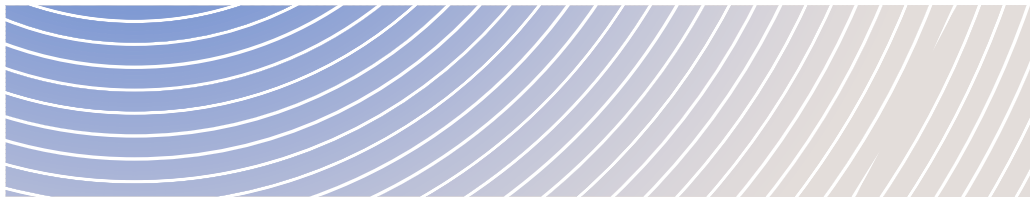


Analysis Report



WHETHER TO DESIGNATE THE **DALHOUSIE POZZOLAN PROJECT** IN NEW BRUNSWICK PURSUANT TO THE *IMPACT ASSESSMENT ACT*

June 3, 2025



Impact Assessment
Agency of Canada

Agence d'évaluation
d'impact du Canada

Canada



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Purpose

The Impact Assessment Agency of Canada (IAAC) prepared this report for consideration by the President of IAAC¹ in his response to the request to designate the Dalhousie Pozzolan Project (the physical activities referred to as the Project) proposed by EcoRock Dalhousie Inc. (the Proponent) pursuant to section 9 of the *Impact Assessment Act* (the IAA).

Context of Request

On February 11, 2025, the Minister of the Environment received a request to designate the Project from Non-merci, Pozzolan Dalhousie. The letter included signatures from 12 companies, non-profit organizations, or support groups, and 127 individuals from New Brunswick and Quebec. The letter states the Project is likely to result in adverse effects and direct or incidental adverse effects within federal jurisdiction. The letter expresses concerns about adverse effects to fish and fish habitat (inclusive of species at risk), migratory birds (inclusive of species at risk), interprovincial waters, Indigenous current use of lands and resources for traditional purposes, and Indigenous commercial fisheries. Other matters raised outside of federal jurisdiction include impacts to specific waterways, species at risk, human health (light, dust, and noise), and community and economic impacts. Non-merci, Pozzolan Dalhousie also raised concerns about the Proponent's communication about the Project and indicated that all aspects of the Project, including all mining activities and dredging activities, should undergo a federal impact assessment.

On April 23, 2025, the Minister received a second request for designation from Mi'gmawe'l Tplu'taqnn Incorporated (MTI) representing eight Mi'gmaq First Nation communities in New Brunswick for consultation purposes. In addition to the concerns raised by Non-merci, Pozzolan Dalhousie, MTI stated that a federal impact assessment is warranted because the Province of New Brunswick's environmental impact assessment (EIA) process does not sufficiently consider the potential impacts of the Project on Mi'gmaq rights, noting that the Mi'gmaq do not have representation on the provincial Technical Review Committee for EIAs, and that no funding is provided for a technical review related to Indigenous knowledge.

IAAC met with the Proponent on February 18, 2025, notifying them of the designation request and on February 25, 2025, IAAC sent a letter formally requesting information on the Project. On March 14, 2025, the Proponent responded with information about the Project including related studies and activities that have taken place to date. It also indicated its view that the Project does not fall under the definition of a designated project under the *Physical Activities Regulations* of the IAA.

IAAC requested and received advice on applicable legislative, regulatory, or administrative mechanisms and effects that the Project may cause from the following authorities:

¹ On December 5, 2024, the Minister of the Environment delegated the powers under section 9 of the *Impact Assessment Act* related to designation requests to the President of IAAC. Therefore, under subsection 9(1) of the *Impact Assessment Act* the President may respond to a request to designate a physical activity that is not prescribed in the *Physical Activities Regulations*.

- Federal: Environment and Climate Change Canada (ECCC), Fisheries and Oceans Canada (DFO), Transport Canada (TC), Natural Resources Canada (NRCan), Atlantic Canada Opportunities Agency (ACOA);
- Provincial: New Brunswick Departments of Environment and Local Government (NBDELG), Indigenous Affairs, Natural Resource and Energy Development (NBDNRED), Transportation and Infrastructure and Tourism, Heritage and Culture; and
- Municipal: Town of Heron Bay and Restigouche Region Service Committee.

IAAC also requested input from potentially affected Indigenous groups, which includes two Mi'gmaq aggregates (i.e., MTI, Mi'gmawei Mawio'mi Secretariat [MMS]) and one Mi'gmaq First Nation (Elsipogtog First Nation).

In addition to the receipt of a designation request from MTI, IAAC also received responses from Elsipogtog First Nation and MMS. Elsipogtog First Nation indicated it agreed with the concerns expressed in Non-merci, Pozzolan Dalhousie's letter and also raised concerns about the cumulative effects of the Project on Elsipogtog First Nation's asserted Aboriginal title and rights. Additional concerns raised by MMS include water management, emergency response plans, Indigenous consultation and rights, and distribution of economic benefits. MMS indicated that a federal impact assessment review may offer clarity on critical concerns and initiate a consultation and accommodation process.

The Gespe'gewa'gi Institute of Natural Understanding² (GINU), a nonprofit organization formed of members from the communities of Eel River Bar First Nation (Ugpi'ganjig), Listuguj, and Pabineau First Nation (Oinpegitjoig), submitted a report, *Cumulative Effects of Industrial Legacy in Inner Mawipoqtapei*³. The report provides a review of the cumulative impacts of industrial legacy within Chaleur Bay region, and notes the importance of meaningful consultation and the consideration of Mi'gmaq traditional knowledge of the Dalhousie area. Concerns raised in the report are summarized in the sections below.

Project Context

Project overview

The Proponent is proposing the expansion and operation of an existing quarry to extract and process aggregate in the Town of Heron Bay, northern New Brunswick (Figure 1). The existing quarry has operated historically providing aggregate to local markets (approximately 55,000 tonnes per year), most recently accessing stockpile material. The Project proposes to expand the existing quarry from 10 to 80 hectares, and later include a grinding mill and facilities to produce pozzolan, a low carbon footprint material that can be used as a partial replacement for “clinker” (calcined limestone) in cement, resulting in lower greenhouse gas emissions. The Project's production capacity would be up to three million tonnes per year. The Project

² GINU works with First Nation governments, organizations and public and private stakeholders to provide applied scientific knowledge concerning aquatic resources

³ Gespe'gewa'gi Institute of Natural Understanding. 2025. *Cumulative Effects of Industrial Legacy in Inner Mawipoqtapei*. https://ginu.co/wp-content/uploads/2025/04/GINU_Cumulative-effects_Mawipoqtapei.pdf



will use existing wharf infrastructure at the Port of Dalhousie on Chaleur Bay, and will need to dredge Chaleur Bay to accommodate the vessel traffic. The Project would operate for approximately 80 years, subject to the rate of annual extraction and market demand.

The Proponent indicated the Town of Heron Bay area is the preferred location for the Project due to the presence of volcanic rock that can be used as a source for both aggregate and pozzolan and the existing infrastructure that has been unused or underused for several years, including the wharf, railway, and former industrial site located between the quarry and port.

The Project is located on private lands owned by L.C.L. Excavation Inc., CN Rail, and the Port of Dalhousie. The Proponent has a contractual agreement with L.C.L. Excavation Inc. to access the pozzolan rock and to compensate L.C.L. Excavation Inc. for the use of the quarry. The Proponent also has an agreement in place to acquire land from CN Rail and is leasing the wharf and associated land from the Port of Dalhousie for the Project.

According to the Proponent, it is anticipated that feasibility and environmental impact studies will take place in 2025, with federal and provincial permitting and authorizations to begin in early 2026. The Proponent estimates construction to begin in the summer of 2026 and Phase I operations to begin in the fall of 2026.

Figure 1: Project Location



Source: EcoRock Dalhousie Inc. submission March 14, 2025

Figure Description: A map of New Brunswick and a marker to show the proposed location of the Dalhousie Pozzolan Project.

Project components and activities

The key project components and activities would occur over two phases. Phase I would involve blasting, crushing, screening, and transport of aggregate material within the existing quarry and expansion of the quarry area. Materials to be produced in Phase I include clear stone for concrete and asphalt production and crushed pozzolan. Products may be transported to market by road, rail or ship. For shipping, materials will be transported from the quarry to the wharf by an enclosed conveyor over a distance of 2.65 kilometres. Infrastructure at the wharf will require repairs and the installation of two loading arms. No new berths will be required.

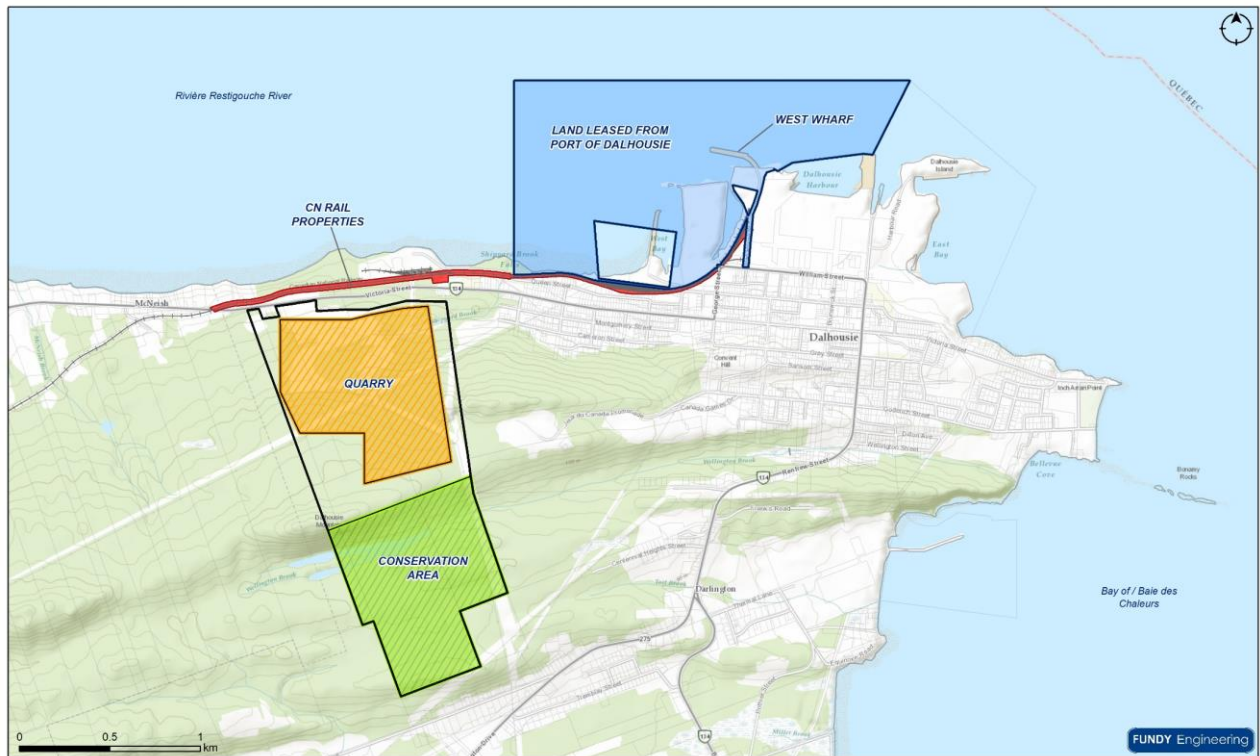
Phase II would involve the addition of a grinding mill to produce pozzolan and storage silos at the wharf. The Proponent is investigating the properties of the material for pozzolan production, and depending on the results, the material may need to be activated by a mechanical, thermal or chemical process. The location of the pozzolan production facilities has not yet been finalized; however, the Proponent is considering locating the facility near the mine site in order to benefit from the presence of existing infrastructure including the quarry, wharf, and railroad.

For both phases, the channel and area of Chaleur Bay to the north and east of the wharf will require dredging⁴ of sediments to a depth of 12.5 metres to accommodate vessels of 50,000 to 60,000 Deadweight Tonnes (DWT). The Proponent estimated the volume of dredged materials as 364,000 cubic metres over an area of 183,000 square metres. The Proponent's preferred option for disposal of the dredged sediments is an existing approved land disposal facility (owned by the Port of Dalhousie) to the south of the wharf, which was initially constructed in 1982 and expanded in 2008. If the existing facility does not have sufficient capacity, the Proponent may infill areas of Chaleur Bay to the immediate north and/or east of the existing disposal facility to create additional space.

⁴ This is an activity that is incidental to the Project: it is required to allow project-related shipping and will require a depth below historical levels, thus specifically benefiting the Proponent. The Proponent is completing geotechnical studies and sampling to support the activity and has received funds from ACOA to support studies, including a concept study for dredging and an application for dredging permit.



Figure 2: Positioning of the quarry expansion, corridor, and wharf.



Source: EcoRock Dalhousie Inc. submission March 14, 2025

Figure Description: A map of Heron Bay to show the location of features of the Project, including: the west wharf and land area leased from the Port of Dalhousie; the transportation corridor and land area leased from CN Rail; the quarry expansion area; and a conservation area⁵.

⁵ The Proponent indicated it will establish a conservation area in the southern area of the quarry site.

Analysis of Designation Request

Authority to designate the Project

The *Physical Activities Regulations* of the IAA identify the physical activities that constitute designated projects. The Project is not described in the *Physical Activities Regulations*. The most comparable items to the Project in the *Physical Activities Regulations* are:

- 19(f)** The expansion of an existing mine, mill, quarry or sand or gravel pit if the expansion would result in an increase in the area of mining operation of 50% or more and the total production capacity would be 3.5 million tonnes/year or more after the expansion
- 53** The expansion of an existing marine terminal, if it requires a new berth for ships larger than 25,000 DWT, or the construction of a new permanent structure in the water if the berth is not permanent.

IAAC understands the Project meets the criterion for expansion area (more than 50% increase in the area of mining operation), but does not meet the criterion 3.5 million tonnes per year for total production capacity (i.e., the Project's production capacity will be up to 3 million tonnes per year), and as such, item 19(f) does not describe the Project.

The Project will use an existing marine terminal and would include dredging of sediments but does not involve expansion or construction of new berths, and as such, item 53 does not describe the Project.

Additionally, it was determined that the pozzolan aspect of the Project does not fall under the mining related items of the *Physical Activities Regulations* as those items are specific to coal mines, diamond mines, and metal mines (including uranium and rare earth elements):

- 18** The construction, operation, decommissioning and abandonment of one of the following:
 - (a)** a new coal mine with a coal production capacity of 5 000 t/day or more;
 - (b)** a new diamond mine with an ore production capacity of 5 000 t/day or more;
 - (c)** a new metal mine, other than a rare earth element mine, placer mine or uranium mine, with an ore production capacity of 5 000 t/day or more;
 - (d)** a new metal mill, other than a uranium mill, with an ore input capacity of 5 000 t/day or more;
 - (e)** a new rare earth element mine with an ore production capacity of 2 500 t/day or more.

Under subsection 9(1) of the IAA the Minister may, by order, designate a physical activity that is not prescribed in the *Physical Activities Regulations*. The Minister may do this, if, in the Minister's opinion, the physical activity may cause adverse effects within federal jurisdiction or direct or incidental adverse effects.

The Minister cannot designate a physical activity if the carrying out of the physical activity has substantially begun, or a federal authority has exercised a power or performed a duty or function in relation to the physical activity (subsection 9(7) of the IAA).

The Proponent has received funding from ACOA to undertake activities to assess the deposit, conduct studies for a potential provincial environmental impact study, and prepare for applicable federal and

provincial permitting related to dredging. ACOA did not include construction or operation of the Project in the list of activities for which it provided funding to the Proponent. Given this understanding, IAAC is of the view that the Minister may consider designating the Project pursuant to subsection 9(1) of the IAA, as the carrying out of the Project has not substantially begun and no federal authority has exercised a power or performed a duty or function that would permit the Project to be carried out.

In accordance with subsection 9(2) of the IAA, in making the decision on whether to designate the Project, if the Minister is of the opinion that the carrying out of the physical activity may cause adverse effects within federal jurisdiction or direct or incidental adverse effects, the Minister may consider public concerns related to the adverse effects within federal jurisdiction, adverse impacts that the physical activity may have on the rights of Indigenous Peoples, and whether a means other than an impact assessment exists that would permit a jurisdiction to address the adverse effects.

Under subsection 154(1) of the IAA, the Minister may, subject to any terms and conditions that the Minister specifies, delegate to IAAC any powers, duties, or functions that the Minister is authorized to exercise or perform under the IAA. The Minister has delegated the powers under section 9 of the IAA, including the power to respond to a request or issue a designation Order, to the President of IAAC.

Existing legislative mechanisms

Key federal, provincial, and municipal legislative, regulatory or administrative mechanisms that are or may be relevant to the Project are summarized below. Some mechanisms include Indigenous consultation and public engagement.

Federal Legislative Mechanisms

Fisheries Act

The Fish and Fish Habitat Protection Program of DFO reviews projects to determine their impacts on fish and fish habitat, including marine plants and aquatic species at risk, by ensuring compliance with the *Fisheries Act* and *Species at Risk Act* (SARA). DFO would examine the potential effects of projects on fish and fish habitat in the marine and freshwater environments, including effects associated with dredging and changes in water quality and quantity from the quarry expansion.

A *Fisheries Act* authorization would be required if the Project is likely to cause the harmful alteration, disruption, or destruction to fish habitat and/or is likely to result in the death of fish. The application process for an authorization would include Indigenous consultation, and accommodation, where appropriate. If a *Fisheries Act* authorization is issued for any parts of the Project, it will include conditions requiring avoidance and mitigation measures, offsetting, contingency measures, and monitoring.

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

Canadian Navigable Waters Act

The *Canadian Navigable Waters Act* (CNWA) applies to projects that will interfere with navigable waters. Approval under the CNWA may be required by TC for the dredging of Chaleur Bay as it pertains to deepening a navigation channel. In addition, if the Project requires infilling to dispose of dredged sediments and the footprint of the existing disposal facility is expanded into the waterway, approval under the CNWA will be required. A CNWA approval may include terms and conditions to mitigate impacts to navigation.

The CNWA application process includes mandatory advertising and a public comment period, where the public can submit navigation-related information for consideration. The application process may also include Indigenous consultation.

Migratory Birds Convention Act, 1994

The *Migratory Birds Convention Act, 1994* (MBCA) protects migratory birds and their eggs and nests wherever they occur, regardless of land tenure. The MBCA and its *Migratory Birds Regulations, 2022* prohibit the disturbance or destruction of migratory birds, and their nests and eggs, unless a permit specifically authorizing the activity has been granted. The deposit of harmful substances into waters or areas frequented by migratory birds or in a place from which the substance may enter such waters or such an area is also prohibited. The *Migratory Birds Regulations, 2022* also identify 18 species of birds whose nests are protected year-round. The Proponent would be required to comply with the MBCA and its Regulations to ensure the protection of migratory birds.

SARA

For aquatic species at risk under SARA, a permit may be required from DFO for activities that may cause impacts to fish species that are listed as endangered or threatened, their critical habitat or residences.

Species that are both a migratory bird protected under the MBCA, and listed on Schedule 1 of SARA as endangered, threatened or extirpated, receive protections under both pieces of legislation. For some migratory bird species, their residences are protected year-round under SARA.

Canadian Environmental Protection Act, 1999

Should dredged materials be disposed of in Chaleur Bay, a permit may be required under the *Canadian Environmental Protection Act, 1999* (CEPA) for disposal of dredged sediments into the marine or estuarine environment. The permit application to ECCC requires information on disposal volumes, material source(s), and proposed disposal locations. Material proposed for disposal at sea must undergo a detailed waste assessment and characterization of the material, including an assessment of alternative waste management options. Permits are only issued for materials that meet certain characterization criteria and where disposal at sea is demonstrated to be the most suitable waste management option.

Part 8 of CEPA addresses the prevention of, preparedness for, response to and recovery from environmental emergencies caused by uncontrolled, unplanned or accidental releases. It also addresses the reduction of any foreseeable likelihood of releases of toxic or other hazardous substances listed in Schedule 1 of the *Environmental Emergency Regulations*.



Provincial Legislative Mechanisms

Environmental Impact Assessment under the Clean Environment Act

There are project components and activities that would likely require an EIA under the following items of Schedule A of the New Brunswick *Environmental Impact Assessment Regulation*:

- (a)** all commercial extraction or processing of a mineral as defined in the *Mining Act*,
 - the usage of pozzolan for mineral properties, as proposed for Phase II of the Project, would qualify it as a mine with the Province of New Brunswick.
- (m)** all waste disposal facilities or systems;
 - dredging, and thus disposal of greater than 10,000 cubic metres of sediments on lands may be required for both Phase I and Phase II of the Project.

The footprint of the proposed expansion may move into areas with wetland/watercourses that exceed two hectares. Therefore, the Proponent identified the potential application of a third item from Schedule A:

- (v)** all enterprises, activities, projects, structures, works or programs affecting two hectares or more of bog, marsh, swamp or other wetland.

If an EIA is required, the Proponent will first submit an EIA Registration Document to the Province of New Brunswick. The document must contain a description of the Project and associated activities; and the existing environment, including biophysical and cultural features and existing and historic land uses. It must also identify the anticipated impacts of the Project on these features and any proposed mitigation measures. The Proponent must advertise and host an open house or public meeting and demonstrate that the potentially affected Indigenous groups, the public, and stakeholders have been given the opportunity to review and comment on the Project.

NBDELG would coordinate the review of the EIA Registration Document, which would be conducted with the assistance of a Technical Review Committee comprised of representatives of federal (e.g., ECCC, DFO), provincial (e.g., the New Brunswick Departments of Indigenous Affairs, Natural Resource and Energy Development, and Tourism, Heritage and Culture), and municipal agencies who have either a mandate or expertise related to the Project. The determination review is an interactive and iterative process, and proponents are generally asked to provide supplementary studies and information to address identified concerns and questions. NBDELG indicated that the provincial EIA process would be expected to address a wide range of issues.

As a member of the Technical Review Committee, the New Brunswick Department of Indigenous Affairs focusses on assessing the potential adverse impacts to Aboriginal and treaty rights.

The determination review would lead to one of the three following outcomes: a Certificate of Determination allowing the project to proceed; the project is denied; or further study is required (i.e., a Comprehensive



EIA⁶ is required). If a project is allowed to proceed, it may be subject to conditions as part of the Certificate of Determination.

Watercourse and Wetland Alteration Regulation under the Clean Water Act

The *Watercourse and Wetland Alteration Regulation* under New Brunswick's *Clean Water Act* requires individuals to obtain a permit from the NBDELG before undertaking any work in or within 30 meters of a watercourse or wetland.

The NBDELG has indicated that a Watercourse and Wetland Alteration Permit may be required for the Project. The Watercourse and Wetland Alteration Permit conditions may address areas such as erosion control and pollution prevention measures, and prohibitions of machine operations, etc.

Water Quality Regulation under the Clean Environment Act

The *Water Quality Regulation* under New Brunswick's *Clean Environment Act* sets standards for the emission, discharge, and deposit of contaminants into the environment to prevent water pollution. Under this regulation, operators of a source of any contaminant to the environment must obtain approval for the construction, operation and modification of the source.

The NBDELG has indicated that the proposed crushing plant and the mine are all project components and activities that would require an 'approval of a source' during both construction and operation phases of the Project.

Air Quality Regulation under the Clean Air Act

New Brunswick's *Clean Air Act* controls the type and amount of contaminants that are released into the atmosphere, through a system of Air Quality Approvals. The *Air Quality Regulation* outlines the process by which approvals are issued. Specific operating conditions attached to an approval define the conditions under which contaminants can be released and the amount of those contaminants that can enter the atmosphere.

The NBDELG has indicated that the proposed crushing plant, the mine, and disposal site for dredging materials are all project components and activities that would require an 'approval of a source' during both the construction and operation phases.

Species at Risk Act

The Proponent must comply with the provincial *Species at Risk Act*, which aims to protect and recover species at risk in New Brunswick. The provincial *Species at Risk Act* includes provisions for identifying and listing species at risk, developing recovery strategies, and implementing action plans to conserve their habitats.

The NBDNRED receives requests through various channels, such as watercourse and wetland alteration permits and EIAs and reviews these for species at risk. When a person or project will come in physical

⁶ A Comprehensive EIA involves guidelines, submission by the proponent of an EIA Report, public comment periods; a panel of independent experts could be retained.



contact with wildlife, a Species at Risk permit may be required depending on the species that will be impacted.

Heritage Conservation Act

Archaeological objects and sites are protected under *New Brunswick's Heritage Conservation Act*. Under this legislation, archaeological objects are owned by the Crown, but held in trust for the First Nations people of New Brunswick. The New Brunswick Department of Tourism, Heritage and Culture, have indicated there are no known archaeological or paleontological sites within the project area and no designated historic sites.

Municipal Mechanisms

Town of Heron Bay

The existing quarry is operating on lands currently zoned for housing and conservation by the Town of Heron Bay. The existing quarry has been utilized for aggregate since 1932, and current operations are permitted under the New Brunswick *Community Planning Act* as a “legal, non-conforming use”.

In March 2025, the Council of the Municipality of Heron Bay (Council) and the Restigouche Regional Service Commission⁷ created bylaws that would be applicable to any area zoned for the land use of resource extraction; the process of amending the bylaws involved public consultation. The bylaws set policies to permit the planned and rational development of mineral and mining resources in specific areas provided that such activities are beneficial to the community from a socio-economic standpoint, that impacts on the physical and natural environments are considered, and that proponents comply with provincial standards.

To expand the quarry beyond the current “legal non-conforming use” activities and area, the Proponent would have to apply to the Council to rezone the existing quarry and expansion area from “housing and conservation” to “extraction”. As part of the application, proponents are required to submit a technical report that provides information regarding the exploration, development, and production activities proposed at the site. In its review, Council would consider issues related to soils, watercourses and wetlands, surface water and runoff (including acid mine drainage), and groundwater. A rezoning application will require approval by the Council and would involve public consultation.

The rezoning process requires excavation and site reclamation plans to which specific terms and conditions may be applied (e.g., to mitigate the impacts of dust, noise and vibration, Council could require the use of dust suppressors or separation distances). The Proponent would also be required to obtain an annual excavation permit. The site must be planned so that land is cleared and excavated in increments of acres over a specified time frame.

⁷ The Restigouche Regional Service Commission – Planning Division provides land use planning services to all municipalities and local service districts within the Commission's territory.

Council requires annual reporting to confirm compliance with municipal regulations, plans and any applicable conditions. This would require a list of complaints received by the owner, operator or Province and actions that have been taken to resolve those problems.

Adverse effects within federal jurisdiction

Taking into account input received from Non-merci, Pozzolan Dalhousie and MTI (the requesters), Proponent, federal authorities, provincial ministries, the Town of Heron Bay and Indigenous groups, IAAC has identified the potential adverse effects within federal jurisdiction that the carrying out of the Project may cause.

As outlined below, IAAC is of the opinion that the carrying out of the Project may cause adverse effects within federal jurisdiction. IAAC is of the opinion that existing mechanisms provide a framework to address those adverse effects within federal jurisdiction that the Project may cause. Federal, provincial, and municipal mechanisms described above were considered in IAAC's analysis.

Fish and Fish Habitat

The requesters expressed concerns about effects on fish and fish habitat from the dredging of potentially contaminated sediments in Chaleur Bay, particularly to migratory species such as Atlantic salmon and American eel, both culturally significant species to the Mi'gmaq. Other species of cultural significance identified in the GINU report include common lumpfish, Atlantic herring, capelin, winter flounder, Atlantic silverside, Atlantic sturgeon, clams, American lobster, and rock crabs. MTI, MMS, and the GINU report raised concerns about disruption of freshwater habitats and changes to water flow during construction and operation of the Project. These changes could lead to increased erosion and sedimentation in Chaleur Bay, potentially smothering spawning grounds and habitat of lobster and fish, and disrupting the natural migration routes of Atlantic salmon, American eel and sea trout. MMS and Non-merci, Pozzolan Dalhousie also raised concerns about vessel traffic and accidental releases, and potential negative impacts to fish and fish habitat, such as collisions with whales.

The Gaspé-Southern Gulf of St. Lawrence population of Atlantic salmon are listed as special concern by the Committee on the Status of Endangered Wildlife in Canada. American eel, common lumpfish and the Atlantic sturgeon are listed as threatened. All of these species are under consideration for addition to Schedule 1 of SARA. In addition, based on the Canada Marine Planning Atlas – Atlantic⁸, the Atlantic populations of white shark, leatherback sea turtle, and blue whale, as well as the North Atlantic right whale (all listed as endangered under SARA) have the potential to occur near the mouth of the Restigouche River and in Chaleur Bay. There is no critical habitat, as defined in SARA, near the project area.

DFO stated that a *Fisheries Act* paragraph 35(2)(b) authorization will be required if the Project is likely to cause the harmful alteration, disruption, or destruction of fish habitat. A *Fisheries Act* 34.4(2)(b) authorization may also be required if the Project is likely to result in the death of fish. DFO indicated that

⁸ <https://egisp.dfo-mpo.gc.ca/apps/atlantic-atlas-atlantique/?locale=en>

projects of this nature have required *Fisheries Act* authorizations of both types in the past. If required, *Fisheries Act* authorizations would include mitigation and offsetting measures to address the adverse effects on fish and fish habitat that the Project may cause, including the dredging activity, as well as infilling of fish habitat and effects associated with changes in water quality from the quarry expansion. DFO indicated a permit under SARA may not be required as due to the nature and location of the Project, any potential interaction with the mapped listed aquatic species at risk in the project area can likely be avoided and mitigated.

ECCC indicated that the Project could have potential impacts to fish and fish habitat due to the release of contamination and heavy metals contained in marine sediments during dredging, as well as accidents and malfunctions in the marine environment, including spills or releases of hazardous material. The Proponent indicated its preference is to dispose of dredged sediments on land; however, if the Project changes such that open water disposal into a marine or estuarine environment is the chosen option, ECCC indicated that a Disposal at Sea Permit under CEPA may be required. ECCC indicated that effects that may be caused by the Project on fish and fish habitat could be managed, in part, through pollution prevention provisions of the *Fisheries Act* and CEPA, as applicable.

The Proponent indicated that it would conduct a benthic study of the channel, wharf, and potential sediment disposal area in the summer of 2025, and the findings will be presented as part of a *Fisheries Act* authorization application. The Proponent also acknowledges that *Fisheries Act* authorizations may also be required for the expansion of the quarry as it relates to impacts to watercourses. The Proponent has begun engagement with DFO to discuss dredging and indicated it would begin conducting environmental impact studies in 2025 to prepare for federal and provincial permitting.

NBDELG indicated that several individuals and special interest groups have written letters of concern to the provincial Minister of Environment and Climate Change and to the Premier of New Brunswick regarding the release of contaminants from the dredging operation and its potential effects on fish and fisheries. NBDELG stated that any effects that the Project may cause to fish and fish habitat are expected to be addressed as part of the provincial EIA review, if required. During the EIA review process, Technical Review Committee members, including DFO and ECCC, will indicate which authorizations will be required by the Proponent and may request that additional requirements be imposed upon the Proponent, such as additional studies to monitor the effects of the Project during various stages.

In addition, the Project may require provincial approvals that would contain conditions to limit the impacts on the watercourses and/or wetlands impacted by the Project and be protective of fish and fish habitat: a Watercourse and Wetland Alteration permit and an 'approval of a source'. The Proponent would also be required to submit an application with the Town of Heron Bay to rezone the existing quarry and proposed expansion lands for resource extraction purposes. The application process involves consideration of watercourses and wetlands, surface water and runoff and groundwater. If approved, the Proponent would be required to adhere to the applicable bylaws for the resource extraction zone.

IAAC considered the input received and is of the view that existing federal, provincial, and municipal mechanisms such as the *Fisheries Act*, CEPA, New Brunswick's *Watercourse and Wetland Alteration Regulation* and *Water Quality Regulation*, and the Town of Heron Bay's municipal bylaw for resource extraction provide a framework to address these effects. Should a provincial EIA be required, this process would also be applicable in addressing these effects.

Aquatic Species

The Project may cause changes to aquatic species as defined in SARA 2(1), other than fish: i.e., marine plants, if present. IAAC did not receive any comments specific to marine plants. The effects to marine plants would be similar to those described for fish and fish habitat above.

IAAC is of the view that existing federal, provincial, and municipal legislative mechanisms such as the *Fisheries Act*, CEPA, New Brunswick's *Watercourse and Wetland Alteration Regulation* and *Water Quality Regulation*, and the Town of Heron Bay's municipal bylaw for resource extraction provide a framework to address these effects. Should a provincial EIA be required, this process would also be applicable in addressing these effects.

Migratory Birds

The requesters and the GINU report raised concerns about the effects that the Project may cause to migratory birds, noting that the Restigouche River Estuary is an Important Bird and Biodiversity Area. The requesters and the GINU report noted several migratory bird species including shorebirds (e.g., semipalmated sandpipers, sanderlings, yellowlegs, and whimbrels), waterfowl (e.g., black scoter, surf scoter, long tailed duck, common merganser, snow goose, red-breasted merganser, common eider), seabirds (e.g. northern gannet) that either rely on Chaleur Bay or are known to frequent the area.

Non-merci, Pozzolan Dalhousie indicated there are several at risk migratory bird species in the Heron Bay area, some of which are listed on SARA Schedule 1 (e.g., bank swallow, barn swallow, wood thrush). Other at-risk migratory bird species identified by MTI include piping plover, lesser yellowlegs, and Barrow's golden eye. MTI noted that changes to the shoreline, water quality, and project construction would disrupt these species' critical feeding and nesting habitats. Cumulative effects and the loss of feeding and nesting sites can have a significant impact on their populations. The GINU report noted that increased boat traffic and associated noise from mining operations can also disrupt critical bird behaviors, including feeding, nesting, and staging. Oil spills also threaten the broader ecosystem, affecting food webs and habitats.

ECCC indicated that individual mortality and the destruction of nests and eggs or any other structure necessary for the reproduction and survival of species at risk could occur during all project phases. Migratory birds and species at risk could be affected by sensory disturbances during the construction, operation, and decommissioning of the Project. There is no critical habitat, as defined under SARA, near the project area. If required, adverse effects on migratory birds may be managed through prohibitions of the MBCA or, for migratory birds that are also SARA-listed, a permit may be required.

ECCC noted that as some of the proposed construction and operation activities would occur in the marine environment, there is potential for adverse environmental effects from accidents and malfunctions including spills or releases of hazardous materials. CEPA addresses the prevention of, preparedness for, response to and recovery from environmental emergencies caused by uncontrolled, unplanned or accidental releases; this would be protective of migratory birds.

NBDELG stated that any effects that the Project may cause to migratory birds are expected to be addressed as part of the provincial EIA review, should one be required. Technical Review Committee members, including ECCC, will indicate which authorizations will be required by the Proponent and may



indicate other requirements, such as additional studies to monitor the effects of the Project during various stages.

IAAC considered the input received and is of the view that existing federal legislative mechanisms, such as MBCA, SARA, and CEPA provide a framework to address these effects. Should a provincial EIA be required, this process would also be applicable in addressing these effects.

Indigenous Peoples

IAAC recognizes that MTI, asserts title to lands and waters of a large portion of New Brunswick. The claim area overlaps with the project area and adjacent coastal waters. The Mi'gmaq First Nation member of MTI, Eel River Bar First Nation is located within five kilometres of the project area. Eel River Bar First Nation, and Pabineau First Nation (also a member of MTI) actively fish in areas along the coast of northern New Brunswick which overlap with or in close proximity to the project area.

The Mi'gmaq communities of Listuguji and Gesgapegiag First Nations, located on the Gaspé Peninsula of Quebec (members of the Indigenous aggregate MMS) are actively fishing in waters in close proximity to the project area.

Current use of lands and resources for traditional purposes

MTI raised concerns that project activities have the potential to cause significant impacts to species of cultural and economic importance to Mi'gmaq fishers. These include American lobster, Atlantic salmon, American eel, and a variety of clam species. MTI indicated that construction activities will increase industrial activity in the area and may increase contamination, thereby impacting traditional hunting, fishing and gathering areas in Chaleur Bay and the surrounding area.

Elsipogtog First Nation expressed concern about the negative impact that the Project may cause on species at risk and species of traditional importance.

IAAC considered the input received and is of the view that existing federal and provincial legislative mechanisms outlined in the sections above to address effects to fish, marine, and bird species, including species at risk, provide a framework to address effects that the Project may cause on the current use of resources for traditional purposes by the Mi'gmaq of New Brunswick and the Mi'gmaq of the Gaspé Peninsula of Quebec. This includes mechanisms such as the *Fisheries Act*, SARA, CEPA, New Brunswick's *Watercourse and Wetland Alteration Regulation* and *Water Quality Regulation*. Requirements for Indigenous consultation associated with the *Fisheries Act* and CNWA authorization processes would also provide a framework to address these effects. In the event that NBDELG confirms an EIA is required, this process, including associated Indigenous consultation requirements, would also be applicable in addressing these effects.

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

The GINU report noted that Dalhousie Mountain (located approximately 200 metres south of the project area) and surrounding area are culturally and spiritually significant to the Mi'gmaq People. The area is

home to Sugarloaf Mountain (approximately 22 kilometres southwest of the project area), a site connected to salmon migration and spawning, and Heron Island (approximately 16 kilometres southeast of the project area), a traditional burial ground. The GINU report raises the Mi'gmaq's concern that the Project would threaten these culturally significant sites and Mi'gmaq traditional knowledge systems. MMS raised concerns about the close proximity of the Project to lands zoned for conservation.

Based on input received from the New Brunswick Department of Tourism, Heritage and Culture, IAAC understands there are no known archaeological or palaeontological sites and no designated historic sites within the project area. Should an archaeological site be found within the boundaries of the Project, the Proponent will require a Site Alteration permit issued by the New Brunswick Department of Tourism, Heritage and Culture prior to undertaking any work within the boundaries of the archaeological site. First Nations must be notified before a Site Alteration permit is issued for an Indigenous archaeological site.

To expand the quarry beyond the current "legal non-conforming use" activities and area, the Proponent would have to apply to the Council to rezone the existing quarry and expansion area from "housing and conservation" to "extraction". A rezoning application will require approval by the Council and that process would involve public consultation.

The Proponent informed IAAC it will engage with the Indigenous communities likely to be affected by the Project through an Indigenous Steering Committee and through the New Brunswick EIA process, if required. The Proponent indicates it would establish a conservation area in the southern area of the quarry site (Figure 2), with an approximate 200-metre buffer wooded area between the quarry and the Dalhousie Mountain trail.

IAAC considered the input received and is of the view that existing provincial legislative mechanisms such as New Brunswick's *Heritage Conservation Act* provides a framework to address any potential effects on heritage objects and archaeological, paleontological or heritage sites. Should a provincial EIA be required, this process, including associated Indigenous consultation requirements, would also be applicable in addressing these effects.

Health, social, and economic conditions

MTI raised concerns that the Project activities have the potential to cause significant impacts to species of cultural and economic importance to Mi'gmaq fishers and vital to Mi'gmaq livelihood. These include American lobster, Atlantic salmon, American eel, as well as a variety of clam species. The GINU report raised similar concerns about the impact the Project may have on salmon and its importance for the Mi'gmaq economy. MMS and the GINU report raised concerns that dust, emissions, and noise pollution generated from the Project could impact air quality and human health.

NBDELG indicated that the proposed aggregate crushing plant and mine would require an 'approval of a source' which would include conditions to address air quality, e.g., limits for emissions including ambient total suspended particulate, and requirement for a 'Prevention and Control Plan' if odour, noise, dust, or site runoff were suspected of being released or discharged.

Under the Town of Heron Bay's municipal bylaws for rezoning, Council may apply requirements to specific projects to mitigate the impacts of dust, noise, and vibration, e.g., use of dust suppressors, separation distances, hours of operation, and monitoring.

IAAC considered the input received and is of the view that existing federal and provincial legislative mechanisms outlined in the sections above to address effects to fish, marine, and bird species, including species at risk, provide a framework to address effects that the Project may cause on social and economic conditions of the Mi'gmaq of New Brunswick and the Mi'gmaq of the Gaspé Peninsula of Quebec. This includes mechanisms such as the *Fisheries Act*, SARA, CEPA, and New Brunswick's *Watercourse and Wetland Alteration Regulation* and *Water Quality Regulation*.

With respect to health conditions of the Mi'gmaq of New Brunswick and the Mi'gmaq of the Gaspé Peninsula of Quebec, IAAC considered the input received and is of the view that existing provincial and municipal mechanism, such as New Brunswick's *Air Quality Regulation* and the Town of Heron Bay's municipal bylaw for resource extraction provide a framework to address these effects.

Requirements for Indigenous consultation associated with the *Fisheries Act* and CNWA authorization processes would also provide a framework to address these effects. Should a provincial EIA be required, this process, including associated Indigenous consultation requirements, also would be applicable in addressing these effects.

Federal Lands

The Project is not located on federal land, as defined in the IAA. The Proponent has agreements in place with L.C.L. Excavation Inc., CN Rail, and the Port of Dalhousie for use of the lands for the Project.

Pollution of Boundary, Interprovincial or International Waters

The GINU report noted that the disturbance of the soil and bedrock during aggregate removal could release heavy metals, contaminating the water and sediments. This could further pollute the Bay of Chaleur and potentially introduce toxic substances into the food chain. Non-merci, Pozzolan Dalhousie and the GINU report raised concerns that dredging would recirculate heavy metals buried in the sediments of Chaleur Bay. Non-merci, Pozzolan Dalhousie noted this could result in impacts to interprovincial waters between New Brunswick and Quebec, and the marine environment of Miguasha National Park, located approximately six kilometres from the Project. Miguasha National Park is a provincial park in Quebec, and was designated a UNESCO World Heritage site because of its rich fossil beds.

The impacts that the Project may cause to fish and fish habitat in interprovincial waters are the same as those described for fish and fish habitat above. DFO can provide advice to proponents on measures to avoid, mitigate, and offset adverse effects on fish and fish habitat, including those from dredging. *Fisheries Act* authorizations, if required, would include mitigation and offsetting measures to address the potential adverse, project-related effects on fish and fish habitat in the marine environment. ECCC indicated that effects that the Project may cause on fish and fish habitat could be managed, in part, through pollution prevention provisions of the *Fisheries Act* and CEPA, if applicable.

The Project may require provincial approvals that would contain conditions to limit the impacts on watercourses and/or wetlands impacted by the Project and be protective of water quality and the downstream marine environment: a Watercourse and Wetland Alteration permit and an 'approval of a

source' under the *Water Quality Regulation*. NBDLEG indicated that although interprovincial effects do not fall specifically within the scope of a provincial EIA in New Brunswick, the assessment of dredging of potentially contaminated sediments is expected to address all impacts that the Project may cause that could result from that activity.

The Proponent would also be required to submit an application to the Town of Heron Bay to rezone the existing quarry and proposed expansion lands for resource extraction purposes. The application process involves consideration of matters including sedimentation and runoff. To proceed with the Project, municipal bylaws would also require the Proponent to obtain an annual excavation permit and have a final reclamation plan approved by the Council.

IAAC considered the input received and is of the view that existing federal, provincial and municipal legislative mechanisms, such as the *Fisheries Act*, CEPA, New Brunswick's *Watercourse and Wetland Alteration Regulation* and *Water Quality Regulation*, and the Town of Heron Bay's municipal bylaw for resource extraction provide a framework to address these effects. Requirements for Indigenous consultation associated with the *Fisheries Act* would also provide a framework to address these effects. Should a provincial EIA be required, this process, including associated Indigenous consultation requirements, would also be applicable in addressing these effects.

Direct or incidental adverse effects

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

The Project as described may require the exercise of the following federal powers:

- authorization pursuant to 34.2(2)(b) and 35(2)(b) and 36(3) of the *Fisheries Act* (DFO and ECCC);
- authorization under the CNWA (Transport Canada);
- permit under the *Explosives Act*⁹ (NRCan);
- authorization under the SARA (DFO or ECCC); and
- permit under the MBCA (ECCC).

The carrying out of the Project may cause direct or incidental adverse effects. Key direct adverse effects include changes to navigation which will be addressed in the authorization under the CNWA by TC. Key

⁹ NRCan indicated that the Proponent (or their explosives contractor) may require authorization under the *Explosives Act* for the storage of explosives for blasting to extract aggregate.

incidental adverse effects include impacts to water quality and wetlands from the quarry expansion and mine site, as well as impacts to marine and freshwater quality.

IAAC is of the view that the existing federal, provincial and municipal mechanisms such as the *Fisheries Act*, CNWA, New Brunswick's *Watercourse and Wetland Alteration Regulation*, and the Town of Heron Bay's municipal bylaw for resource extraction provide a framework for addressing these effects. In the event that NBDELG confirms an EIA is required, this process, including associated Indigenous consultation requirements, would also be applicable in addressing these effects.

Public concerns

As described above, Non-merci, Pozzolan Dalhousie and MTI submitted requests for designation that identified concerns about adverse effects both within and outside of federal jurisdiction. IAAC received correspondence from a member of the general public prior to receiving the requesters' letters that identified many of the same items; additional adverse effects in federal jurisdiction that were identified included marine mammals and a migratory bird, the Great blue heron. IAAC is also aware of public concerns about adverse effects in federal jurisdiction and direct or incidental adverse effects expressed by the Restigouche River Camp Owners Association (received via the Proponent) that are described above (i.e., fish and fish habitat and migratory birds, and direct or incidental adverse effects, specifically water quality).

There are potential triggers for a provincial EIA applicable to the Project. In the EIA Determination Review, a proponent is required to advertise and host an open house or public meeting and to demonstrate that potentially affected Indigenous groups, public, and stakeholders have been given the opportunity to review and comment on a project. To expand the quarry beyond the current "legal non-conforming use" activities and area, the Proponent would have to apply to the Council to rezone the existing quarry and expansion area from "housing and conservation" to "extraction". A rezoning application will require approval by the Council and that process would involve public consultation.

IAAC notes that the Proponent established a Community Steering Committee in early 2025 to engage with community representatives. Membership was opened to the public and includes Indigenous community representation, as well as representatives of both the Heron Bay and Quebec local areas. Meeting minutes are posted on the Proponent's website.

IAAC considered the input received and is of the view that existing federal, provincial and municipal legislative mechanisms such as the *Fisheries Act*, MCBA, New Brunswick's *Watercourse and Wetland Alteration Regulation* and *Water Quality Regulation*, and the Town of Heron Bay's municipal bylaw for resource extraction and associated requirements for public engagement provide a framework to address public concerns within federal jurisdiction. Should a provincial EIA be required, this process would also be applicable in addressing these effects.

Adverse impacts on the Section 35 Rights of Indigenous Peoples

The Project area overlaps with MTI's asserted title claim area, which includes Chaleur Bay and adjacent coastal waters. The three Mi'gmaq communities on the Gaspé Peninsula of Quebec - Listuguj, Gesgapegiag, and Gespeg First Nations - filed a statement of claim, asserting Aboriginal rights and title which includes the Gaspé Peninsula, northern New Brunswick, the islands in Chaleur Bay, and surrounding coastal and marine areas as well as in and around Dalhousie.

The eight Mi'gmaq First Nations represented by MTI, and the Mi'gmaq community of Elsipogtog First Nation in New Brunswick, and the three Mi'gmaq communities on the Gaspé Peninsula of Quebec are signatories to the Peace and Friendship Treaties of 1760-1761. The Mi'gmaq have the treaty right to fish for a moderate livelihood and the Aboriginal right to fish for food, social and ceremonial (FSC) purposes, protected under section 35 of the *Constitution Act, 1982* (section 35 rights). IAAC is aware that several of these Mi'gmaq communities, including Eel River Bar, Pabineau, Listuguj, and Gesgapegiag First Nations, hold commercial communal and FSC licences and are actively fishing in areas adjacent to the project area. Elsipogtog First Nation has access to fish salmon for FSC purposes in the Restigouche River.

IAAC notified the potentially affected Indigenous groups (i.e., MTI, MMS, and Elsipogtog First Nation) of the designation request and provided the opportunity for the groups to provide information for the Minister of Environment's consideration. The input received from the potentially affected Indigenous groups is summarized below.

The GINU report highlights the Mi'gmaq's concern about the cumulative effects of industrial activities on the communities of Listuguj, Eel River Bar, and Pabineau First Nation and including the erosion of traditional ways of life. It mentions that pollution and habitat loss have impacted cultural practices and the ability to exercise their rights.

The Mi'gmaq are of the view that Project activities may adversely impact the Mi'gmaq's ability to exercise its rights including fishing in culturally significant marine areas where Mi'gmaq harvest clams, eel, lobster and other marine species; may adversely impact access to traditional hunting and gathering areas due to increased industrial activity and potential contamination; and may add to the existing historical cumulative effects on the Mi'gmaq's ability to exercise its rights due to industrial activity in the region.

MTI is of the view that a federal impact assessment should be undertaken to fully consider impacts to Mi'gmaq rights where the provincial EIA process does not. MTI commented that there is lack of Mi'gmaq representation in the provincial EIA process and Technical Review Committee, and therefore, prevents the consideration of the full scope of impacts to Mi'gmaq rights. Furthermore, the Mi'gmaq Rights Impact Assessment Framework should be integrated to ensure that Mi'gmaq rights are fully considered and respected throughout the assessment process. MMS raised concerns about how the Project would respect ongoing Mi'gmaq land claims.

IAAC acknowledges that dredging activities may result in adverse impacts to fish species harvested by and fishing areas used by Mi'gmaq, and could directly impact the ability of the Mi'gmaq to exercise their right to fish for food social and ceremonial purposes and the treaty right to fish for a moderate livelihood. The Proponent may be required to obtain a *Fisheries Act* authorization and consult with the Mi'gmaq to address

impacts to fish and fishing activities, prior to the issuance of the authorization. IAAC understands that the Proponent has engaged with DFO, ECCC, and NBDELG to address effects on fish and fish habitat, and that engagement with these departments would continue as part of the required regulatory approvals. IAAC also acknowledges the concerns about impacts to traditional hunting and gathering areas from industrial activity and potential contamination. The Proponent will require approvals under New Brunswick's *Watercourse and Wetland Alteration Regulation, Water Quality Regulation, and Air Quality Regulation* which would each include conditions protective of water and air quality.

IAAC considered the input received from the potentially affected Indigenous groups and is of the view that existing federal and provincial legislative mechanisms outlined in the sections above to address effects to fish, marine, and bird species, including species at risk, provide a framework to address effects that the Project may cause to the section 35 rights of Indigenous Peoples. This includes mechanisms such as the *Fisheries Act*, SARA, CEPA, New Brunswick's *Watercourse and Wetland Alteration Regulation* and *Water Quality Regulation* and the associated requirements for Indigenous consultation provide a framework to address these effects. Requirements for Indigenous consultation associated with the *Fisheries Act* and CNWA authorization processes would also provide a framework to address these effects. Should a provincial EIA be required, this process, including associated Indigenous consultation requirements, would also be applicable in addressing these effects.

Other considerations

Cumulative Effects

MTI noted that the Project may add to the existing historical cumulative impacts that have already affected the ability to meaningfully exercise rights due to long history of industrial activity in the region. Elsipogtog First Nation raised concern about the cumulative effects of the Project on their rights. MMS and the GINU report highlighted concerns about the cumulative effects of industrial activities, including dredging and from on-land disturbance, which could reintroduce contaminants to the environment, posing threats to numerous species, including those already at risk due to past industrial activities. The GINU report raised concerns about the ongoing effects of contamination on the community's health and well-being and limited access to health care services in the region. MMS indicated that cumulative ecological impact assessment should be conducted given the significant expansion of the quarry. In response to the GINU report, the Proponent informed IAAC that it would continue to identify options for offsetting, including opportunities to reverse historical environmental impact from legacy industrial use.

DFO indicated that cumulative effects are taken into account as part of the *Fisheries Act* authorization process, including consideration of other projects and activities occurring in the vicinity of the proposed Project, what their impacts are on fish and fish habitat and the proposed project's contribution. The *Fisheries Act* authorization process also considers cumulative effects on Indigenous rights.

During the provincial EIA review process, if required, Technical Review Committee members, including federal departments, will identify concerns and questions for which a proponent must provide



supplementary information. NBDELG indicated that the provincial EIA process would be expected to address a wide range of issues.

IAAC considered the input received and is of the view that existing federal and provincial legislative mechanisms outlined in the sections above to address effects to fish, marine, and bird species, provide a framework to address effects that the Project may cause. This includes mechanisms such as the *Fisheries Act* and the associated requirement for Indigenous consultation and public engagement. Should a provincial EIA be required, this process, including associated Indigenous consultation requirements, would also be applicable in addressing these effects.

Regional and strategic assessments

There are no regional or strategic assessments pursuant to sections 92, 93, or 95 of the IAA that are relevant to the Project.

Conclusion

IAAC considered the information it received as part of the designation request process for the Project to inform its analysis. Input was sought and received from the Proponent, federal authorities (ECCC, DFO, TC, NRCan, and ACOA), provincial departments (NBDELG, Indigenous Affairs, NBDNRED, Transportation and Infrastructure, and Tourism, Heritage and Culture), the Town of Heron Bay, and the Restigouche Region Service Commission.

The Project has the potential to cause adverse effects in federal jurisdiction or direct or incidental adverse effects.

IAAC considered the factors in subsection 9(2) of the IAA and is of the view that:

- a) the requirements under the following mechanisms, some of which include consultations with Indigenous communities and public engagement, provide a framework to address public concerns related to the potential adverse effects within federal jurisdiction or the direct or incidental adverse effects that may be caused by the carrying out of the Project and adverse impacts that the Project may have on the rights of Indigenous Peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*; and
- b) there are means other than a federal impact assessment, such as federal, provincial, and municipal mechanisms (notably the *Fisheries Act*, CNWA, MBCA, CEPA, SARA; New Brunswick's *Watercourse and Wetland Alteration Regulation*, *Water Quality Regulation*, *Air Quality Regulation*, *Heritage Conservation Act*; and the Town of Heron Bay's municipal bylaw for resource extraction) that provide a framework to address the potential adverse effects within federal jurisdiction and the direct or incidental adverse effects that may be caused by the Project. Should a provincial EIA be required, this process, would also be applicable in addressing these effects.



IAAC also acknowledges all other concerns raised by the requesters related to the Project that are outside of federal jurisdiction, and therefore out of the scope of analysis for this designation request.
