

**MI'KMAQ - PRINCE EDWARD ISLAND - CANADA
CONSULTATION AGREEMENT**



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CONSULTATION AGREEMENT**

BETWEEN

The **MI'KMAQ OF PRINCE EDWARD ISLAND**, as represented by the Chief of the Lennox Island First Nation and the Chief of the Abegweit First Nation
(the "Mi'kmaq")

And

The **GOVERNMENT OF PRINCE EDWARD ISLAND**, as represented by the Premier of Prince Edward Island as Minister Responsible for Aboriginal Affairs
(“Prince Edward Island”)

And

The **GOVERNMENT OF CANADA**, as represented by the Minister of Indian Affairs and Northern Development
(“Canada”)

Herein referred to collectively as “the Parties”.

The Parties agree as follows:

PURPOSE

1. The consultation process under this Agreement is available whenever Canada or Prince Edward Island wishes to conduct consultation on the record and with prejudice with the Lennox Island First Nation and Abegweit First Nation respecting a decision or activity that may impact any established or asserted Mi'kmaq Aboriginal or treaty rights.

MI'KMAQ OF PRINCE EDWARD ISLAND CONSULTATION UNIT

2. The Mi'kmaq Consultation Unit is established, appointed by and reports to the two (2) Mi'kmaq First Nations in Prince Edward Island through the Mi'kmaq Confederacy of PEI Inc. (MCPEI).
3. The Mi'kmaq Consultation Unit has been mandated by the Mi'kmaq and the Chiefs and Councils of each of the two (2) Mi'kmaq Bands that subscribe to this Agreement to act as their agent in the consultation process as described in section 5.

CANADA AND PRINCE EDWARD ISLAND PARTICIPATION

4. Canada or Prince Edward Island shall participate in consultations through the federal departments, provincial departments or other Crown agencies responsible for the decision or activity in respect of which consultation is sought.

CONSULTATION PROCESS

5. The consultation process shall operate in good faith on the basis of the following:
 - a. Where Canada or Prince Edward Island wishes to initiate consultation under this Agreement, they shall provide notification in writing to the Mi'kmaq Consultation Unit that consultation respecting a particular decision or activity is intended;
 - b. Canada or Prince Edward Island shall make good faith efforts to provide to the Mi'kmaq Consultation Unit all relevant information with respect to the proposed decision or activity and sufficient time to assess whether or not and the extent to which the decision or activity may impact on established or asserted Mi'kmaq Aboriginal or treaty rights;
 - c. The Mi'kmaq Consultation Unit shall, within a reasonable period of time, identify and communicate to Canada or Prince Edward Island any concern they may have respecting any potential adverse impact on established or asserted Mi'kmaq Aboriginal or treaty rights;
 - d. Canada or Prince Edward Island shall consider the concerns identified pursuant to 5c, identifying potential accommodations, if any;

- e. The Parties concerned may seek the engagement of industry proponents as part of any consultation conducted pursuant to this Agreement;
- f. Canada or Prince Edward Island shall notify the Mi'kmaq Consultation Unit of any decision reached, including responses to the issues or concerns raised, and notification of accommodations, if any, as a result of the consultation; and,
- g. The Parties concerned may terminate by written notice of seven (7) calendar days any consultation conducted pursuant to this Agreement.

LEGAL STATUS

- 6. This Agreement does not require any Party to undertake consultation or to reach agreement in respect of any particular decision or activity.
- 7. Nothing in this Agreement is intended to alter any statutory or regulatory requirements to which governments are subject.
- 8. The consultation process under this Agreement is optional and does not preclude the Parties from engaging in consultation independent of this process or from concluding additional or alternative consultation agreements.
- 9. This Agreement is not subject to settlement privilege and may be tendered as evidence in a court of law or other legal proceeding.
- 10. Consultation conducted pursuant to this Agreement is not subject to settlement privilege and evidence respecting consultation activities may be tendered as evidence in a court of law or other legal proceeding if the evidence is relevant to an issue of whether a duty to consult was or was not met.
- 11. Nothing in this Agreement is intended to:
 - a. alter or define the duty to consult;
 - b. create, alter or define any obligation on the Mi'kmaq respecting the duty to consult;
 - c. prevent the Mi'kmaq from relying on any common law or statutory right they may have respecting the duty to consult; or

- d. represent the views of, or be interpreted as admissions by, any of the Parties with respect to the nature and scope of the duty to consult.
12. Nothing in this Agreement is intended to recognize, deny, create, extinguish, abrogate, derogate from or define any Aboriginal or treaty rights that the Mi'kmaq may have.

CONFIDENTIALITY

13. This Agreement is not confidential.
14. The Parties involved in any consultation conducted pursuant to this Agreement may request that particular records or information be treated confidentially. The Parties to that consultation shall determine whether the record or information in question should be provided, received and held in confidence. The nature or description of a record or information may be introduced prior to providing the document itself for the purposes of making such a determination. Any record or information that the Parties agree to treat confidentially shall be held in confidence and not disclosed, unless such disclosure is required by law.
15. Nothing in section 14 is intended to prevent any Party from tendering records or information as evidence in a court of law or other legal proceeding if the record or information is relevant to an issue of whether a duty to consult was or was not met or fulfilled through a consultation conducted pursuant to this Agreement.

FUNDING FOR CONSULTATIONS

16. Contribution funding as determined by Canada and Prince Edward Island may be provided to MCPEI to allow it to create and operate the Mi'kmaq Consultation Unit. Such funding will be provided based on consideration of an annual budget submitted by MCPEI and subject to annual appropriations by Canada and Prince Edward Island.
17. Each of the federal departments, provincial departments and other Crown agencies who are engaged in a consultation with the Mi'kmaq conducted pursuant to this Agreement will consider whether or not, and how to provide funding to assist the Mi'kmaq with respect to such consultation.

REVIEW OF AGREEMENT

18. Eighteen (18) months following the signature of this Agreement, the Parties will review this Agreement and its process. The objectives of this review include, but are not limited to:
- a. determining whether the Parties are opting to use this consultation process regularly;
 - b. assessing the effectiveness of the consultation process, including the extent to which it has facilitated consultation; and
 - c. if the Parties are not opting to use this consultation process, assessing why not.

TERMINATION OF AGREEMENT

19. This Agreement shall come into force and effect on the date of its signature and shall continue in force and effect unless terminated by one or more of the Parties upon three (3) months written notice to the other Parties hereto.

AMENDMENT

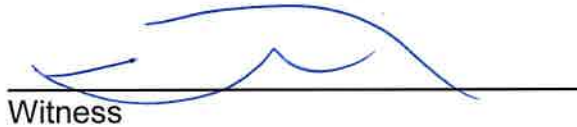
20. This Agreement may be amended with the written consent of the Parties.

Signed this 13th day of August 2012.

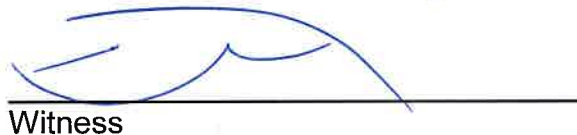
THE MI'KMAQ OF PRINCE EDWARD ISLAND



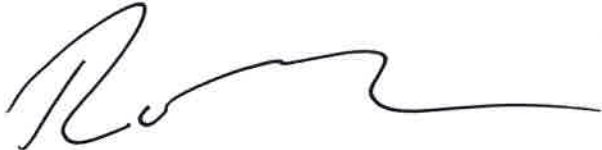
Chief Darlene Bernard
Lennox Island First Nation


Witness

Chief Brian Francis
Abegweit First Nation


Witness

THE GOVERNMENT OF PRINCE EDWARD ISLAND



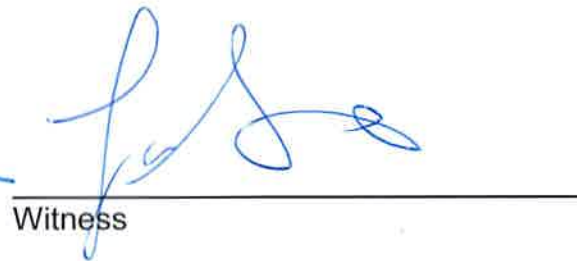
The Honourable Robert Ghiz
Premier of Prince Edward Island
and Minister Responsible for
Aboriginal Affairs


Witness

THE GOVERNMENT OF CANADA



The Honourable John Duncan
Minister of Indian Affairs and
Northern Development


Witness