

Follow Up Program Monitoring Effects on Food, Social and Ceremonial Fisheries

DRAFT FOR DISCUSSION / CIRCULATION

Prepared by

Black Point Aggregates Inc.

November 2024

Contents

1. Objective and Context.....	3
2. Food, Social and Ceremonial (FSC) Fishery.....	3
3. Potential Impacts.....	4
4. Mitigation and Follow Up	5
5. Monitoring and Reporting	9
6. References	10
Figure 1: Marine Terminal showing 850 x 250 safety exclusion rectangle around a berthed ship ...	7
Figure 2: Vessel routes between the main shipping lane and the Black Point marine terminal ...	8

1. Objective and Context

This follow up program is intended verify the accuracy of the environmental assessment as it pertains to the effects of the Black Point quarry and marine terminal on Indigenous fisheries used for food, social and ceremonial (**FSC**) purposes. This follow up program was created as required by federal condition of Environmental Assessment Approval 5.9. This program has been developed and will be implemented in consultation with Indigenous groups. In this context, Indigenous groups means Glooscap, Acadia, Annapolis Valley, Eskasoni, L'sitkuk (Bear River), Paqtnkek, Pictou Landing, Potlotek, Wagmatcook and Waycobah Mi'kmaq First Nations, represented by the Kwilmu'kw Mawklusuaqn (KMKNO, the Mi'kmaq Rights Initiative Negotiation Office), and Sipekne'katik, Millbrook and Membertou First Nations, who are not represented by KMKNO.

The significance of any social, cultural or economic impact to Indigenous FSC fishing activity arising from the Project **is determined through ongoing discussions with Mi'kmaq representatives, and not by the project Proponent**. As described below, impacts to the FSC fishery are predicted to be minimal or none, given the modest scale of FSC fishing reported in the area, combined with the limited habitat types at the Project site. Nevertheless, mitigation measures, a monitoring program and reporting procedures are described below, which are intended to help identify any emerging impacts to the FSC fishery.

2. Food, Social and Ceremonial (FSC) Fishery

Potential project impacts to the FSC fishery are described in Environmental Assessment section 7.17, entitled "Aboriginal Land and Resource Use" (SLR 2015) and more extensively in a response to a federal Information Request issued in March 2015 (MRC 2015). The section below summarizes the potential impacts and expands the description of the FSC fishery based on a Mi'kmaq-led **Fisheries Study** undertaken after the Assessment was submitted (MMDI 2016).

All Nova Scotia Indigenous bands and the Native Council of Nova Scotia are authorized to harvest in Chedabucto Bay for FSC purposes. The FSC fishery is typically opportunistic and occasional in nature, rather than systematic and predictable. The Mi'kmaq Ecological Knowledge Study (**MEKS**) commissioned for the Project concluded that the region had been used in the past (within living memory) for food gathering and recreation although it did not suggest that an FSC fishery was ongoing at the project site (MAPS 2013). Following submission of the Environmental Assessment, a Mi'kmaq Fisheries Study was commissioned to further understand the nature and scope of Indigenous fishing in the area, both commercial communal and FSC (MMDI 2016). Outcomes of the Mi'kmaq Fisheries Study are described below.

The FSC fishery may include any marine species that has been traditionally harvested by the Mi'kmaq. For example, the MEKS identified a number of species reported to be harvested between Halfway Cove and Canso: lobster, scallop, mackerel, herring, cod, haddock, urchins, mussels, oysters and clams (MAPS 2013). Participants in the Mi'kmaq Fisheries Study identified nineteen species fished within a 10 km radius of the Project area, which included eight species fished for FSC purposes: **cod, haddock, herring, mackerel, pollock, striped bass, trout, and tuna** (MMDI 2016).

Other FSC fishing activities were identified by participants Mi'kmaq Fisheries Study, including **clams, eels, flounder, gaspereau, lobster, oysters, perch, porpoises, salmon, seals, and skate** but the Study does not claim that all these species are harvested for FSC purposes at the Project site itself. For example, mussels, oysters and clams may be harvested in shallow, sandy or mud-bottom nearshore waters to the east and west of Black Point (for example, near Fox Island), but the Point itself is a relatively deep, high energy, erosional environment and does not contain the preferred habitats of these species. Thus, it can be said with confidence there is no FSC fishery for these invertebrate species at the Black Point site.

Salmon and eels were historically taken from rivers and estuaries. Although habitat for these species is found along the shores of Chedabucto Bay, no salmon or eel habitat is present at the Project site itself; so again, there can be no FSC fishery at the Black Point site for these species. This point is underlined by information collected from Band fisheries managers: only two managers reported an FSC fishery in Chedabucto Bay: Waycobah First Nation (nearshore mollusks and salmon) and Paq'tnkek's (their harvests were not specified). Paq'tnkek has a well-documented FSC fishery for the American eel, but again, this species is captured in riverine or estuarine habitats, neither of which are present at the Black Point site (MRC 2015).

It is possible that **lobster, scallop, cod, herring and mackerel** are taken in the vicinity of the Black Point Project on an occasional basis for FSC purposes. Although local fishermen report no First Nation operated mackerel traps or lobster/scallop fishing in the area, this is not to say FSC fishing will not happen here in the future.

In summary, the current FSC fishery in the vicinity of the Black Point Project (the marine terminal and extending out to the shipping lanes in the approximate centre of Chedabucto Bay) appears to be modest in scale.

It is important to underline that FSC fisheries are not static but rather can, and do, change over time – in terms of species harvested, locations fished, and active times of year. **Thus, it is only important to recognize that FSC fishing may occur in a given area – not that it currently occurs there or it used to occur there.** It is less important to identify what FSC fishing may or may not occur at a given location, and more important to protect the right and ability to harvest for FSC purposes. With respect to the Black Point project, the ultimate objective is that the Project site and adjacent waters remain reasonably accessible to Mi'kmaq for safe harvesting of marine FSC resources.

3. Potential Impacts

Project effects can be considered as affecting Aboriginal Right to harvest FSC resources, and Treaty Rights to harvest for livelihood purposes. Under these circumstances, 'significance' is a matter of consideration by the Crown and Mi'kmaq representatives. Nevertheless, any Project effects resulting in loss of access to FSC resources upon which Mi'kmaq families depend that could not be found in reasonable proximity, or permanent loss of a cultural relationship with FSC resources caused by the Project would be considered significant by the Proponent.

As described above, the FSC fishery in the vicinity of the Black Point Project appears to be modest in scale. In general, habitat types at the site are not those used by many of the species traditionally harvested by the Mi'kmaq. Nevertheless, it is possible that some species are taken in the vicinity of

the Black Point Project on an occasional basis for FSC purposes. If so, the Mi'kmaq FSC fishery for these resources may be impacted by:

1. The safety exclusion zone around the marine terminal (mainly lobster habitat); and
2. Vessel traffic transiting the Bay between the Black Point marine terminal and the established shipping lanes, a distance of about 6 km (scallop, cod, herring, tuna and mackerel).

Although there is currently no harvestable salmon, eel, mussel, clam and oyster at the Project site, an accidental fuel spill from a Black Point vessel may negatively affect an FSC fishery for these species east or west of the Project site, as well as the species described above.

The safety exclusion zone around a berthed ship will restrict access to both Indigenous and non-Indigenous fishermen from a rectangle-shaped area measuring 850 x 250 m (**Figure 1**). Black Point Quarry staff recommend that this “safety rectangle” is maintained around the ship as it approaches and leaves the marine terminal when transiting to and from the main shipping corridor in central Chedabucto Bay (**Figure 2**). At peak production, two or three ships per week may access the marine terminal.

Preliminary discussions with lobster fishermen have indicated there is considerable opportunity to create replacement lobster habitat in the nearshore immediately adjacent to (both east and west of) the Project site. This new area would accommodate both First Nation and non-First Nation fishermen. With the establishment of new lobster habitat, no impacts to the FSC lobster fishery are expected. Mi'kmaq participation in the creation of new lobster habitat is required (and would be sought) in developing the marine fisheries offset program, with DFO, for marine terminal construction.

4. Mitigation and Follow Up

The effects of ship traffic on FSC fisheries will be mitigated using two approaches:

1. **Proponent outreach** to ensure all fishermen, including Indigenous FSC harvesters, are aware of Project-related vessel traffic. This will be achieved primarily via discussions during the development of this Follow Up Program and at (or following) the Community Liaison Committee (CLC) meetings, to which Mi'kmaq and KMKNO representatives have been invited. Regardless of their presence at CLC meetings, following each CLC meeting, KMKNO and other interested communities (especially Waycobah and Paq'tnkek who have reported FSC activities in Chedabucto Bay in the past) will be copied on the meeting minutes, which in turn can be distributed to Band fisheries managers and FSC harvesters as desired. In addition, fisheries and vessel routes have already been discussed on numerous occasions with KMKNO, Paq'tnkek and Sipekne'katik, where vessel route maps have been presented and the creation of new lobster habitat discussed. The project construction schedule is also discussed at these meetings, which are ongoing.

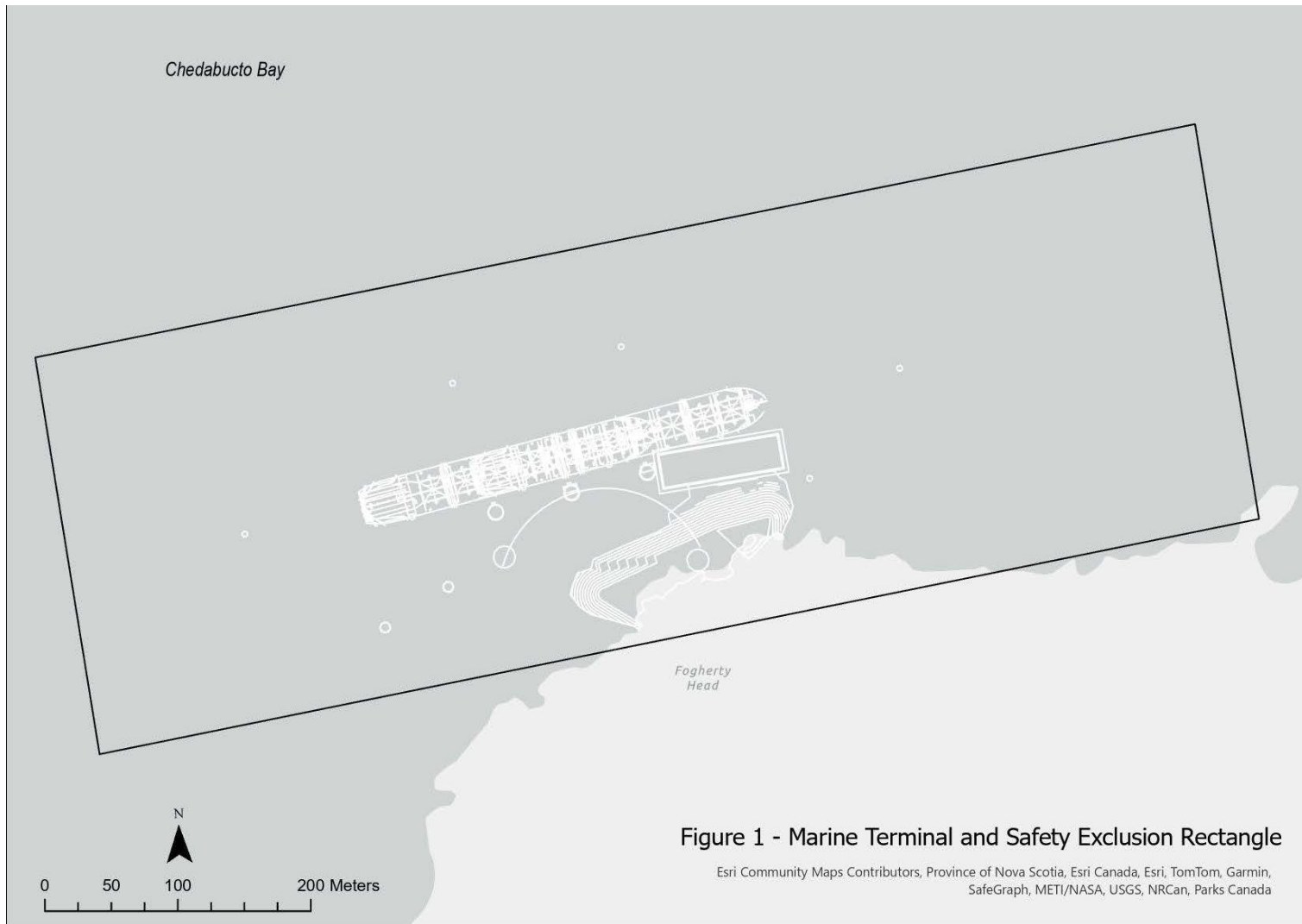


Figure 1: Marine Terminal showing 850 x 250 safety exclusion rectangle around a berthed ship

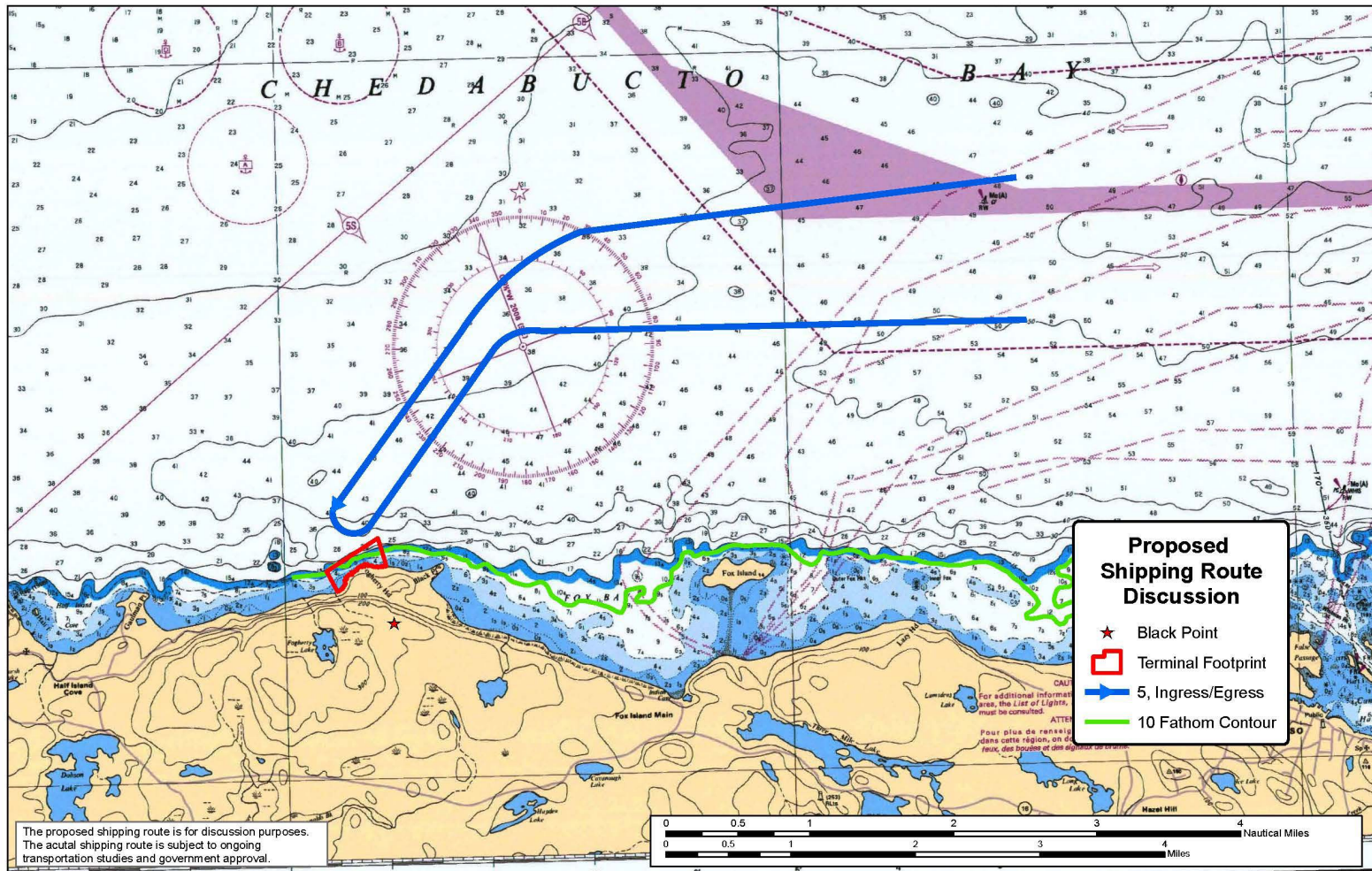


Figure 2: Vessel routes (incoming and outgoing) between the main shipping lane and the Black Point marine terminal

In addition (as required by regulation), the Black Point will inform local fishermen and other vessel captains of the location of Project infrastructure through issuance of *Notices to Mariners*. If requested, the Proponent can send these notices directly to KMKNO¹, for distribution to their constituents.

2. **Fisher input** to integrate information from fishermen who routinely fish in areas that will be transited by Project vessels. Communication from fishermen would be helpful to limit accidental interactions between Project vessels and fishing gear. Information regarding ongoing fishing practices can also be used by pilots and ship masters to gain a greater awareness of valued fishing areas and the key fishing times during the different seasons.

Fisher input to build a Proponent-held knowledge base regarding on-going fishing activities will be achieved using the quarry contact telephone service (telephone number to be established at start of construction). Any fisher wishing to harvest for FSC purposes can call the Black Point Quarry site office to receive updates regarding vessel arrivals and departures, transit routes and other project activity. Phone message can be left at any time. Should Project-related vessel traffic or construction result in fishing gear damage or loss, this loss can be reported to the quarry site office.

Finally, as part of the process by which new lobster habitat is created to offset habitat lost by marine terminal construction, Black Point will maintain regular communication with KMKNO and other communities to ensure they are informed about the offset project location, status and ultimate success. KMKNO and others will be invited to participate in meetings related to the offset program and will receive the minutes from all offset-related meetings, including those meetings they are unable to attend. KMKNO may in turn distribute these updates to those Bands who may wish to harvest lobster at the newly created sites or who have an interest in the design and operation fisheries offset projects in general.

Mitigation measures regarding accidental fuel spills in the marine environment are described in the Emergency Response Plan, the Spill Contingency Plan and Marine Oil Spill Emergency Plan, and subsequent response plans related to Black Point shipping activity. These plans will be (or have been) circulated to Indigenous groups.

In summary, provided that communication between the Proponent and interested Indigenous FSC fishers is regular, on-going and two-way, emerging impacts to the FSC fishery are expected to be minimal.

5. Monitoring and Reporting

As noted, the primary methods of communication from the Proponent will be through the Community Liaison Committee, the circulation of the minutes following each meeting and *Notices to Mariners*. In addition, Black Point site managers can always be contacted via telephone with specific questions.

¹ In this context and below, information would be sent separately to KMKNO as well as those bands that operate outside of the KMKNO umbrella: Sipekne'katik First Nation, Millbrook First Nation and Membertou First Nation.

The CLC meetings can lead to further dialogue on fisheries-related items if requested by KMKNO or non-represented communities, which in turn will be documented in meeting minutes for further distribution. For example, KMKNO or one of the Bands not represented by them may request additional information regarding mitigation of a specific, Indigenous-related fishery impact. In this case, KMKNO may request additional meetings or discussions with the Proponent, DFO, or subject matter experts outside of the CLC process. Meeting outcomes will be recorded and circulated to participants.

The creation of new lobster habitat through the Fisheries Offset Plan will be monitored as directed by DFO, likely for a period of three years following habitat creation. The success of the Plan will be reported to DFO and other interested parties such as the KMKNO.

Finally, the Proponent will maintain a Communication Log describing the substance of all telephone calls made to the Black Point Quarry site office. The Log will describe the issue and the Proponent's follow up action, as well as the caller's name, contact information and time/date of the call. KMKNO or any Band member can call the office to report concern or pose a question. The concern will be assigned to a Black Point staff member who will in turn document the follow up actions undertaken to address the concern or answer the question. This response can then be distributed through KMKNO to the Mi'kmaq community at large, if appropriate.

These actions together will serve to identify issues of interest to the both the Mi'kmaq and the Proponent, provide a forum for issue discussion and resolution, and provide the means to document decisions and results of follow up actions.

6. References

MAPS 2013: Mi'kmaq Ecological Knowledge Study (MEKS) commissioned for the Black Point Project, completed by Mi'kma'ki All Points Services Inc (Jan 2013).

MMDI 2016: Mi'kmaq Fisheries Study *N.S Mi'kmaq Fishing Activities Relevant to the Hard Rock Quarry and Marine Terminal Black Point Guysborough Co., Nova Scotia* completed by Mainland Mi'kmaq Developments Inc. (Oct 2016).

MRC 2015: Current Use of Mi'kmaq Fisheries Resources Response to IR-2 Issued June 30, 2015 completed by Morien Resources Corporation and Vulcan Materials Company (August 2015).

SLR 2015: Black Point Quarry Project, Municipality of the District of Guysborough, NS Environmental Impact Statement completed by Vulcan Materials Company and SLR Consulting (February 2015).