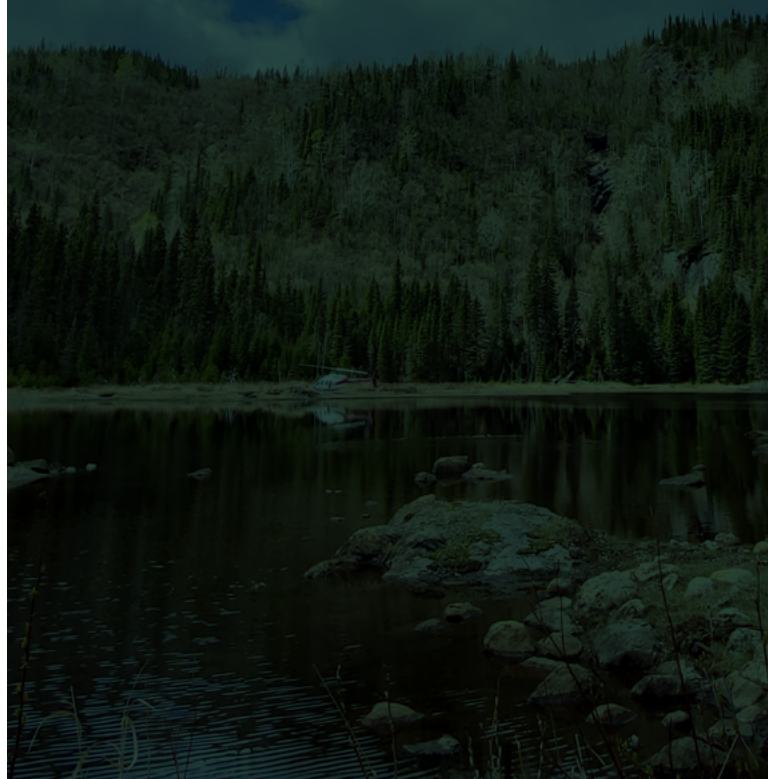


TECHNICAL SHEET 1

Decembre 2022 - Working Document

Aboriginal-Led Protected Areas (ALPA) Engagement

Setting the Context



FNQLSDI
FIRST NATIONS OF QUEBEC AND LABRADOR
SUSTAINABLE DEVELOPMENT INSTITUTE



The objective of this technical sheet is to contextualize and explain the origin of the engagement on Aboriginal-led protected areas (ALPA) conducted by the team of the conservation and biodiversity sector of the First Nations of Quebec and Labrador Sustainable Development Institute (FNQLSDI). This sheet is the first in a series of three which all have the objective of supporting and informing First Nations' thinking in the establishment, management and governance of ALPAs under the [Natural Heritage Conservation Act](#) (NHCA).

Technical Sheet on Aboriginal-Led Protected Areas (ALPA) Engagement

SECTION 1

Summary of Bill 46

SECTION 2

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Section 1.

Summary of Bill 46

1.1 Amendments and new provisions

On February 10, 2021, the Quebec government adopted [Bill 46 - An Act to amend the Natural Heritage Conservation Act](#) (NHCA), which was designed to make this legal tool more effective in addressing the new challenges related to the conservation of natural environments.

Its adoption had three objectives:

1. Accelerate protected areas establishment processes.
2. Expand the range of conservation measures for natural environments.
3. Increase the involvement of citizens, local and Indigenous communities in the creation and management of protected areas.

Key Amendments to the NHCA

- Three new protected area statuses added :
 - ◊ Marine reserve
 - ◊ Protected area with sustainable use
 - ◊ **Aboriginal-led protected area**
- Removal of aquatic reserve status.
- Changes to the protected area designation process :
 - ◊ Removal of the mandatory step for provisional status (projected status)
 - ◊ Optimization of the public consultation process
- New procedure for setting aside territories on «lands in the domain of the State» for the purpose of becoming a protected area.
- New procedure if a protected area is modified :
 - ◊ Public consultation
 - ◊ Compensation if the total surface area is reduced
- Designation of a man-made landscape through ministerial recognition.

Source : Gouvernement of Quebec. (2022) Loi sur la conservation du patrimoine naturel. Ministère de l'Environnement, de la lutte contre les changements climatiques, de la Faune et des Parcs. [Available here](#) (french only).

1.2 Aboriginal-led protected areas (ALPA)

During the special consultations held in September 2020, several stakeholders, including Indigenous communities and conservation organizations, expressed the need to include the concept of Indigenous Protected and Conserved Areas (IPCAs) in the NHCA (see technical sheet 2).

In order to respond to this demand and to offer more protection tools, the Quebec government has integrated the new status of **Aboriginal-Led Protected Areas (ALPA)**.



1. (Free translation) Gouvernement du Québec. (2021) Adoption de la nouvelle Loi modifiant la Loi sur la conservation du patrimoine naturel et d'autres dispositions - Le Québec se donne les moyens d'accroître la protection de ses milieux naturels. Gouvernement du Québec. [Available here](#) (french Only).

Specific legislative provisions for ALPAs in the NHCA

Art. 4.3

To allow for the conservation of elements of biodiversity and associated cultural values that are of interest to an Aboriginal community or nation on lands in the domain of the State, the community or nation may propose areas to the Minister to be designated as Aboriginal-led protected areas.

Art. 4.4

Protected area proposals must be sent in writing to the Minister and must, in particular, include a map of the area concerned as well as the conservation and development objectives suggested for the area.

Art. 4.5

When analyzing proposals, the Minister shall consult the ministers and the government bodies concerned, including the ministers responsible for municipal affairs, agriculture, culture, economic development, wildlife, forests, natural resources and Indigenous affairs.

If applicable, the other Aboriginal communities and municipalities concerned must also be consulted.

Art. 4.6

The Government may designate all or part of a proposed area as an Aboriginal-led protected area in accordance with the process established in subdivision 2 of Division III of Chapter II.

Art. 4.7

The Minister shall encourage the participation of the Aboriginal communities and nations concerned in the management and biodiversity conservation of Aboriginal-led protected areas. The Minister may enter into an agreement with such communities or nations to that end in accordance with section 12.

Art. 4.8

The Minister shall prepare and make public a guide regarding the creation, management and development of Aboriginal-led protected areas. The guide must be prepared and updated in a spirit of collaboration with the Aboriginal communities and nations.

Source : Natural Heritage Conservation Act, RLRQ c. C-61.01

It is more specifically on article 4.8. that the FNQLSDI engagement around ALPAs focuses. This process is detailed in section 2.

Other legislative provisions in the NHCA that apply to ALPAs

Art. 12

Subject to section 97, the **Minister may, by agreement, delegate** to any person or to any **Aboriginal nation or community all or some of the powers assigned to the Minister under this Act** or held by the Minister with regard to the management of an area that is under the Minister's authority and that is covered by a conservation measure under this Act.

Art. 44

The **Government may**, by regulation, determine:

1. in addition to the cases provided for in this Act, the **carrying on of an activity is prohibited within a protected area**;
2. that an **activity may**, although it is prohibited under section 49, 51 or 55, **be carried on with the authorization of the Minister**; or
3. that the **carrying on of an activity that is not prohibited** under this Act or the regulations made under subparagraph 1 is subject to **obtaining the authorization** of the Minister.

The Government shall take into consideration the fundamental characteristics of each protected area protection status and ensure that the activities that may be carried on in a protected area are **compatible with the conservation objectives** applicable to that protected area.

Art. 45

Sections 21 to 24 apply, with the necessary modifications, to the authorization of the Minister referred to in subparagraphs 2 and 3 of the first paragraph of section 44.

Art. 46

The Minister may, on conditions the Minister determines, **exempt an activity from a regulation** made under subparagraph 2 or 3 of the first paragraph of section 44 if the public interest justifies it.

Source : Natural Heritage Conservation Act, RLRQ c. C-61.01

Section 2.

Engagement around Aboriginal-led protected areas (ALPA)

Nearly two years have passed since the adoption of Bill 46. In September 2022, the Ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs (MELCCFP) resumed discussions on the ALPA and approached the FNQLSDI. In the fall of 2022, the MELCCFP gave the FNQLSDI the mandate to initiate reflections with First Nations on the new ALPA status and on the development of the guide and its guidelines that will frame its creation, management and development as provided for in section 4.8 of the NHCA.

In November 2022, the FNQLSDI began an engagement of First Nations on the ALPAs.

The objectives of this engagement are to :

1. Support First Nations with tools for their reflections on ALPAs through the creation of informative content;
2. To highlight First Nations' reflections on two aspects :
 - a. The new status of ALPAs;
 - b. The development of the Guide and its guidelines.

To this end, the FNQLSDI is meeting with First Nations in Quebec in order to gather their thoughts on the new status of ALPA and on the development of the guide. From May 2 to 4, 2023, an in-person gathering will be organized to create a space for sharing and exchange between First Nations on the establishment, governance and management of Indigenous protected areas in Quebec.

Expected timeline

November 2022 to November 2023

Engagement of First Nations on ALPAs.

May 2 to 4, 2023

In-person gathering "Moving Towards a Network of Indigenous Protected Areas".

January 2023

Validation by First Nation of the report that captures the key elements from the meetings, including recommendations on how the guide should be developed.

February 15, 2023

Submission of the final report to the MELCCFP.

2023-2024

Ongoing discussions with the MELCCFP to ensure the implementation of the recommendations for the development of the guide.

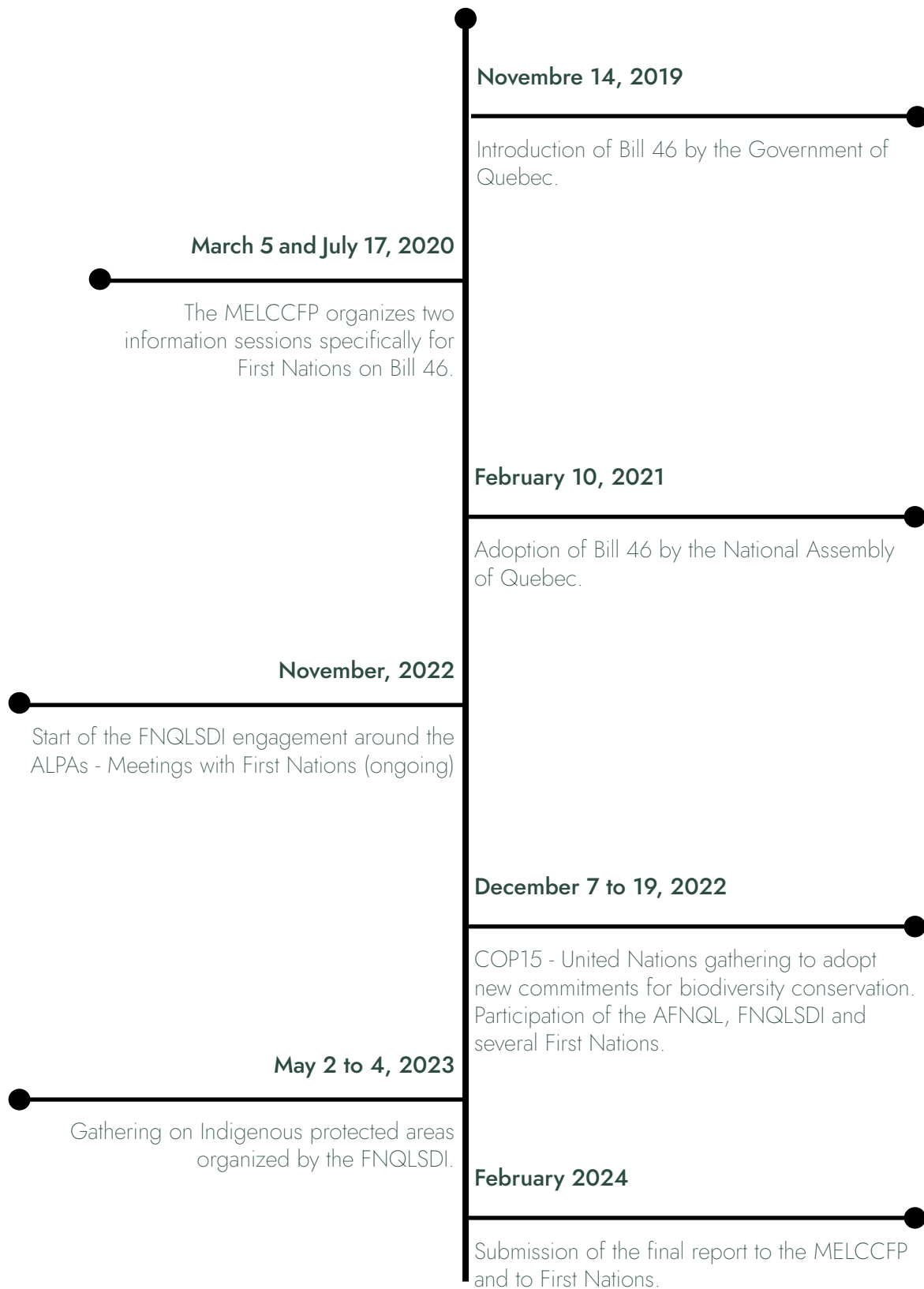
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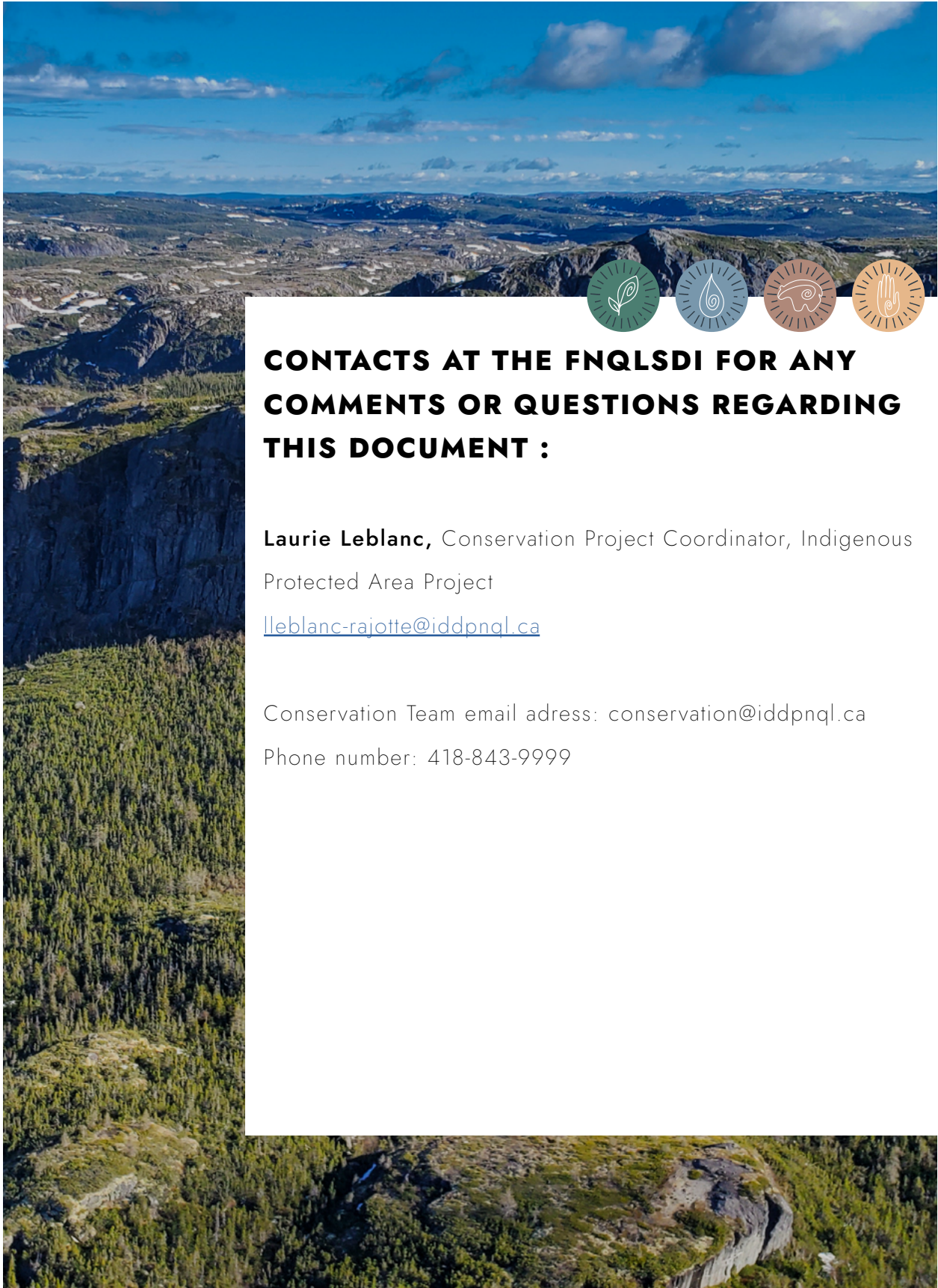
Where are we now ?

Since the adoption of Bill 46 on February 10, 2021, little action has been taken by the Quebec government. It was only a year later that Quebec announced the protection of an additional 300 km² of territory, through the expansion of six existing biodiversity reserves and the addition of four new protected areas.

However, it is important to remember that this same government refused 70 protected area projects, some of which emerged from Indigenous communities.

With the new ALPA status and the holding of the 15th United Nations Convention on Biological Diversity (COP15) in December 2022 in Montreal, it is essential that Indigenous voices be heard. The Government of Quebec must also make a concrete commitment to protect and conserve the territories, waters and resources, to recognize First Nations as key partners and to respect the Nation-to-Nation principle.





**CONTACTS AT THE FNQLSDI FOR ANY
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