

Province of British Columbia and First Nations LNG Alliance Joint Engagement Report



BRITISH
COLUMBIA



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1. Executive summary

The Liquefied Natural Gas (LNG) industry has changed dramatically in the past few years, as prices have dropped across the globe and new liquefaction facilities have come online. This means that there are far fewer new natural gas pipelines and LNG facilities projects advancing, largely due to economic circumstances. However, there is considerable consensus among international LNG market analysts that global demand will continue to grow, with demand for new LNG facilities and export opportunities arising around 2023-24. Given the approximate 4-5 year construction period, a window of opportunity remains open for positive Final Investment Decisions (FIDs) in LNG projects by proponents in the next two to three years in British Columbia.

The BC Ministry of Energy, Mines, and Petroleum Resources (EMPR) has been asked to engage First Nations on the LNG sector's cost competitiveness and fiscal policies. EMPR partnered with the First Nations LNG Alliance (FNLNGA) in the fall of 2017 to conduct five regional engagement sessions with local First Nations to gather perspectives, suggestions and opportunities from First Nations in their traditional territories. The dialogue from the engagement sessions was recorded, analyzed and sorted by issues and suggestions in the report below. The overall goal of the report, co-authored by the FNLNGA and EMPR, is to further advance recommendations for the future of LNG projects and ongoing engagement with First Nations.

Discussions with local First Nations in each of the five regional engagement sessions have shown that a high degree of support for LNG projects in British Columbia remains. In fact, many First Nations representatives raised the need to push the remaining projects over the finish line in order for the communities to achieve the benefits they negotiated with the provincial government and industry proponents. First Nations have demonstrated a high degree of knowledge from their experience working with the LNG industry over the past few years and have advanced a number of areas for the province to consider.

Many suggestions have a focus that is broader than LNG sector competitiveness, but are connected to First Nation views of requirements for the development of successful natural resource development projects in the future. Ideas arising from the regional engagement meetings were based on First Nation experiences with the LNG regulatory review processes occurring over the last five years. If LNG projects are done in a way that respects First Nation interests, they will be the most safe, environmentally rigorous, and human-rights-compliant projects in the world. When these key interests are addressed early in natural resource development projects, there is greater likelihood for success. The following suggestions arose out of the meetings and were based on discussions among First Nation participants.

The Government of BC should consider the following suggestions, which may help contribute to greater chances of advancing proposed LNG projects in the province:

- 1. BUILD** upon the successful uptake of skills and training development funding and consider increasing funding to allow the extension of this support. BC should consider a provincially supported point-person to develop, in collaboration with Indigenous representatives, a strategy for Indigenous labour market development, including support and planning for a lifecycle of job types (higher level, technical, support jobs) that would support LNG projects.
- 2. SUPPORT** First Nation agreements where they have been reached, and give further consideration on how to mitigate the negative impacts that project cancellations have on First Nation communities.
- 3. NEW LEADERSHIP** should initiate discussions with those groups that haven't provided consent to projects to explore the concerns of the groups and any opportunities to resolve issues.
- 4. ENGAGE** with First Nations and LNG proponents (for current and cancelled projects) to discuss regulatory improvements.
- 5. PARTNER** with First Nations and Indigenous organizations to improve communication, information sharing, and ongoing engagement on the LNG industry.
- 6. CONTINUE** the Environmental Stewardship Initiative (ESI) funding and provide it to all regions of BC that are affected by potential LNG projects.
- 7. EMPR** should further review the recommendations contained in this report with lead LNG proponents and relevant agencies, such as the Ministry of Indigenous Relations and Reconciliation and the Environmental Assessment Office to develop proposals for government to collaborate on and implement with First Nations.

2. Background and methodology

The mandate letter of the Honourable Michelle Mungall, Minister of Energy, Mines and Petroleum Resources, provides direction to ensure British Columbians benefit from Liquefied Natural Gas (LNG) projects by requiring proposals to meet the following four conditions:

1. **INCLUDE** *express guarantees of jobs and training opportunities for British Columbians;*
2. **PROVIDE** *a fair return for our resource;*
3. **RESPECT** *and make partners of First Nations; and,*
4. **PROTECT** *our air, land and water, including living up to our climate commitments.*

Furthermore, as part of government's commitment to true, lasting reconciliation with First Nations in British Columbia through adopting and implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Calls to Action of the Truth and Reconciliation Commission, the Ministry is moving forward on the calls to action and reviewing policies, programs, and legislation to determine how to bring the principles of the declaration into action in British Columbia.

EMPR partnered with the First Nations LNG Alliance (FNLNGA) to carry out dialogues with representatives from First Nations who have traditional territories in which new LNG facilities, related natural-gas pipelines, or upstream gas development are proposed. The FNLNGA has partnered with EMPR because it believes in engaging First Nations on issues related to the LNG industry. The purpose of the FNLNGA is to provide a forum of First Nations who support a sustainably developed LNG industry that respects the rights of First Nations people.

Participants in the regional engagement sessions included Indigenous leaders and provincial and federal officials to discuss the ongoing development of a LNG industry in British Columbia.

The schedule of the regional engagements was as follows:

- ▶ *Prince George, September 27, 2017*
- ▶ *Smithers, October 2, 2017*
- ▶ *Fort St. John, October 16, 2017*
- ▶ *Vancouver, October 25, 2017*
- ▶ *Terrace, October 26, 2017*

Dan George, President of Four Directions Management Services, facilitated discussions around two primary questions:

- ▶ *How can First Nations and BC contribute to making BC a more likely place for investment in additional LNG projects?*
- ▶ *Are there ideas or models First Nations would like to see carried out to enhance the chances of LNG investment?*

This report outlines the results of these discussions with First Nation representatives and ends with some recommendations for BC to consider. Meeting notes recorded from each of the five engagement sessions were analyzed and categorized into themes, which were then developed into seven main recommendations the provincial government should consider supporting.

3. Status of the LNG industry in BC

There are a variety of proposed LNG export projects remaining in BC, but there are only a handful that seem to be actively pursuing project development. This is considerably less than the height of industry speculation a few years ago.

BY REGION:

- ▶ *Campbell River: Discovery LNG*
- ▶ *Delta: Tilbury LNG / WestPac*
- ▶ *Kitimat: LNG Canada, Kitimat LNG, Triton LNG, Cedar LNG*
- ▶ *Kitsault: Kitsault Energy*
- ▶ *Port Alberni: Kwispaa LNG*
- ▶ *Prince Rupert: WCC LNG, Grassy Point LNG, Orca LNG, New Times Energy Ltd., Nisga'a LNG, Watson Island LNG*
- ▶ *Squamish: Woodfibre LNG*
- ▶ *Stewart: Stewart Energy LNG*

Proponents who have walked away from potential developments in BC have cited market conditions as being their main reason for cancelling projects. While it appears that there is a short-term glut of LNG in the global LNG market, analysis shows that the next window of opportunity will arise by 2023-24¹.

BC'S COMPETITIVENESS ISSUES INCLUDE:

Advantages:

- ▶ *temperature*
- ▶ *shipping distance*
- ▶ *supply certainty and diversity*

Disadvantage:

- ▶ *lack of infrastructure means more capital investment costs*

It would also appear that regulatory delays that likely contributed to the cancellation of some LNG projects in BC have led to a perceived disadvantage to BC's competitiveness.

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¹ Source: WoodMac LNG Tool

4. Regional Engagement Sessions: Discussion Summary

The regional engagement sessions yielded a wide variety of comments on issues that were important to First Nation communities. The facilitator ensured all issues raised were explored in depth. The issues raised have been categorized into the following themes²:

4.1 Indigenous people have the skills and education to fully participate in LNG sector opportunities

ISSUES:

The issue of poverty and the need for economic and employment opportunities for First Nations was raised consistently. Many First Nations view LNG projects as an important opportunity to improve poor socio-economic conditions in their communities. Employment and economic opportunities are required for communities to be sustainable and healthy. It cannot be over emphasized how the issues of employment and training are critical for these communities.

Concerns were raised in relation to the type of jobs and training available to First Nations from proposed LNG projects. First Nations are facing challenges due to delays or cancellation of proposed LNG projects. However, First Nations also see delays as a positive – providing the opportunity to have a more strategic, long-term approach to training, which could expand training opportunities that would ultimately maximize the quality and sustainability of jobs for First Nation people. Issues raised include:

- ▶ *the need for sustainable/long-term jobs instead of intense short-term labour opportunities;*
- ▶ *the need for jobs to be available immediately after people complete training and skills development;*
- ▶ *due to project delays, training certificates have expired and require renewal; and*
- ▶ *a longer term investment for training is needed so that people will pursue longer term training opportunities for better quality jobs – short funding windows have prevented community members from accessing funding for longer term programs such as university degrees.*

WHAT'S WORKING:

There are many examples of work training projects that were considered to be successes. An example of a successful training initiative is the Vancouver Island University-Coastal First Nations Stewardship Technician Training, in which ten coastal First Nations have trained and graduated fourteen participants. This led to placements within their communities as Guardian Watchmen or fisheries technicians.

SOME BEST PRACTICES RELATED TO SKILLS DEVELOPMENT WERE IDENTIFIED:

- ▶ *creating training projects that are able to place trainees into related employment opportunities;*
- ▶ *creating inventories of existing skills available to match with training and employment opportunities; and*
- ▶ *organizations have found success through the use of retention tools such as job coaches and mentorship.*

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² These do not represent any official position of any party, but rather are a snapshot of the brainstorming that occurred.

SUGGESTIONS:

- ▶ *Evaluate and consider renewing or expanding the \$30-million Aboriginal Skills Development Fund, which has been successfully implemented.*
- ▶ *First Nations and governments should co-create more strategic skill development plans to target higher quality operational jobs.*
- ▶ *All parties should look for ways to enhance success through tools such as job matching, job coaching, and mentorship.*
- ▶ *BC should explore the creation of an LNG training facility in BC like the CATCH training facility operating in the UK – follow-up with Haisla should occur after their site visit to CATCH UK with local government, Kitimat Valley Institute and training partners.*
- ▶ *BC should create a provincially supported point-person to develop and manage a strategy for Indigenous labour market development, including the support and planning for a lifecycle of job types (higher level, technical, support jobs) and procurement that will be required to support an LNG project.*

4.2 Ensuring strong First Nations and government relations and Indigenous governance

ISSUES

Governance is an important area and covers many issues from external relations to internal processes. First Nations participants had many views to share on a range of issues.

First Nations view the need of improving First Nation and government relations to ensure there is better alignment on assessing LNG projects.

- ▶ *Issues were raised around Aboriginal rights and title (and the full scope including social, cultural and economic aspects), consultation, accommodation, engagement standards.*
- ▶ *How the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and how the concept of “free, prior, and informed consent” will apply to these projects, especially since these concepts are continually evolving.*

- ▶ *Some participants raised the issue of the government’s strength-of-claim approach and how First Nation consultation is carried out in relation to strength-of-claim analysis. They feel the approach:*
 - » *creates an adversarial environment between First Nations within adjacent areas and an exclusionary environment between neighbours;*
 - » *limits and minimizes legitimate environmental concerns from those that have a ‘weaker’ claim; and*
 - » *provides little incentive for a First Nation to be inclusive or amenable to resolving shared territory issues.*
- ▶ *Conflict resolution tools or processes are not readily available between government and First Nations or between First Nations.*
- ▶ *First Nation capacity needs to be built and maintained to participate in LNG projects.*

WHAT’S WORKING:

When multiple First Nations work together they are more successful in creating opportunities to protect the environment and maximize economic benefits for each member nation. Recent examples of this include the innovative environmental monitoring initiatives in Tsimshian territories, and the Carrier Sekani Tribal Council’s recent government-to-government agreements.

OTHER FACTORS OF SUCCESS INCLUDE:

- ▶ *Continuity of the parties (individuals) at the table contributes to successful processes such as regulatory reviews and government-to-government negotiations and implementation.*
- ▶ *Consistent capacity enabled by consistent funding ensures continuity and the ability to see a project through.*
- ▶ *Success happens if the parties are really committed to working with each other.*
- ▶ *Partnerships built with strong relationships are the best foundation to overcoming the many challenges natural-resource development projects face.*

SUGGESTIONS:

BC and First-Nation related:

- ▶ *Government-to-government relationships should be refreshed due to new leadership both provincially and in many First Nation communities.*
- ▶ *BC and First Nations should co-create a road map on how to engage First Nations in collaborative engagement processes – including permitting, benefit agreements, UNDRIP principles, and timing.*
- ▶ *BC should further engage with First Nations on its approaches for the development and use of strength of claim and assess whether process improvements can be made so that consultation with First Nations is more transparent.*
- ▶ *BC should develop integrated policy on how to apply UNDRIP across all ministries in collaboration with First Nations.*
- ▶ *Government should invest in nation building in order to enhance capacity, skills, knowledge, economic opportunities, and the integration of Indigenous views into decisions related to major projects in traditional territories.*
- ▶ *Government could improve its internal capacity to engage with First Nations (to ensure engagement is undertaken at an appropriate and consistent level).*
- ▶ *BC should explore integrated planning around critical infrastructure such as pipeline placement.*

First Nation to First Nation related:

- ▶ *First Nations need to resolve shared territory/overlaps amongst themselves.*
- ▶ *Government should look for ways to enable resolution to shared territory conflicts.*

GOVERNMENT, FIRST NATION

AND INDUSTRY RELATED:

- ▶ *Government should research and analyze the challenges of those projects that did not go forward, to inform policy development, regulatory approaches or new mandates.*
- ▶ *Province should explore potential of new models to support public and First Nation equity participation in LNG projects (e.g. a new Crown corporation).*
- ▶ *BC should identify appropriate opportunities for Government, First Nations and Industry to convene or engage.*

4.3 Ensuring Regulatory processes are clear and appropriately involve First Nations

ISSUES:

Although proponents with cancelled projects have cited market conditions as the main reason for not proceeding, many believe that the length of the regulatory process contributed to the attrition of these projects. Many issues around the Environmental Assessment (EA) process were raised:

- ▶ *Dealing with Aboriginal rights and title and the environmental impacts in the same process politicizes the environmental-review process.*
- ▶ *First Nations don't believe enough attention is paid to the full lifecycle of these projects and some have had negative experiences with the reclamation phase of projects.*
- ▶ *Major concerns about an inconsistent approach from industry in regards to engaging with First Nations affected by their projects.*
- ▶ *Government should ensure that the broad range of social impacts of projects on indigenous communities are assessed and addressed.*
- ▶ *BC should be doing more to address the cumulative effects of oil and gas development in the upstream (northeast BC) where impacts are experienced across the landscape.*

WHAT'S WORKING:

There are many innovations occurring in relation to how First Nations and BC are changing the ways they are assessing these projects.

- ▶ *Early First Nation engagement with proponents to access key information about fundamental components of project that will impact First Nation rights and title have led to design improvements and First Nation consent to projects.*
- ▶ *Use of First Nation contractors for Traditional Use and Ecological Knowledge provides value to both the First Nation and proponents.*
- ▶ *The Aurora LNG project debriefing was viewed very favourably, where government and First Nations were able to get better closure to the process and learn from the experience.*
- ▶ *Squamish Nation's approach to engagement was cited as a positive example of where consent was reached on the best way to minimize impacts.*

SUGGESTIONS:

- ▶ *BC should enhance guidance on engagement processes with minimum standards for industry to meet when dealing with First Nations.*
- ▶ *BC should support Indigenous collaboration and capacity funding on environmental assessment and permitting work related to new LNG projects and potential amendments to existing pipeline or facility projects.*
- ▶ *BC should consider splitting regulatory review processes to deal with environmental issues and rights and title issues separately.*
- ▶ *Much baseline data has been generated by all parties in the past few years that would be desirable to share. Government should consider creating information-sharing processes/products on environmental information with Nations (i.e. repository).*
- ▶ *The successful Environmental Stewardship Initiative (ESI) has only been introduced in northern BC. A smaller-scoped ESI program could be developed in other*

areas of the province potentially impacted by LNG development.

- ▶ *BC should consider jointly designed environmental review processes with First Nations.*
- ▶ *BC should ensure ongoing roles and responsibilities of the parties are identified for the entire life cycle of the project and have better mechanisms to manage ongoing issues.*
- ▶ *BC should ensure old gas wells (e.g. suspended or abandoned wells) are cleaned up and restored before new ones are authorized, to address environmental impacts from legacy infrastructure.*
- ▶ *BC should develop opportunities to review and address social impacts collaboratively with local communities and government.*
- ▶ *BC should support First Nations such as Haisla who have experienced social impacts from recent industrial development (e.g. Rio Tinto Alcan modernization) to share planning experiences with government and other First Nations potentially affected by LNG projects.*
- ▶ *BC should support First Nation communities' development of guidance for industry engagement with their community.*

4.4 Ensuring economic opportunities for First Nations in LNG development

ISSUES:

For First Nations to be true partners in LNG development, real benefits must materialize. Many ideas were generated about First Nations views around these benefits, understanding that the choices differ from community to community. ³

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3 A recent report commissioned by Western Economic Diversification Canada has outlined procurement barriers to indigenous suppliers and suggests processes for implementing government support for First Nation business entities. Therefore this topic is not explored within this report.

- ▶ *Equity participation – capital is challenging to raise and not all proponents are supportive for those First Nations wanting equity participation.*
- ▶ *Concerns about different approaches by proponents were raised (inequitable treatment from one proponent dealing with different First Nations or proponents that do not have a good track record in dealing with First Nations).*
- ▶ *Some thought there should be a minimum standard that ensures proponents who impact First Nation territories are compelled to engage with the First Nations impacted.*
- ▶ *Ensure all proponents have to comply, not just new proponents, with the need to consult and accommodate First Nations.*
- ▶ *BC should consider incentives for proponents to engage early, and often, with First Nations throughout the development proposals so First Nations can plan appropriately for taking advantage of economic opportunities but also for managing impacts. Incentives could enable proactive proponents to move through the regulatory processes quicker.*
- ▶ *First Nations and proponents need tools to successfully implement Impact Benefit Agreements*
- ▶ *Create more transparency and equity around government-First Nations benefit agreement negotiations processes.*
- ▶ *First Nation businesses need support to have the necessary skills, training and human resources and capacity to respond to business opportunities.*
- ▶ *Camp facilities could be converted to First Nation community uses after they are no longer needed for project development work.*

WHAT'S WORKING:

There are many dynamics that impact success in this category. Strong examples of First Nations that maximized the economic opportunities were ones that worked together. The First Nation Limited Partnership, a collective formed for the Pacific Trails Pipeline project in Northern BC has an unprecedented sixteen First Nations working together to advance their economic interests in this project. Some communities have seen high unemployment rates shift to high levels of employment, dramatically changing the quality of life for the community.

BEST PRACTICES FOR ENHANCING ECONOMIC SUCCESS INCLUDE:

- ▶ *Having strong First Nation economic governance in place has led to better implementation results of economic benefits.*
- ▶ *Adequate First Nation economic management capacity will lead to better economic opportunities (such as increased subcontracting opportunities on projects).*
- ▶ *Impact Benefit Agreements with enforceable tools lead to better implementation results (targets, set asides, value commitments, etc.).*
- ▶ *First Nations combining their capacity to work together are able to leverage more benefits than those working alone.*

SUGGESTIONS:

- ▶ *BC should look for strategies to improve First Nation and industry relations.*
- ▶ *BC and First Nations should explore tools to equalize First Nation benefits from major projects (i.e. resource tax).*
- ▶ *BC should explore ways to increase First Nation participation in spinoff benefits for major projects.*
- ▶ *BC should continue to provide consistent capacity funding to First Nations to negotiate benefits agreements with the Province.*

4.5 Improving information and communication management

ISSUES:

Understandably, these complex natural-resource development projects come with complex information and communication challenges. There was plenty of discussion around government's role in these issues, whether it be between government and industry, government and industry, or within First Nations.

- ▶ *There was a concern about the public and international views about First Nation issues negatively impacting investment in BC.*
- ▶ *Most people are unaware of the high degree of support First Nations have in relation to the LNG industry.*
- ▶ *Issues around capacity for all First Nations along a pipeline route to provide consistent high quality, credible information to their constituents.*
- ▶ *Concerns about potential duplicated efforts and confusion around entities involved in these projects and what their role is.*
- ▶ *Issues around government transition and concerns that the public perception is that the current government is not in support of the industry.*

WHAT'S WORKING:

First Nations who have established their decision-making processes, including how their citizens are engaged in these processes, have had good results in relation to making timely decisions. There are a number of matters that can contribute to successful information management:

- ▶ *Choosing a variety of communication tools, such as meetings, print, video, and social media, to reach people has led to successful results.*
- ▶ *First Nations need to ensure there are safe forums to explore sensitive issues for strong community engagement.*

- ▶ *People need time to absorb information, so it is important to ensure people and communities have enough time to consider complex information.*
- ▶ *First Nations, government, and industry should all have clear expectations about decision-making and communication processes.*

SUGGESTIONS:

- ▶ *Ministers should consider publicly stating their support for positive final investment decisions (as many First Nations and industry representatives have impressions that the government may be anti-LNG development).*
- ▶ *BC should work with First Nation organizations to create inventories of indigenous organizations including: Natural resources, Energy, /Economic Development, and Environmental.*
- ▶ *BC should co-create communication tools portraying positive First Nations involvement in the industry.*
- ▶ *BC should ensure there are ongoing education initiatives to support industry, government and First Nations knowledge.*
- ▶ *BC should collaborate with First Nations on a joint media strategy demonstrating First Nation support of the industry.*
- ▶ *BC should support First Nation-created communication products for First Nation citizens.*
- ▶ *BC should continue to undertake initiatives to improve investor confidence in BC (including trade missions with Indigenous participation).*
- ▶ *EMPR should investigate LNG proponents' interest in EMPR facilitating meetings between supportive First Nations and international investors/partners in the lead LNG facilities.*
- ▶ *BC should showcase shareable agreements and share best practices with examples of how First Nations led engagement with their members on these projects.*

5. Conclusion

First Nations provided thoughtful and knowledgeable input at the five regional engagement sessions. Clearly, some First Nations have long-standing experience dealing with industry and are sophisticated with relation to these topics, with much expertise and experience to draw upon.

It was also clear that there is still a high degree of support for the LNG industry. There have been many positive impacts to First Nation communities related to LNG development, prior to any construction. Much capacity has been created due to these proposed projects; however, expectations have also been raised. Now, First Nation leaders are trying to deal with their constituents' frustration because of the delays or cancellation of these projects. These missed or delayed opportunities are negatively impacting First Nations communities throughout the province.

The Government of BC should consider the following suggestions which may help contribute to greater chances of advancing proposed LNG projects in the province:

- 1. BUILD** upon the successful uptake of skills and training development funding and consider increasing funding to allow the extension of this support. BC should consider a provincially supported point-person to develop, in collaboration with Indigenous representatives, a strategy for Indigenous labour market development, including support and planning for a lifecycle of job types (higher level, technical, support jobs) that would support LNG projects.
- 2. SUPPORT** First Nation agreements where they have been reached, and give further consideration on how to mitigate the negative impacts that project cancellations have on First Nation communities.
- 3. NEW LEADERSHIP** should initiate discussions with those groups that haven't provided consent to projects to explore the concerns of the groups and any opportunities to resolve issues.

- 4. ENGAGE** with First Nations and LNG proponents (for current and cancelled projects) to discuss regulatory improvements.
- 5. PARTNER** with First Nations and Indigenous organizations to improve communication, information sharing, and ongoing engagement on the LNG industry.
- 6. CONTINUE** the Environmental Stewardship Initiative (ESI) funding and provide it to all regions of BC that are affected by potential LNG projects.
- 7. EMPR** should further review the recommendations contained in this report with lead LNG proponents and relevant agencies, such as the Ministry of Indigenous Relations and Reconciliation and the Environmental Assessment Office to develop proposals for government to collaborate on and implement with First Nations.

Both the Ministry of Energy, Mines and Petroleum Resources and the First Nations LNG Alliance is committed to working on many of the themes that were raised through the engagement. From continuing to support indigenous peoples' access to training, development, and career supports to increasing our shared ability to make informed and durable decisions, our two organizations have many shared objectives. The two organizations will further review the recommendations contained in this report with LNG proponents, key government ministries, and First Nations to develop areas for potential government action.

In conclusion, we can learn from the past few years and look to improve processes and outcomes for a future LNG Industry. The number of existing LNG facility, pipeline, and upstream agreements proves that LNG projects can comply with government's intent to seek and achieve Indigenous consent. This is not easy work, and there are barriers, but the amount of progress made in recent years is considerable. British Columbia's ongoing leadership in responsible natural resource development and engagement with First Nations is an example to the country and the world in relation to respecting the environment and Indigenous rights.



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