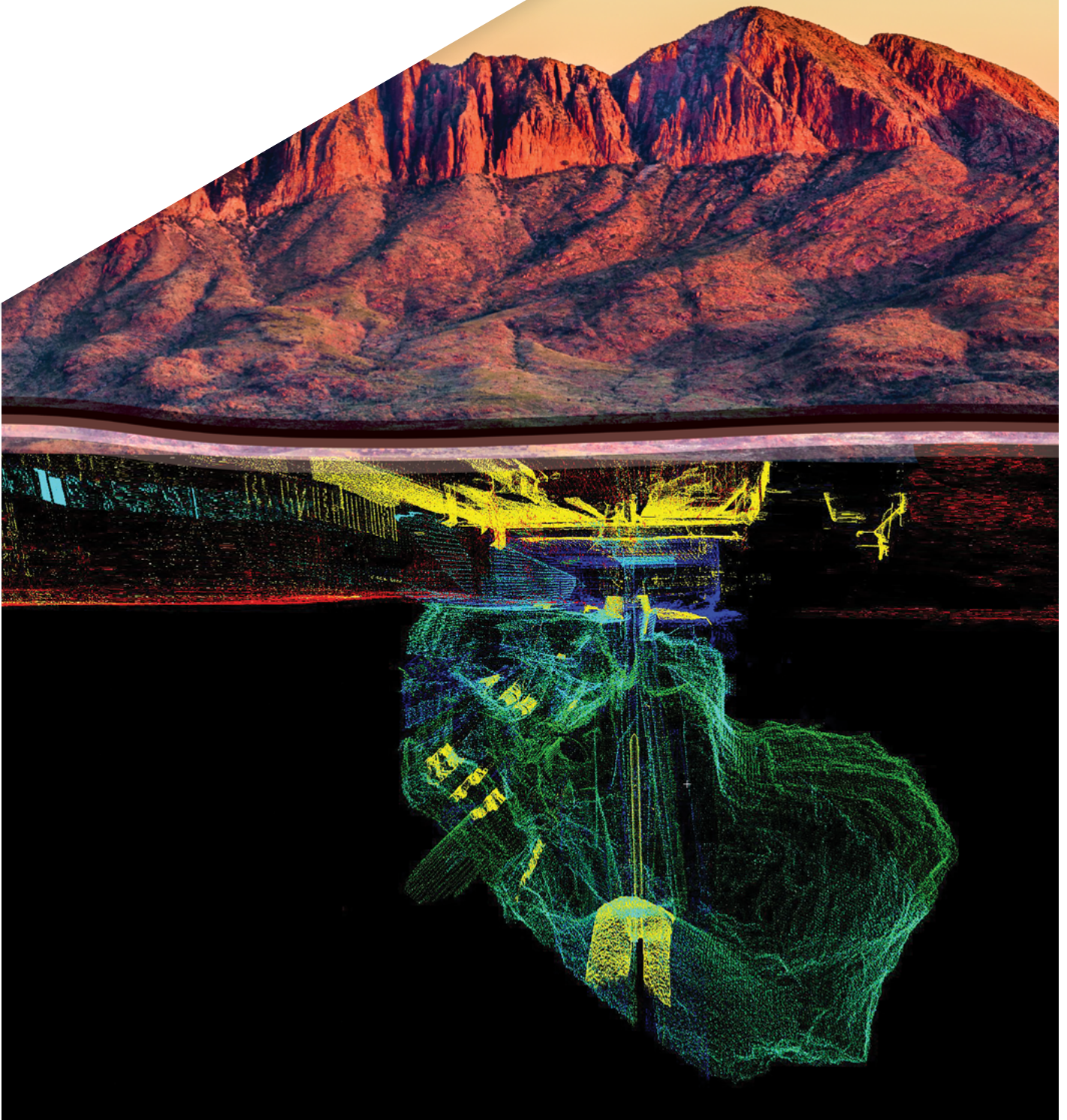




Department for
Business & Trade

Indigenous Engagement in Mining Projects in Canada





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Indigenous Peoples in Canada

“Indigenous peoples” is a collective name for the original peoples of North America and their descendants. Often, “Aboriginal peoples” is also used.

The Government of Canada recognises First Nations, the Métis Nation and Inuit as the Indigenous Peoples of Canada. These are 3 distinct peoples with unique histories, languages, cultural practices and spiritual beliefs.

- **First Nations**

There are more than 630 First Nation communities in Canada, which represent more than 50 Nations and 50 Indigenous languages. There are over 1 million First Nations people in Canada, reported in the 2021 census.

- **Inuit**

Inuit are Indigenous people of the Arctic. The word Inuit means “the people” in the Inuit language of Inuktitut. In total, approximately 64,000 Inuit live in Canada.

- **Métis Nation**

They emerged in the historic Northwest during the late 18th century, originally the mixed offspring of First Nation women and European fur traders. As this population established distinct communities, a new Indigenous people emerged – the Métis people – with their own unique culture, traditions and language (Michif).



Links

Government of Canada website

[Indigenous Peoples and Communities](#)

[Indigenous Peoples and Lands – Maps](#)

Background

“Building a renewed relationship with First Nations, Inuit and Métis Peoples based on the recognition of rights, respect and partnership.”

[Government of Canada website](#)

“Mining companies that adopt good practice and are responsive to Indigenous Peoples’ are more likely to successfully contribute to sustainable and equitable outcomes, gain community support, build a positive reputation and be considered as ‘responsible companies’, which in turn, has reputational benefits. Importantly, it is now widely accepted that companies have a responsibility to respect human rights.”

[Good Practice Guide to Indigenous Peoples and Mining – ICMM](#)

- Canada is a country with a long history of mining projects, and significant mineral potential. Canada has occurrences of two-thirds of the minerals on the [UK’s critical minerals list](#).
- In recent years, there has been increased focus on the relationship between the Canadian Crown and Indigenous Peoples of Canada, led by the [2015 Truth and Reconciliation Report](#). While the Canadian Constitution has long recognised Aboriginal and treaty rights, Canada’s implementation of the UNDRIP has driven a rapid evolution of the models of partnership between Indigenous communities and Industry.
- Mining projects can present economic development opportunities for Indigenous communities. Increasingly, successful mining projects require strong relationships with potentially impacted communities. Best practice suggests that early engagement with a focus on relationship building to understand communities’ needs and priorities is key to project success, and project proponents should be open minded with respect to the developing models for partnerships.
- A number of resources exist to help educate business about the landscape – this document collates many of these in one place.



Backgrounder: Natural Resource Sector – Government of Canada

- The implementation of the United Nations Declaration on the Rights of Indigenous Peoples has the potential to make meaningful and positive change to how Indigenous peoples, communities, and business participate in sustainable natural resources development. This includes having Indigenous peoples as full partners in the natural resource and net-zero carbon economy and ensuring that Indigenous peoples have a seat at the table for decisions that may affect their communities. Together, we can develop a stronger, more sustainable, and predictable path for Indigenous peoples, the Government of Canada, and industry.

UNDRIP

Much of the development of Indigenous-industry partnerships in Canada is being driven by Canada's adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). UNDRIP was adopted in 2007 and the UNDRIP Act (which created an action plan to achieve UNDRIP objectives and commits the government to taking measures to ensure domestic laws are consistent with UNDRIP) was given Royal Assent by the Government of Canada in 2021.

“The result [of UNDRIP] is the change from duty to consult to right to consent (Free, Prior and Informed Consent, FPIC). The key difference is that new projects now hinge on the rights of Indigenous Peoples to give or withhold their consent for any action that would affect their lands, territories, or rights. This requires active engagement, strong relationships, and partnerships between the mining industry, the suppliers, and the Indigenous communities. It is helping to shift conversations and involve the local communities at project onset to understand their views and desires and incorporate them into the plan, rather than consult communities at the final stages.”

Indigenous engagement is transforming the future of mining

Canadian Mining Journal, May 2023

FPIC

How does Canada define free, prior and informed consent?

“References to ‘*free, prior and informed consent*’ (FPIC) are found throughout the Declaration. They emphasize the importance of recognizing and upholding the rights of Indigenous peoples and ensuring that there is effective and meaningful participation of Indigenous peoples in decisions that affect them, their communities and territories.

More specifically, FPIC describes processes that are free from manipulation or coercion, informed by adequate and timely information, and occur sufficiently prior to a decision so that Indigenous rights and interests can be incorporated or addressed effectively as part of the decision making process - all as part of meaningfully aiming to secure the consent of affected Indigenous peoples.”

United Nations Declaration on the Rights of Indigenous Peoples Act – Government of Canada

Resources



A number of resources in Canada offer guidance, and formal protocols, on how to engage with impacted Indigenous communities

Mining Association of Canada (MAC)

Towards Sustainable Mining (TSM) standards (*“a globally recognized sustainability program that supports mining companies in managing key environmental and social risks”*) **Indigenous and Community Relationships protocol**

“More than any other sector, Canada’s mining industry has prioritized building and maintaining respectful, strong and trusting partnerships with communities impacted by, or with an interest in, mineral exploration and mining activities.”

International Council on Mining & Metals (ICMM)

Indigenous Peoples and Mining: Good Practice Guide

“This guidance aims to support mining and metals companies build strong and mutually beneficial relationships with Indigenous Peoples. It provides a range of practical tools and case studies around engagement and Indigenous participation, managing impacts, agreements and dealing with grievances.”

Association of Mineral Exploration

While a British Columbia based Association, they include resources such as their Early Planning Engagement Tool and an Indigenous Engagement Guidebook

“The need to engage is founded on the constitutional rights of Indigenous peoples in Canada and the unique position of Indigenous groups in British Columbia (BC). Having good relationships with Indigenous groups whose interests might be affected by your project is an increasingly essential component of the project approval process. It is also good practice.”

Consultancies

A number of firms operate in Canada who offer services advising on early stage engagement of impacted Indigenous communities

Indigenous Owned

- [Mokwateh](#)
- [Two Worlds Consulting](#)
- [AS Williams Consulting](#)
- [Indigenous and Community Engagement \(ICE\)](#)
- [Acosys Consulting](#)

Non Indigenous Owned

- [Gowling WLG](#)
- [Falkirk](#)
- [Sedgewick Strategies](#)

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Indigenous Perspectives

First Nations Major Projects Coalition – Critical Minerals Roundtables (October 2022-February 2023), Summary of Participant Discussions and Findings

- There is no one, uniform, approach from Indigenous communities to prospective mining and critical minerals projects.
- In October 2022 and February 2023, the First Nations Major Projects Coalition held Critical Minerals Roundtables, and the summary report provides insight to the considerations around the potential opportunities in critical minerals discussed by their members.

Summary of Participant Discussions and Findings

Quotes from 2 Attendees of the FNMPC Critical Minerals Roundtable

“ The five things for success, getting permitted quickly and attracting investors are:

- 1 **FPIC – Very few of the large publicly traded companies will move ahead without FPIC.**
- 2 **Shared benefits – area, zone, community, need to have meaningful, shared benefits.**
- 3 **Projects have to be net zero GHG emissions where the remainder is sequestered or offset.**
- 4 **Water and biodiversity land protection.**
- 5 **Net positive land impact – for every acre disrupted something is set aside elsewhere.** ”

“ The key takeaway for us as Indigenous people is that the drive to net zero will result, and has already started, an increase in demand for critical minerals up to 14 times current volumes for everything from copper iron ore, nickel, lithium, a whole list of metals. But we need those, the world needs those, by 2035, which is 12 years away. Imagine all the mining that’s going on right now in our [Indigenous] territories and other places in the world 14 times more in the next 12 years. All of those from Canada are going to come from Indigenous Territories in some form. So, the challenge is that we as Indigenous people, and we as a country for our economy, have to have a discussion about how are we going to participate. The amount of capital that is flowing right now is in the trillions of dollars for people looking for those resources. Do we as a country want to participate? And if we do, what’s the role of Indigenous people in ensuring this is done environmentally well, and everything around environment, the social and the governance questions ESG which is what the markets are looking for? ”



Case study

Panther Metals PLC



Darren Hazelwood
CEO

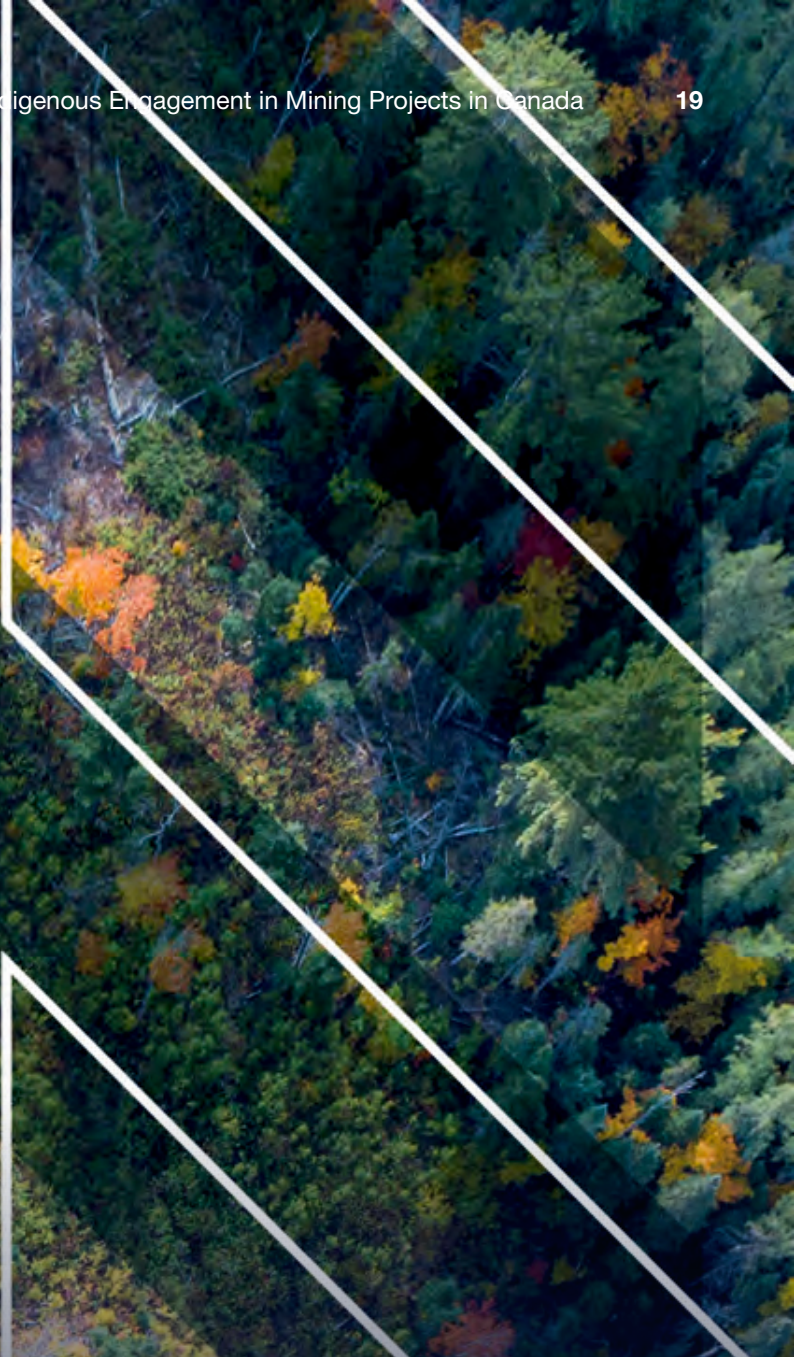
An exploration company listed on the main market of the London Stock Exchange, Panther Metals PLC is focused on the discovery of commercially viable mineral deposits.

Panther Metal's current geological portfolio comprises of a self-discovered volcanogenic massive sulphide (VMS) camp and two other highly prospective properties all located in Ontario, Canada.

“

When we first began operating in Canada, we had no reference point on how to work with First Nations communities, and what their expectations may be of us. Our initial approach was to stand off, and we didn't initially engage directly.

Over time, we have built positive relationships, which we approached with the mind-set of wanting to understand both the culture and relationship to their historic land. We have found different Nations have different views, often informed by their previous experiences with industry. These relationships have helped shaped the approach of our projects going forward.



We have learned each relationship is unique, with First Nation economic arms at various stages of development. We have learned to work within and respect their boundaries, including around timelines, which can sometimes be at odds with what you would hope from a commercial point of view.

Based on our experiences, if we were to start afresh, we would seek to engage directly with potentially impacted Indigenous communities from the project outset, building a relationship based on learning around culture, their approach to land and the environment, and being open minded to each community's starting point.

”

Case study

Rio Tinto



Sebastien Ross
Managing Director Atlantic Operations

From Conflict to Partnership – The New Day Agreement, the Reconciliation Journey of the Cheslatta Carrier Nation and Rio Tinto Aluminium

Rio Tinto is the largest mining and metals business operating in Canada today, with around 12,000 people working at over 35 sites and operations across the country. As pioneers in mining and metals, we continue to find better ways to produce the materials the world needs here in Canada and around the globe. Canada is home to the global headquarters for Rio Tinto's aluminum business and some of the cleanest, most energy efficient and sustainable aluminum smelting facilities in the world.

Built by the Aluminum Company of Canada (Alcan), BC Works opened in 1954 and was the world's largest smelter powered by hydroelectricity. Rio Tinto acquired Alcan in 2007 and, since then, has been operating BC works. Today, following a C\$6 billion investment to modernize the smelter, the aluminium produced in Kitimat, BC has one of the lowest carbon footprints in the world. Our Kemano Powerhouse receives water from the Nechako Reservoir and it remains one of the largest high-pressure hydropower generation facilities in North America.

Understanding and acknowledging past history

The people of the Cheslatta Carrier Nation (Cheslatta) lived for centuries on their traditional territory that comprises the western headwaters of the Nechako Reservoir in northwest, British Columbia (B.C.), Canada enjoying a peaceful, self-sustaining existence. They were known for their fierce independence and close-knit society.

In 1952, members of the Cheslatta Carrier Nation (Cheslatta) were forcibly evicted from their homes and resettled outside their Traditional Territory in northwest British Columbia (B.C.), Canada, with just two weeks' notice to make room for the construction of the Aluminium Company of Canada (Alcan) Kenney Dam project on the Nechako River forming the Nechako Reservoir. As a result, Cheslatta lands, villages, and spiritual sites were flooded.

Following the eviction, the Cheslatta people quickly realized that promises of new land and houses were lies. People had to set up camps under spruce trees at Grassy Plains and in old, abandoned shacks and barns and ultimately had to pay with their own (small) compensation

money for new lands where they relocated. Many became sick and tuberculosis was widespread. The proud Cheslatta became like refugees...

Thirty years later, In the 1980s, the Cheslatta filed a Specific Claim with the Government of Canada which was settled in 1993. In 2019, a Reconciliation Agreement was also signed with the provincial government.

Acrimonious interactions between the Cheslatta and the company

After their eviction, the Cheslatta and the company had no relationships and interactions were difficult, negative and acrimonious.

In the early 1980s, the Cheslatta mounted a campaign against Alcan's Kemano (tunnel) Completion Project which led to the retroactive cancellation of the project by the provincial government in 1995.

In September 1999, tired of fighting, the Cheslatta invited Alcan and met with the company for the first time since 1952 (47 years later).

Reconciliation journey ...

In 2012, a first major step in the reconciliation journey was achieved when Rio Tinto Aluminium returned 12,000 acres of land to the Cheslatta (no strings attached). This is also when the negotiation of the New Day Agreement began.

The signing of the New Day Agreement occurred in February 2020. A key symbol in the reconciliation journey was shared at the signing ceremony. Rio Tinto presented the Cheslatta with an aluminium paddle, a symbol of reconciliation. The paddle remains a hallmark today, signifying that the Cheslatta and Rio Tinto are paddling in the same direction with equal effort.

Both Cheslatta and Rio Tinto point to economic reconciliation as being one of the most successful aspects of the New Day Agreement. The Kemano T2 project, a 7.6km tunnel through the mountains to bring water from the Nechako Reservoir to Rio Tinto's Kemano hydroelectric plant, began in 2019. Cheslatta-owned Contracting Services have been providing much of the hauling, barging, welding, and inventory management services, among other things, which was essential to the success of T2.

What have we learned?

According to former Rio Tinto Aluminium CEO Ivan Vella, the principles of the New Day Agreement are durable and include the following:

1. Acknowledge past injustices and resolve to make the necessary changes to fix them;

2. Protect and promote Indigenous economic, cultural and social rights;
3. Work together to solve problems;
4. Be accessible, be realistic and be truthful; and,
5. Look for win-win solutions.

"I believe the New Day Agreement principles could apply to any agreement between Rio Tinto with any Indigenous community anywhere in the world, going forward."

Core to this approach is to take an Indigenous lens to guide operational decisions. At a company level, this cannot be achieved without a shift in the organizational culture. Our Managing Director Atlantic Operations, Sebastien Ross, said: "We've shifted from taking a defensive approach with Indigenous communities – using tactics which focus on litigation, and short-term thinking, to building a culture, in which shared-value creation and collective benefits are the objectives."

To conclude in the words of Chief Corrina Leween:



Chief Corrina Leween
Cheslatta Carrier Nation

“ We can't change the past. But we are changing the future. In that respect, we know that the solutions needed to reach net zero will rely on using Indigenous lands and resources. Therefore, any economic development now and into the future will either be Indigenous-led or have strong Indigenous partnerships; this will not only ensure respect for our lands and cultures but will also ensure we build a better more inclusive society. We're sharing Cheslatta's story, so that other Indigenous Nations know they can do it too; they can also prosper. Our experience shows, Cheslatta and Rio Tinto are stronger together. ”

Case study

BMC Minerals



Allan Nixon

Vice President – External Affairs

BMC is engaged in the assessment, acquisition and development of base metals projects which have robust economics and deliver long term benefits to the local communities within which they operate.

BMC through its 100% owned subsidiary BMC MINERALS LTD, is currently developing the Kudz Ze Kayah Project, in south east Yukon, Canada. The project is expected to operate for a minimum of 10 years producing high grade zinc, copper and lead concentrates with significant gold and silver credits.

“

When we acquired the project in 2015, we inherited an existing Social-economic Participation Agreement with First Nations. We are currently undergoing a process to modernise it, recognizing how much these agreements have evolved in recent years. However our view is that the agreements shouldn't hinder innovation and collaboration outside of any formal agreement. We shouldn't be afraid to be at the cutting edge or set a new bar for participation.

To build relationships with both the leadership and community we have found the key is face to face time, whether formal or informal. For example, open houses – centred around listening rather than

talking – have been key, and significantly more effective than it would be through writing letters and issuing documents. Our approach has helped build relationships at a grass roots level that can be maintained even in the event of a change in leadership.

We view ourselves as part of the community, and not just operating within it. We seek areas outside of the formal relationship to support the community's goals and aspirations, for example supporting post secondary scholarships, school awards, and cultural events. We want to be a true partner, and not just one on paper. To build and maintain a relationship, it's crucial to demonstrate integrity.

Our advice, based on our learnings would be to:

- Acknowledge and respect where all parties are coming from and any relevant history, including an honest appraisal of our own position as industry.
- Build a clear understanding of the desired future outcome – if the vision doesn't align, how can we align in a partnership?
- Recognize our partner First Nations as owners of the land, not stakeholders. If there are capacity constraints, recognize these, help First Nations overcome them, and factor them into project timelines.

”

Canada Federal Duty



Duty to Consult

The Federal and Provincial/ Territorial's Duty to Consult Indigenous groups has been affirmed by the Supreme Court of Canada in multiple decisions.

This map includes links to the Provincial and Territorial governments website, highlighting their approach to meeting the Duty to Consult and supportive resources for industry.

"The Province is legally obligated to consult and accommodate First Nations, where required, on land and resource decisions that could impact their Indigenous Interests"

[British Columbia government website](#)

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- supporting and encouraging UK businesses to drive sustainable international growth
- ensuring the UK remains a leading destination for international investment
- opening markets, moulding the trade environment with new and existing partners which is free and fair
- using trade and investment to underpin the government's agenda for a Global Britain and its ambitions for prosperity, stability and security worldwide.

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