BHETF beginning in 1967 posed further limitation on traditional interaction with the lands, animals, and waters for sustenance, spirituality,



food, and well-being through the introduction of waste effluent into the environment and the contamination of it, thus discouraging or reducing the value and preventing traditional activities as described above.

### **6.2.2 Current Relationship with Lands and Resources**

The BHETF from its initial use in 1967, to receive and treat effluent from the Kraft Pulp Mill at Abercrombie Point and related industries, had an almost immediate impact on the PLFN relationship with A'se'k as a source of food, medicines, recreation and refuge.

As described by the MEKS, page vi: *"Many stories were also shared of dead fish floating on the water's surface not too long after Boat Harbour was being used by the pulp mill. There is a high level of distrust of anything harvested in the area of Boat Harbour (fish, plants, game). Some stories were told of fish and animals with bumps or cancer in them. There is a strong desire to have Boat Harbour back to the way it used to be."*

Current hunting and gathering activities are minimal and restricted to game for fur and not consumption. Within the Project area there is limited hunting and no fishing or swimming. The Well-Being Study reports that PLFN members travel to other areas outside of the community for hunting, fishing and gathering activities based on distrust and lack of safety for consumption locally. There is reported distrust in harvesting and burning firewood, as well as growing food in the soil based on effluent contamination. An inherent inability to practice ceremonies and traditional Mi'kmaq spirituality related to interaction with the environment is also noted in the Study in reference to recent generations who have only experienced life at PLFN with the presence of the BHETF.

Since there is no fishing currently, there are no recent data sets to substantiate a baseline of fish catch numbers. The fish survey carried out by Cape Breton University in October 2019 as part of the baseline studies shows no evidence of consumable fish in Boat Harbour. The Site Study Area contains known and potential sites of significance and recorded archaeological sites in the Provincial registry. All aspects of project planning and execution carefully consider the known and potential sites with appropriate avoidance of these sites in relation to land disturbance that will occur as part of the Project.

### **6.3 Land Management, Use, and Planning**

The following section addresses the requirement in the EIS Guidelines to document the Mi'kmaq of Nova Scotia's perspectives on the importance of the land on which the Project is located and how it intersects with any land management uses and/or plans they may have.

As has been the case with Boat Harbour and use of the waters for sustenance and recreation, there have been limitations on current land use because of the impacts of contamination within Boat Harbour. PLFN community members are reluctant to use the shoreline lands immediately adjacent to Boat Harbour because of the obvious and omnipresent degraded environmental conditions. These limitations in relation to traditional land use, historically and currently are described in Sections 6.2.1 and 6.2.2 above.

Regarding the importance of the land on which the Project is located, traditional interaction with the lands, animals, and waters for sustenance, spirituality, food, and well-being were central to PLFN and the well-being of its community. Following the disruption to well-being and self-determination

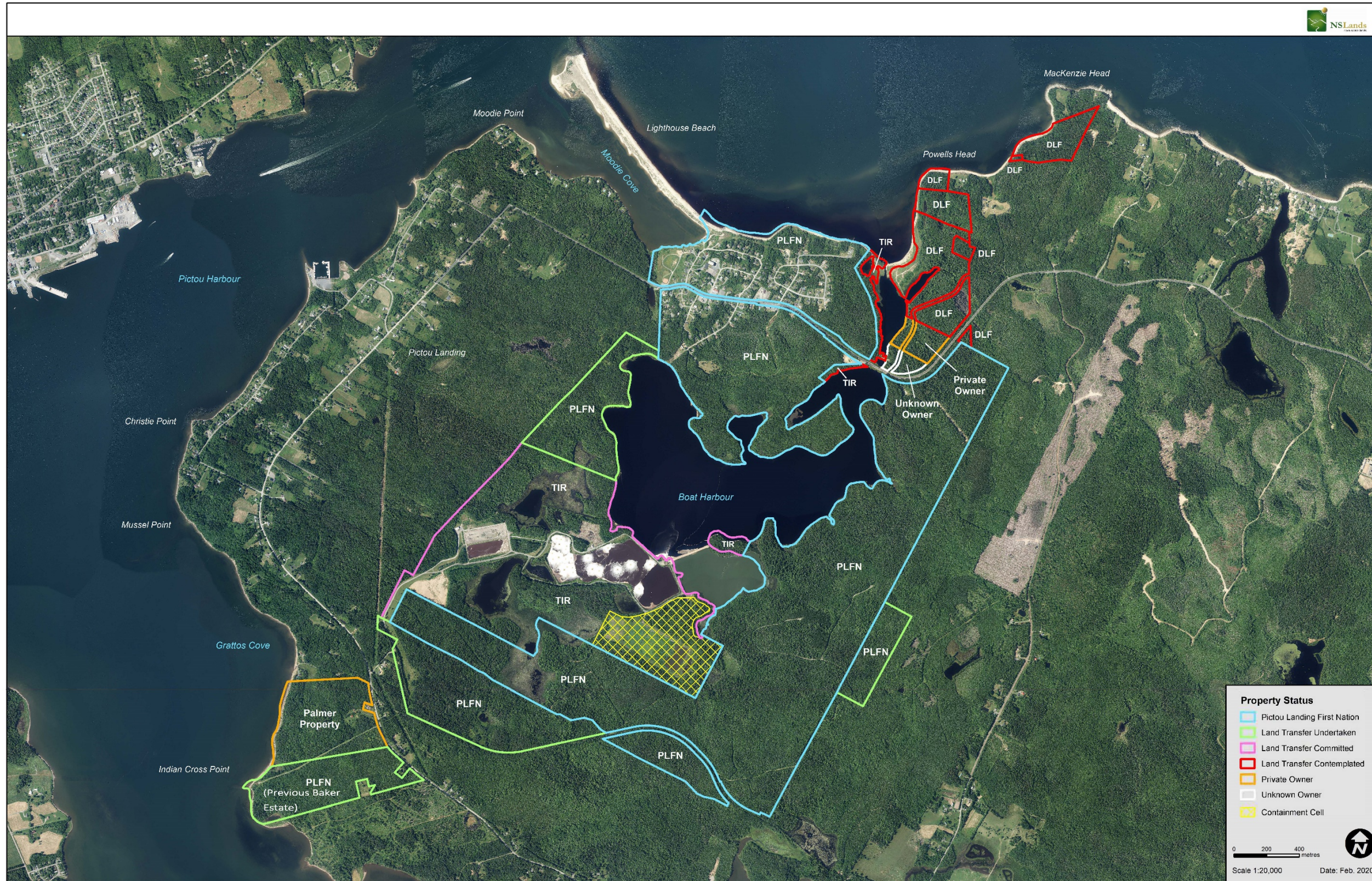
through European settlement and contamination resulting from the BHETF, this Project seeks to facilitate PLFN's hope of re-establishing its relationship with the water and land of A'se'k.

The following sections outline current land ownership to provide context for management and planning, describe land transfers that may or will occur as part of the Project with the intent of restoring Aboriginal and Treaty rights and the traditional land uses, and discuss land use planning and how the Project may intersect with this planning.

### **6.3.1 Current Land Ownership**

The BHETF comprises the pipeline starting at a standpipe at the Kraft Pulp Mill at Abercrombie Point and the pipeline infrastructure until it reaches the settling basins at Boat Harbour. The lands adjacent to the pipeline from the standpipe to the settling ponds are owned privately, by the Pictou Landing Development Corporation (formerly the Baker Estate Lands) or by the Province of Nova Scotia (Province) (Figure 6.3-1).

Figure 6.3-1 Pictou Landing First Nation Property



Aside from the parcel of land where the BHETF and existing containment cell are located, the lands surrounding Boat Harbour are either owned by the federal crown - Indigenous Services Canada, as Indian Reserves 24, 24G and 37, or are owned by the Pictou Landing Development Corporation, a wholly owned subsidiary of the PLFN. This land ownership is shown in Figure 6.3-1.

### **6.3.2 Land Transfers Undertaken and Funded, Committed and Contemplated**

This section outlines Project investment in lands intended for the benefit of the PLFN community and to address Section 5.1(c) of CEEA 2012, taking into account environmental effects "with respect to Aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on (iii) the current use of lands and resources for traditional purposes." The effects of providing more available land to the community, along with funding investments in future site use will result in a positive effect on future use of lands and resources by the PLFN community for traditional purposes.

#### **6.3.2.1 Land Transfers Undertaken**

##### **Context**

The Project has funded and agreed to support land transfer for purposes of identification and protection of "Indian Burying Grounds" in the area of Indian Cross Point, consistent with Section 5.1(c) of CEEA 2012: "taking into account environmental effects with respect to Aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance". Known areas of burial grounds and areas of high potential as historical burying grounds have been identified through the baseline Archaeological Study. All lands confirmed and in question in this regard are being examined by NSLI for transfer of ownership to PLFN.

After the effluent pipeline from the Kraft Pulp Mill to Boat Harbour failed in June 2014, leading to a community protest and blockade, the Province negotiated an Agreement in Principle with PLFN on June 16, 2014. The follow-up action to the commitments outlined in this Agreement in Principle initiated the current and ongoing remediation plans for the Boat Harbour Remediation Project (BHRP). Among the agreement's requirements, along with enacting a timeline for closure of Boat Harbour to mill effluent, was an agreement to work with PLFN to identify Mi'kmaq burial sites or burial grounds at Indian Cross Point and to protect such sites.

The existence of burial grounds on the shore of the East River at or around Indian Cross Point is well documented through the following resources:

1. Excerpt from Historical Research Final Report: Early Land Grants, The Reservation Of Mi'kmaq Lands And The Arrival Of The Pulp And Paper Industry Pictou County, Nova Scotia: 1765 - 1967 Dorothy Bennett, Historical Research Group, Nova Scotia Department of Justice
2. Historical Research Report - Indian Cross Point Burial Ground Research, Final Report, Prepared for Environmental Services, Prepared by: Douglas Brown, February 16, 1998

3. Indian Cross Point Archaeological Reconnaissance and Ground Penetrating Radar Survey Pictou County, September 2019, submitted to: Nova Scotia Lands Inc. and Special Places Program, Submitted by: Boreas Heritage Consulting Inc., Heritage Research Permit: A2019NS064

As noted in the historical research, the parcel of land identified as "Indian Burying Ground" was situated in proximity of Indian Cross Point pursuant to old Crown grant mapping. Property mapping also shows that over time these lands were in the ownership of other private land holders. The Douglas Brown Report (1998) provides considerable detail on tracing ownership of the "Indian Burying Ground" and adjacent parcels. Lands where known and potential burying grounds exist, along with related transfer parcels are presented in Figure 6.3-1 and generally comprise parts of the PID 00801241 (Pictou Landing First Nation, former Baker Estate) and PID 00801282 (Palmer Property).

In 2019, NSLI discussed the issue of remediation options for the section of the pipeline between Indian Cross Point and Highway 348 (known and potential burying grounds). NSLI advised PLFN that their recommendation on remediating that section of pipeline would be respected and accommodated by NSLI. As part of the baseline Archaeological Study for this EIS, NSLI engaged Boreas Heritage Consulting to conduct a site survey using ground penetrating radar. As discussed in Section 5, PLFN's decision is to have the pipeline fully removed from Indian Cross Point to the west property line of Highway 348.

#### ***Baker Estate Land at Indian Cross Point***

In 2014, a tract of land known as the Baker Estate was offered for sale, which comprised about 26.7 acres of land and included a significant portion of the old Crown grant land identified as "Indian Burying Ground" at Indian Cross Point (Figure 6.3-1). PLFN asserted that transfer of the land to PLFN would demonstrate meaningful and significant progress toward fulfilling the Province's commitment to PLFN pursuant to Section 2(c) of the June 2014 Agreement in Principle. The Province funded the purchase of the estate land for PLFN, as documented in an Agreement between the proponent and the Pictou Landing Band in October 2014. At the time of the transaction the total costs funded by NSLI were \$102,877.

This accommodation was seen to be both the fulfillment of a condition of the June 2014 Agreement in Principle and a step toward developing a productive and constructive relationship between the Province and PLFN in moving towards the remediation of Boat Harbour and return it to a tidal estuary.

#### ***Lands Adjacent to Baker Estate Lands, Owned by William and Susan Palmer***

In addition to funding the purchase of the Baker Estate, a portion of the "Indian Burying Ground" is noted to be on lands currently owned by William and Susan Palmer. The Palmers have consistently advised the PLFN that they are interested in conveying a portion of their property which may be part of the "Indian Burying Ground" to PLFN<sup>2</sup>.

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<sup>2</sup> <https://www.thechronicleherald.ca/news/local/beautiful-form-of-reconciliation-couple-to-return-ancestral-burial-land-to-pictou-landing-first-nation-318128/>

NSLI has committed to funding any costs incurred by PLFN, including survey and legal cost, associated with this land transfer.

Supporting the transfer of the Palmer land parcel to PLFN also provides an accommodation to PLFN relative to the protection of the traditional burying ground and the exercise of Aboriginal and Treaty rights in this special place of cultural and historical significance.

### 6.3.2.2 Land Transfers Committed

#### *Provincial Lands including the Operational Component of the BHETF*

The Governor in Council by Order in Council #96-621 dated August 14, 1996 authorized, "the Minister of Transportation and Public Works to transfer such portion of the BHETF lands as the Minister deems appropriate at no charge to the Pictou Landing Mi'kmaq Band, or to the Federal Department of Indian Affairs and Northern Development for the benefit of the Band, when the lands are no longer required for the operation of the effluent treatment facility, or at such sooner time as the Minister deems appropriate so long as any earlier transfer is on such terms and conditions as do not interfere with the continued operation of the effluent treatment facility for the duration of the operating agreement with Kimberly-Clark Canada Limited, and such additional time is required to perform clean up operations."

NSLI has confirmed to PLFN that the lands which are provincially owned and on which the operational component of the BHETF is sited will be offered to PLFN when the lands have been remediated at completion of the Project. The Site is approximately 128 hectares (ha). The lands owned by the Province are presented in Figure 6.3-1.

BHETF land currently owned by Nova Scotia Department of Transportation and Infrastructure Renewal (NS TIR) for transfer to PLFN is as follows:

**Table 6.3-1 BHETF Parcels owned by NS TIR**

Description	Parcel Identification Number (PID)	Hectares
NS TIR	00801191	128

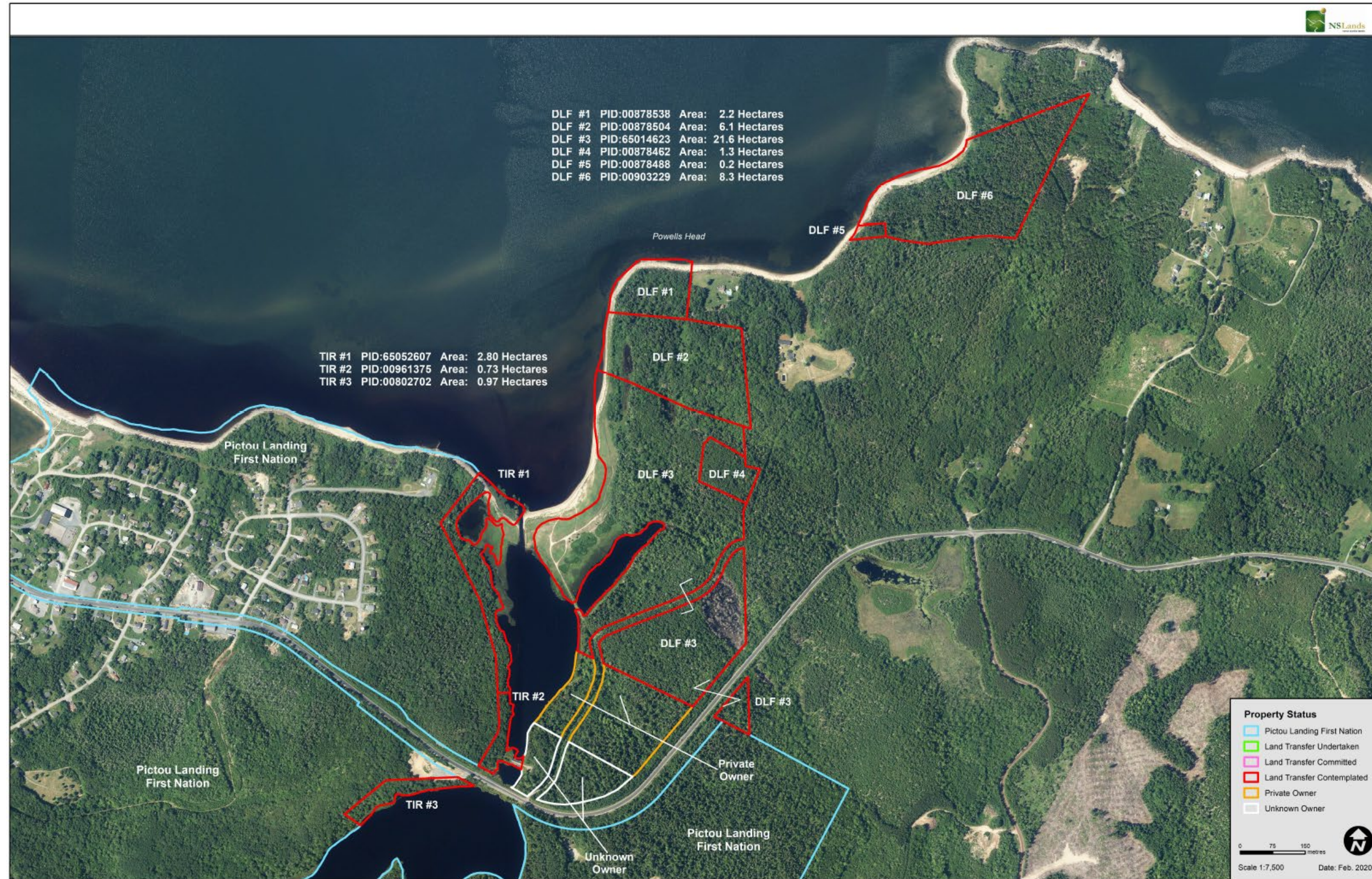
### 6.3.2.3 Land Transfers Contemplated

Several parcels of land on the west and east sides of the estuary at the entrance to the Northumberland Strait are owned by the Province. NSLI is taking steps to secure departmental ownership of these parcels of land to facilitate access to them for purposes of remediation activity.

The area comprises approximately 45 ha in total as presented in Figure 6.3-2. NSLI has confirmed to PLFN that these lands will be transferred to PLFN following completion of the Project, once access is no longer required for remediation and remediation requirements have been satisfied. It has been determined through regulatory meetings and consultation with PLFN that "all transfers of lands and waters will be deemed safe based on relevant national, provincial, or PLFN acceptable standards. PLFN is still working on what their acceptable standards will be."<sup>3</sup>

<sup>3</sup> Pictou Landing First Nation Well-Being Baseline Study. December, 2019. Union of Nova Scotia Mi'kmaq.

**Figure 6.3-2 Lands to be Transferred to PLFN Following Completion of the Project**



Parcels comprising this land 1) at the northeast end of BHSL owned by NS TIR and 2) lands on the shore of the estuary outside the BHSL owned by NS TIR and Nova Scotia Department of Lands and Forestry (NSDLF) are identified as follows:

**Table 6.3-2 Parcel Ownership – NS TIR and Nova Scotia Department of Lands and Forestry**

Ownership*	Parcel Identification Number (PID)	Hectares
NS TIR #1	65052607	2.8
NS TIR #2	00961375	0.73
NS TIR #3	00802702	0.97
NSDLF #1	00878538	2.2
NSDLF #2	00878504	6.1
NSDLF #3	65014623	22.6
NSDLF #4	00878462	1.3
NSDLF #5	00878488	0.2
NSDLF #6	00903229	8.3
Total Hectares		45.2

### 6.3.3 Land Use Planning

NSLI was given executive direction in 2018 to undertake preliminary discussions with PLFN regarding land use planning for future post-Project Site use by the community.

NSLI supported and funded the development of a land use plan for PLFN. PLFN engaged Membertou Geomatic Solutions to develop a Boat Harbour Land Use Plan (the Plan), which was completed in 2018. This plan lays out the vision for the future of Boat Harbour after the remediation Project is completed. It outlines plans for commercial, institutional, recreational, agricultural and residential development and provides a roadmap over a long-term planning and implementation horizon.

NSLI has discussed early implementation of some aspects of the Plan that are not a part of, do not impact, or are not dependent upon the federal environmental assessment process outcomes.

NSLI successfully secured a source of funding for implementation of aspects of the Plan and associated investment in future site use for activities such as light commercial development and recreational and potential tourism uses. The federal contribution under the Investing in Canada Infrastructure Program includes \$15 million for this investment.

The Vision Statement for the Plan is as follows:

*"PLFN is reclaiming the lands around A'se'k by creating economic, social, cultural and environmental opportunities while also developing a sense of safety and sustainability".<sup>4</sup>*

The Well-Being Study has noted some concerns that the level of community engagement needs to be broader, that the Plan should be an evolving process as more of the community are made aware

<sup>4</sup> Pictou Landing First Nation Well-Being Baseline Study. December, 2019. Union of Nova Scotia Mi'kmaq.



of its development and are able to become part of it, and that the Plan is based on an economic model rather than an ecological and cultural one consistent with PLFN logic models and values. Ongoing and additional engagement and consultation with PLFN is being conducted to address these concerns.

The restored ability to practice physical and cultural heritage, and use the lands, waters and resources of A'se'k for traditional Aboriginal and Treaty rights and purposes is intended as an improvement in land use for PLFN and will be guided by the evolving Plan.

## **6.4 Potential Adverse Effects on Potential or Established Aboriginal or Treaty Rights (includes direct, residual, and cumulative impacts)**

### **6.4.1 General**

As the remediation of Boat Harbour has an objective to return the harbour and any impacted surrounding lands to their previous function as an estuary and wetlands prior to receiving effluent, impacts to the restoration of Aboriginal and Treaty rights during and post-remediation are considered generally positive (as described in Sections 6 to 6.3.3). This includes restoration of contaminated lands, land transfers to increase and restore PLFN ownership and traditional relationship with surrounding lands, and a Land Use Plan to help guide the ongoing reclamation and development of this land by PLFN.

The two main components of the remediation that may negatively impact Aboriginal and Treaty rights for PLFN are the continued use of the containment cell and the remediation and/or removal of the wetlands.

### **6.4.2 Containment Cell**

#### **6.4.2.1 Perceived Limitations**

Regarding Section 5.1(c) of CEAA 2012, "with respect to aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on (ii) physical and cultural heritage, (iii) the current use of lands and resources for traditional purposes," the following section describes limitations on land use in this context.

The existing containment cell is unique and separate from the BHETF, although both are located on the same provincially owned lands. Use of the existing containment cell to continue to store the waste historically disposed of in the cell and to permanently house the contaminated materials removed during remediation is seen by NSLI as the most economically viable and safe remedial option, arrived at during extensive research and comparative engineering analysis. The costs and safety risks associated with alternative siting and transport of these materials is deemed prohibitive. This would also delay completion of the remediation process significantly. Further discussion on the evaluation of alternative means is provided in Section 2 of this EIS.

The on-site containment cell and the permanent storage of contaminated materials in the containment cell are seen by some PLFN community members as an obstruction to the restoration of Aboriginal and Treaty rights of PLFN and an obstruction to the ecological and associated cultural

and spiritual relationship with the lands and waters of A'se'k. The emotional and physical impacts of the effluent and the legacy of impact this has had on obstructing PLFN well-being, as well as related distrustful and negative relations with government that have been connected to this physical contamination, are seen to be an ongoing physical risk and impact to well-being if kept on-site. There is also concern over the longevity of the containment cell and its ability to safely and effectively contain dangerous materials. From an engineering perspective, 300 years has been cited, whereas the PLFN perspective would prefer permanent containment in perpetuity<sup>5</sup>. There is mixed feedback regarding the notion that jobs associated with monitoring and maintenance of the containment cell have been presented as an economic benefit to PLFN, as they are either not interested or are conflicted with their interest in employment or economic opportunities that involve the long-term monitoring of the containment cell.

#### **6.4.2.2 Proposed Use**

This section outlines the history of the existing containment cell and the continued limited role or impediment that it will have on surrounding land use.

A containment cell to receive the waste sludge from the BHETF was constructed on lands owned by the Province in the mid-1990s and has received waste sludge from Boat Harbour since 1996. Modifying the existing containment cell, with refurbishment and enhanced engineering controls and vertical expansion into a modern containment cell, is the proposed option for the long-term containment and management of the waste sludge from implementation of the BHRP.

The containment cell is situated on provincially owned lands. Its construction, maintenance and operation has been a provincial responsibility. Its operation has been under the jurisdiction of an Industrial Approval (IA) issued by the Nova Scotia Department of Environment. Ownership and all long-term maintenance and management costs and environmental liabilities associated with the improved and modified containment cell are expected to remain with the Province in perpetuity.

The Province started using the containment cell to receive and contain contaminated waste sludge from Boat Harbour immediately after completion of construction in 1995. Over the years the containment cell has received sludge from dredging the Aerated Stabilization Basin (ASB). There are approximately 180,000 cubic metres (m<sup>3</sup>) of material in the cell, of which approximately 70,000 m<sup>3</sup> was deposited in 1996, and the 110,000 m<sup>3</sup> representing the accumulated volumes deposited in the containment cell periodically since 1996. The existing containment cell is currently not capped. There is a security fence installed around its perimeter.

The existing containment cell is situated between IR 37 and IR 24G as shown on Figure 1.2-1. It does result in some limitation on land use in the areas around the existing containment cell and future modern containment cell. It is anticipated that such limitations on land use will not be further impacted by the BHRP as the use of the containment cell is a long-term component of the Project with its planned maintenance and management during and post-remediation.

The planned volume expansion of the containment cell will be an expansion to its height, or a vertical expansion, and not an expansion to its footprint, or a horizontal expansion. As such, the

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<sup>5</sup> Pictou Landing First Nation Well-Being Baseline Study. December, 2019. Union of Nova Scotia Mi'kmaq.

long-term existence of the containment cell will not result in increased limitations of land use from a footprint or access perspective beyond the limitations which have existed since the mid-1990s.

The existence of the containment cell represents a current or baseline access and use restriction to some of the land around Boat Harbour for PLFN to practice their Aboriginal and Treaty rights. Therefore, the permanent storage of sludge in the containment cell would continue to impact PLFN's asserted Aboriginal and Treaty rights in the area, which are significant and include assertion to Aboriginal title.

### **6.4.3 Wetlands**

The proposed removal of impacted sediment from the wetlands around Boat Harbour also represents a potential impact to flora and fauna habitats that would be relevant to PLFN exercising their asserted Aboriginal and Treaty rights. The driver for wetland removal is the removal of impacted sediment and organics, not to facilitate access or other purposes. It should be noted that 25 wetlands have been identified in the Project area. Remediation activities will be extensive in two of the larger impacted wetlands on-site. In those two cases, these now freshwater wetlands were historically in the upper reaches of the tidal influence of Boat Harbour and therefore represented a marine environment. As such, returning these areas to tidal influence would restore the natural habitat as it existed prior to the industrialization of Boat Harbour in 1967.

Any destruction of wetland habitat will be subject to compensation through enhancement of existing wetlands on-site and/or creation of new wetlands at least equal in size, in another area near Boat Harbour.

During formal consultation, PLFN advised that Chief and Council have heard from Environment and Climate Change Canada (ECCC) that further information will be required in order to determine the impact of such a process. Chief and Council reserved comment on that approach until further information and advice is obtained.

In that context, NSLI has conducted a Human Health and Ecological Risk Assessment (HHERA) of the wetlands which will serve to inform the regulators (including ECCC), the Project Team, and PLFN on the optimal approach to manage the wetlands, either remediation and/or a risk-based approach. Additionally, the HHERA addressed the area of the estuary outside the dam structure to inform the approach in remediation and/or a risk-based approach to this area.

NSLI engaged Nova Scotia Environment, ECCC, Health Canada (HC) and Indigenous Services Canada to advise on the proposed HHERA work plan and to review the draft HHERA report.

As noted in Section 5.1.12, the HHERA first draft was shared with regulators for comment. Based upon their comments, a disposition table had been prepared and it was determined that there were requirements for a supplementary field work program, then further lab analysis for dioxins and furans, along with final draft preparation. This work had been carried out during the period of October 2019 to January 2020.

NSLI agreed to fund a third-party consultant retained by PLFN to independently review the HHERA. The draft HHERA and disposition tables were shared with PLFN's consultant in September 2019. As noted in Section 5.3.6.7, the Impact Assessment Agency of Canada (IAAC) facilitated a working session in November 2019 with PLFN, HC, GHD, and IAAC to discuss (among other items), the

exposure scenarios for sediment to be used in the HHERA as well as harvested food consumption values. As a follow-up to the meeting, NSLI with support from GHD held a focus group session with PLFN to verify the harvested food consumptions carried in the initial draft HHERA.

The results of the HHERA are discussed in Section 7.3.15, Mi'kmaq of Nova Scotia Effects Assessment however, it is noted that based on the remedial criteria determined through the HHERA, using the inputs from PLFN on harvested food consumption and sediment exposure scenario, a significant portion of these wetlands will need to undergo full remediation.

The largest wetland (former Settling Ponds 1 and 2), which effluent was directly discharged in the first few years (late 1960s) of the industrial impacts, is currently cut off from Boat Harbour waters by an access road and a physical structure. The Project design includes removing aspects of these barriers and installing a short span bridge to enable tidal flow to be re-established post-remediation, which will also be sized sufficiently to accommodate the passage of small boats and canoes/kayaks. Similarly, former Settling Pond 3, which received overflow effluent from former Settling Pond 1 and 2, is currently cut off from Boat Harbour waters by an access road. The Project design includes removing a portion of the road to re-connect the wetland to the Boat Harbour waters.

#### **6.4.4 Health and Socio-Economic Conditions, Including Mental and Social Well-Being**

Section 5.1(c) of CEAA 2012 states that the environmental effects that are to be taken into account in relation to an act or thing, a physical activity, a designated Project or a Project are "with respect to Aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on (i) health and socio-economic conditions."

Subsequent to the issuance of the Final EIS Guidelines on May 31, 2019, on August 16, 2019 IAAC issued the following guidance:

*As requested, the following is some general guidance on how NSLI may consider the effects of the BHRP on the mental and social well-being of PLFN members, as required by the EIS Guidelines:*

- *Establish the baseline mental and social well-being status of the potentially affected population, particularly sensitive sub-groups such as children, women, and elders, to assess the potential effects of the Project on mental and social well-being of the community and to monitor any changes once the Project is in the post-construction phase.*
- *Engage PLFN to identify the mental and social well-being effects from the Project, mitigation measures, and long-term monitoring requirements for inclusion in the EIS.*
- *Develop sound means to gather and collect pertinent information from PLFN, which may include community-led data collection.*
- *Determine, in consultation with PLFN, if there are ways that the Project design can be changed to mitigate any concerns on their mental and/or social well-being.*
- *Engage PLFN in the design, implementation, management, interpretation and communication of results from any monitoring of mental and social well-being effects that may be required.*

All of these requirements of the Guidelines have been carefully considered and addressed by NSLI in the work with PLFN, the Well-Being Study and Project design changes. Upon receiving the

guidance, NSLI met with PLFN leadership to discuss the matter. PLFN leadership stated that this was an important assessment and they agreed that they would take the lead in the conduct of the mental and social well-being assessment, utilizing community and other Indigenous subject matter experts and researchers to lead and conduct the assessment.

The draft report of the assessment results was provided to NSLI on December 21, 2019, with the final report provided on February 15, 2020.

The following are primary concerns related to Aboriginal and Treaty rights and Project activities that are outlined in the PLFN Well-Being Study as discussed previously throughout this section:

- The on-site containment cell and the permanent storage of contaminated materials in it are seen by some PLFN community members as an obstruction to the restoration of Aboriginal and Treaty rights and an obstruction to the ecological and associated cultural and spiritual relationship with the lands and waters of A'se'k. Economic and social concerns are noted as well in terms of a potentially decreased land value and an unwillingness to live or conduct eco-tourism activities near contaminated materials.
- Concern about euthanization of contaminated fish | This is a painful issue for the community based on their logic model and relationship with the living world. They have requested to be involved to ensure that this is conducted in a culturally sensitive way appropriate to the magnitude of loss.
- Indian Cross Point pipeline excavation (near burial ground) | Concern that majority of community are not aware of or have enough information about these activities to be meaningfully involved in the feedback process on informing Project activities and ensuring the preservation of rights and heritage.
- Wetland remediation | Concern that majority of community are not aware of or have enough information about these activities to be meaningfully involved in the feedback process on informing Project activities and ensuring the preservation of rights and heritage.
- Accidents and malfunctions | Concern over the effects of exposures to hydrogen sulfide (H<sub>2</sub>S) was raised several times in community meetings, especially concern for workers who may be exposed on-site during remediation, and then go home to families during off-hours and continue to be exposed to it in the air coming from the nearby remediation site.
- Land Use Plan | Concerns that the level of community engagement needs to be broader, that the Plan should be an evolving process as more of the community are made aware of its development and are able to become part of it, and that the Plan is based on an economic model rather than an ecological and cultural one consistent with PLFN logic models and values.

Ongoing and additional engagement with PLFN is being conducted to address these concerns and will continue post-EIA by NSLI.

#### **6.4.5 Community Access During Bridge Construction**

The construction of a new bridge to replace the current causeway is a planned element of the Project which foresees the new bridge location and dimensions to be like the historical bridge which

was in place prior to the industrialization of Boat Harbour. The new bridge will be constructed in the later stages of the Project and is expected to require a construction timeline of 4 to 6 months.

Provincial policy for a highway traffic interruption due to bridge construction on the series of highway involved (Highway 348), points to use of a detour as the traffic accommodation. NSLI conferred with PLFN to determine whether they would accept a detour during bridge construction or whether they would ask for a temporary bridge during the construction period.

As noted in Section 5.4, Consideration of Key Issues Raised, PLFN requested that a temporary by-pass causeway be constructed.

## **6.5 Accommodations for Potential Effects on Aboriginal and Treaty Rights**

### **6.5.1 General**

The effects of providing more land to the community, along with funding investments in future site use will result in a positive effect on future use of lands and resources by the PLFN community for traditional purposes. It has been noted and observed that there is reluctance on the part of PLFN community members to use the lands adjacent to the shoreline of Boat Harbour, the estuary and Northumberland Strait near PLFN. There is currently some limited use for hunting and harvesting. Pursuant to a fish survey conducted in late 2019, there are no consumable fish in Boat Harbour, and its wetlands. In general, an objective of the BHRP is to effectively remove the contaminated materials from Boat Harbour and adjacent areas as required and return A'se'k to a tidal estuary which is expected to undergo natural ecological restoration over the years following remediation. As such, a remediated A'se'k is expected to support healthy flora and fauna, bird, wildlife and fish environments. It is also expected to be able to be used by the PLFN community for swimming, boating and water-based activities. The remedial outcome of a clean A'se'k will be further complemented by the investment in future site use, which should serve to enhance the ability of the rights holders to exercise their Aboriginal and Treaty rights.

As such, with the outcome of the BHRP, the PLFN community will be accommodated in being able to exercise their Aboriginal and Treaty rights in and around A'se'k in a manner approaching their exercise of such rights prior to the industrialization of A'se'k. As noted previously, the largest wetland (Former Settling Ponds 1 and 2), into which effluent was directly discharged in the first few years of the industrial impacts, is currently cut off from Boat Harbour waters by an access road and a physical structure. The Project design includes removing these barriers and installing a short span bridge to enable tidal flow to be re-established post-remediation, which will also be sized sufficiently to accommodate the passage of small boats and canoes/kayaks. Similarly, the second largest wetland (former Settling Pond 3), is currently cut off from Boat Harbour waters by an access road. The Project design includes removing a portion of the road to re-connect the wetland to the Boat Harbour waters. This installation will provide some accommodation in enabling PLFN's exercise of Aboriginal and Treaty rights as an outcome of remediation, which rights have been precluded since the industrialization of A'se'k.

### **6.5.2 Containment Cell**

PLFN has expressed concern through informal engagement, provincial formal consultation and consultation through the EIA process over the proposed use of the existing containment cell to receive and contain the waste from remediation of BHETF, as well as the long-term maintenance and management of the containment cell infrastructure.

Accommodating past (containment cell) and current potential impacts of the containment cell on land use is currently being discussed between NSLI, Lands & Forestry, NS TIR, and PLFN. The accommodation contemplates land ownership transfers of some of the lands surrounding Boat Harbour. The land transfers undertaken, committed and contemplated as outlined in Section 6.3.2 are intended to provide some accommodation for limitations in land use as a result of the continued and long-term existence of the containment cell.

### **6.5.3 Accommodation for Wetlands**

The proposed removal of contaminated wetlands around Boat Harbour leads to returning these areas to tidal influence, which would naturally restore the habitat as it existed prior to industrialization of Boat Harbour.

As previously noted, NSLI has conducted a HHERA of the wetlands and agreed to fund a third-party consultant retained by PLFN to independently review the HHERA study. The HHERA draft study and disposition tables were shared with PLFN's consultant in September 2019 and the final draft will be shared once complete. In addition, PLFN and its consultant have been invited to all meetings organized between the province and federal regulators to discuss aspects of the HHERA.

Accommodations for the wetlands restoration after remediation has not yet been fully discussed with PLFN because the final decision on the extent of the wetland areas to be remediated, as documented in the final draft HHERA, which has been presented to agencies and PLFN for review, has not been confirmed. PLFN has reserved their response regarding the impacts to their Aboriginal Treaty Rights of the wetlands removal for when that decision is made. A possible accommodation could be a wetland restoration plan and implementation of that plan with substantive long-term monitoring of recovery that may directly involve PLFN. As well, an approach could be an equal compensatory wetland restoration in another area.

The conduct of the HHERA, including the funding of an independent 3rd party review on behalf of PLFN, was intended to accommodate PLFN's concerns about any potential impact to flora and fauna habitats that would be relevant to PLFN's exercising their asserted Aboriginal and Treaty rights.

## **6.6 Residual Impacts of the Project on PLFN's Aboriginal or Treaty Rights**

The following is a summary of the potential adverse impacts of the Project on PLFN's Aboriginal or Treaty rights:

- Temporary disturbance due to noise, dust, odour, and visual alteration of the area. Long-term disturbance due to continued storage of waste material adjacent to Boat Harbour (e.g., visual disturbance, loss of use, etc.).

- Effects to the well-being of PLFN due to the continued storage of waste proximal to Boat Harbour.

The following summarizes the potential positive impacts of the Project on Aboriginal or Treaty rights:

- Transferring lands to PLFN that have occurred, are committed to and are contemplated
- Providing conditions that allow for the long-term natural restoration of Boat Harbour, leading to the availability of the area for the exercise of fishing, hunting, gathering and other cultural and traditional use activities

**Table 6.6-1 Accommodation Analysis for Potential Effects to Aboriginal or Treaty Rights**

Issue	Potential Effect	Mitigation/Accommodation	Responsibility
Land Access	Long-term storage of contaminated sludge in enhanced containment cell continues restricted access to some portion of the lands surrounding Boat Harbour post-remediation.	<ul style="list-style-type: none"> <li>• Transfer of other land parcel(s) currently owned by the Province that are equal or larger in size than that of the containment cell property to PLFN</li> <li>• Purchase of the Baker Estate (site of Mi'kmaq burial ground) and transfer to PLFN</li> </ul>	NSLI (Lead) NS TIR Department of Lands & Forestry
Water Access	Return of A'se'k to tidal conditions while leaving the box culverts in place on Route 348 has the potential to restrict access to Boat Harbour by boat.	<ul style="list-style-type: none"> <li>• The new bridge along Highway 348 is being designed with a navigation channel similar to pre-industrialization of A'se'k to accommodate pleasure craft and small fishing boats</li> <li>• Following remediation, NSLI has agreed to fund a boat slipway and wharf as requested by PLFN</li> </ul>	NSLI
	Access by canoe/kayak or small boat to the upper reaches of Boat Harbour (near the large wetlands requiring remediation) has the potential to be restricted by the road leading to the containment cell.	<ul style="list-style-type: none"> <li>• A small span bridge will be constructed along the access road to allow for small boat and canoe/kayak passage to the largest wetland and a channel will be constructed to connect the second largest wetland</li> </ul>	NSLI
Traditional Use of Wetlands	Full removal of the contaminated wetlands surrounding Boat Harbour could impact flora and fauna, and associated habitats, post-remediation.	<ul style="list-style-type: none"> <li>• Providing conditions that allow for the natural restoration of wetlands in Boat Harbour post-remediation</li> <li>• Creation of wetlands equal in size in another area near Boat Harbour as part of a wetland compensation program for the Project</li> </ul>	NSLI (lead) Nova Scotia Department of Environment



**Table 6.6-1 Accommodation Analysis for Potential Effects to Aboriginal or Treaty Rights**

Issue	Potential Effect	Mitigation/Accommodation	Responsibility
		<ul style="list-style-type: none"> <li>The Wetlands being remediated were impacted because of the industrialization Boat Harbour and resulted in limited traditional use</li> </ul>	
Archaeological Resources	Potential for remediation to disturb Mi'kmaq sites of archaeological significance.	<ul style="list-style-type: none"> <li>Completed archaeological survey of site enhancing knowledge base and implementing protective measures as necessary</li> <li>Conducted a MEKS</li> <li>NSLI moved the initial location of the treatment pad constructed for pilot work in order to protect an area of archaeological significance where the treatment pad was originally planned - Any further situations that arise in this regard will be addressed similarly</li> </ul>	NSLI
Historic Burial Ground	Potential for disturbance of historic Mi'kmaq burial site at Indian Cross point during decommissioning of the pipeline.	<ul style="list-style-type: none"> <li>A Ground Penetrating Radar (GPR) survey was completed in areas likely to contain human Mi'kmaq remains, enhancing knowledge base and allowing PLFN to decide upon their preferred method of pipeline decommissioning at Indian Cross Point</li> </ul>	NSLI PLFN
Health and Well-being	A clean Boat Harbour has potential for positive impacts on Health and Well-being of PLFN. A clean Boat Harbour that is returned to tidal influence would be a step further in trying to bring back conditions present before the introduction of the BHETF, when A'se'k was tidal and used by PLFN for food, refuge, medicine and social gatherings.	<ul style="list-style-type: none"> <li>Early in the planning process, NSLI agreed with PLFN's desire to return Boat Harbour to a tidal estuary which became the remedial objective for the Project</li> <li>NSLI has funded a mental and social well-being study in order to more fully understand the impacts of the Project on community well-being, both the implementation of remediation and the investment in future site use</li> <li>NSLI funded a Well-Being Study that enhanced the knowledge base for PLFN</li> </ul>	NSLI PLFN

**Table 6.6-1 Accommodation Analysis for Potential Effects to Aboriginal or Treaty Rights**

Issue	Potential Effect	Mitigation/Accommodation	Responsibility
		<p>use in planning and future initiatives</p> <ul style="list-style-type: none"> <li>• NSLI incorporated outcomes of study analysis into remediation decisions on management and mitigation of impacts and incorporated the study's analysis into the remediation planning process</li> <li>• NSLI will prioritize aspects of the Land Use Plan by incorporating outcomes of the Well-Being study into the investment planning process for the \$15 million earmarked for this (separate from the BHRP)</li> <li>• NSLI has asked PLFN to name the bridge and to suggest architectural features to be incorporated in bridge design in order to accommodate their vision of bridge design</li> <li>• NSLI has funded a video commissioned by PLFN to provide an opportunity to create a story that connects an external audience to the PLFN community and create empathy and understanding for PLFN's past, present and future - It will also provide value and empowerment to community members to see feelings and perspectives represented in this content</li> </ul>	
Socio-economic Conditions	Jobs and maximization of participation and job creation for PLFN community	<ul style="list-style-type: none"> <li>• NSLI continually meets with PLFN to support participation and has ensured every procurement to date requires a work plan for meaningful PLFN participation and employment benefits</li> </ul>	NSLI PLFN
	Increased Future Site Use	<ul style="list-style-type: none"> <li>• The investment in future site use will enable community members to connect to A'se'k and its environs and facilitate traditional and Aboriginal use of the Site</li> </ul>	NSLI PLFN

**Table 6.6-1 Accommodation Analysis for Potential Effects to Aboriginal or Treaty Rights**

Issue	Potential Effect	Mitigation/Accommodation	Responsibility
		<ul style="list-style-type: none"> <li>The investment will also facilitate economic opportunities in ecotourism, indigenous experience and other commercial prospects</li> </ul>	
Route 348 Detour During Bridge Construction	Implementation of a temporary detour during construction of the new bridge along Highway 348 has potential for reduced business at the PLFN gas bar and convenience store thus creating a negative economic impact on the community. In addition, PLFN indicated that a detour would interfere with their yearly pilgrimage to a culturally significant site at Maligomish accessed by travel over the bridge and have negative impact on local economy.	<ul style="list-style-type: none"> <li>NSLI will construct a temporary single lane by-pass causeway for light vehicles</li> </ul>	NSLI



## about GHD

GHD is one of the world's leading professional services companies operating in the global markets of water, energy and resources, environment, property and buildings, and transportation. We provide engineering, environmental, and construction services to private and public sector clients.

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