

**shíshálh Nation / British Columbia**

**FOUNDATION AGREEMENT**



**shíshálh Nation**



**BRITISH  
COLUMBIA**

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# shíshálh Foundation Agreement

Dated October 4, 2018

## BETWEEN:

**Her Majesty the Queen in Right of the Province of British Columbia**, as represented by the Premier, the Minister of Indigenous Relations and Reconciliation, and the Minister of Forests, Lands, Natural Resource Operations and Rural Development

(the “**Province**”)

## AND:

**Sechelt Indian Band**, established under the *Sechelt Indian Band Self-Government Act*, on behalf of itself and shíshálh people, as represented by the hiwus (Chief) and Council

(“**shíshálh Nation**”)

(individually a “Party” and collectively the “Parties”)

## WHEREAS:

- A. shíshálh people have a unique relationship to and connection with the land and resources throughout the shíshálh swiya, which are important to shíshálh Nation’s community, culture, health and future, and to the maintenance of shíshálh Nation’s governance, laws and economy;
- B. The Supreme Court of Canada in *Tsilhqot’in Nation v British Columbia*, 2014 SCC 44, found that the Tsilhqot’in Nation had established Aboriginal title in British Columbia;
- C. The Province recognizes that shíshálh Nation’s Title and Rights exist in the shíshálh swiya, and it is in our respective interests to continue to foster a deeper collaborative relationship in relation to the land, resources, and economic development opportunities within the shíshálh swiya, and to ensure that shíshálh Nation’s right to self-determination, including the inherent right of self-government, is realized;

- D. The Province introduced Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples on May 22, 2018 to help guide the Province on a path of respect, partnership and collaboration, as the Province implements the UN Declaration and the Truth and Reconciliation Commission of Canada's Calls to Action;
- E. The UN Declaration is a statement of the rights that are necessary for the survival, dignity and well-being of Indigenous peoples around the world. Among other things, the UN Declaration recognizes the right to self-determination and self-government, and to the preservation, practice and revitalization of Indigenous cultures and traditions;
- F. The UN Declaration provides that states shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploration of mineral, water or other resources;
- G. Implementation of the UN Declaration requires transformative change in the Province's relationship with Indigenous people, including with shíshálh Nation;
- H. The Province is committed to true, lasting reconciliation with shíshálh Nation through a renewed Government-to-Government relationship based on recognition of rights, respect, cooperation and partnership, and as part of that commitment will be fully adopting and implementing the UN Declaration, the Calls to Action of the Truth and Reconciliation Commission, and the Supreme Court of Canada's decision in *Tsilhqot'in Nation*;
- I. The Province is looking for new, different and creative ways to collaboratively implement Aboriginal title and other Aboriginal rights, and has empowered its representatives to work with Indigenous communities, including shíshálh Nation, to explore all interests and topics to find potential solutions to the problems that have led to conflict in the past;
- J. Building on and in furtherance of the Reconciliation Agreement and Government-to-Government Agreement that we signed in 2016, we are interested in furthering reconciliation through forms of shared decision-making, clarifying the relationship between shíshálh laws and jurisdiction and the Province's laws and jurisdiction, revenue-sharing, and other initiatives and are committed to advancing this work in a respectful, open, principled, pragmatic and collaborative way;
- K. We understand that now is the time for a history-making shift and that this Foundation Agreement represents an opportunity to create a better future for all residents of the shíshálh swiya.

## **THEREFORE WE AGREE AS FOLLOWS:**

### **PART 1 – PURPOSE**

- 1.1 The purpose of this Foundation Agreement is to:
- (a) establish a long-term relationship between shíshálh Nation and the Province through which substantial progress in reconciliation consistent with section 35(1) of the *Constitution Act, 1982* and the UN Declaration will be advanced;
  - (b) set out the Province's commitment to provide Immediate Measures to shíshálh and identify Milestones that we will strive to achieve over a longer term;
  - (c) set out processes that use longer-term, flexible, progressive and dynamic approaches for building and meeting shared aspirations for positive and strong individual, community, cultural, environmental and economic outcomes; and
  - (d) allow for transformative change in the relationship between the Province and shíshálh Nation to take place in a staged, structured, and shared manner that is transparent, includes all critical stakeholders and the public as required, and allows for learning to occur as that relationship unfolds over time.

### **PART 2 - STRUCTURE OF THIS FOUNDATION AGREEMENT**

- 2.1 Our commitments and aspirations under this Foundation Agreement are set out as follows:
- (a) Joint Vision and Principles - Part 3;
  - (b) Immediate Measures - Part 4; and
  - (c) Milestones - Part 5.
- 2.2 Part 3 of this Foundation Agreement identifies:
- (a) our joint vision related to transforming our relationship; strengthening shíshálh community and culture; building the economy and stewarding the environment within the shíshálh swiya; and building partnerships; and
  - (b) key principles that we agree will guide our conduct in implementing this Foundation Agreement.
- 2.3 Part 4 of this Foundation Agreement identifies Immediate Measures we will take to begin achieving our joint vision that will tangibly demonstrate a new and collaborative path of reconciliation and build momentum between us to:

- (a) move towards new modes of interaction and partnership with each other;
- (b) provide increased economic and social opportunities for shíshálh Nation;
- (c) advance environmental stewardship in the shíshálh swiya;
- (d) clarify the relationship between shíshálh laws and jurisdiction and the Province's laws and jurisdiction; and
- (e) advance a climate of predictability in the shíshálh swiya.

2.4 Part 5 of this Foundation Agreement identifies the Milestones which we will work to achieve throughout the life of this Foundation Agreement to:

- (a) advance collaboration on issues of governance and the recognition and progressive implementation of shíshálh Nation's Title and Rights;
- (b) address core issues that are vital to the economic, environmental, cultural, community and individual well-being of shíshálh people;
- (c) continue to clarify the relationship between shíshálh laws and jurisdiction and the Province's laws and jurisdiction; and
- (d) develop new ways of shíshálh Nation and the Province working together.

2.5 The following Schedules are attached to, and form part of, this Foundation Agreement:

- **Schedule A** Map of the shíshálh swiya
- **Schedule B** Part 1 and Part 2 – Map of Gravel Lands  
Part 3 – Map of DL 1592 Lands
- **Schedule C** Maps of Other Lands  
  
Part 1 – Block B Parcel  
  
Part 2 – BCTFA Lands  
  
Part 3 – Golf Course Parcel  
  
Part 4 – Saltery Bay Sub-Station Lands  
  
Part 5 – shíshálh swiya and Sunshine Coast Natural Resource District
- **Schedule D** Maps of Foreshore Areas

- **Schedule E** Interim Forestry Revenue Sharing
- **Schedule F** shíshálh Nation's Forestry Tenure Payment Calculation
- **Schedule G** Forest Licensee Engagement Table
- **Schedule H** Shared Decision-Making Process
- **Schedule I** Terms of Reference for Solutions Forum
- **Schedule J** Terms of Reference for Socio-Cultural Table
- **Schedule K** Forestry Milestones
- **Schedule L** Natural Resources Milestones
- **Schedule M** Lands and Tenures Milestones
- **Schedule N** Governance and Jurisdiction Milestones
- **Schedule O** Socio-Cultural Milestones
- **Schedule P** General Provisions
- **Schedule Q** Interpretation and Definitions

## **PART 3 - JOINT VISION AND PRINCIPLES**

### **Joint Vision**

3.1 We share the joint, long-term vision and aspirations set out in this Part which we intend to realize through this Foundation Agreement.

### **A Transformed Relationship**

3.2 We acknowledge that shíshálh people are Aboriginal peoples of Canada who have contributed immensely to society at large, and we will work together to enable and enhance those contributions for generations to come.

3.3 We acknowledge the Province's commitment to take an active role in enabling the exercise of the rights of Indigenous peoples as enshrined in the UN Declaration, and in adopting and implementing the UN Declaration, and we will work together to implement related measures within the shíshálh swiya, including building processes aimed at securing consent.

- 3.4 We will systematically move away from an adversarial relationship to a true partnership that encourages collaboration and joint problem-solving. We both seek to avoid paths of conflict.
- 3.5 We are committed to taking multiple and diverse steps to transform and evolve our relationship with each other and for all people, organizations, and communities in the shíshálh swiya over the long term. Through this transformed relationship, we will systematically advance individual, community, cultural, environmental and economic well-being.
- 3.6 The work of transforming our relationship will take place progressively and dynamically through flexible approaches. We acknowledge that this requires tangible action and measures, immediately and over the longer term. Through this relationship we will foster peace, predictability, and prosperity.
- 3.7 As part of the transformation of our relationship, our Senior Representatives will meet annually to jointly review any reports that may be prepared by the Relationship and Implementation Forum under section 4.34(e) discuss how to improve our relationship, and address any issues arising in relation to the implementation of this Foundation Agreement.
- 3.8 Our joint vision includes shíshálh Nation having the resources required to meet its responsibilities as a government, and to support the movement of shíshálh Nation towards greater economic self-sufficiency.

### **Strengthening Community and Culture**

- 3.9 To support the revitalization of shíshálh Nation's culture and community, our shared goals are to ensure that:
  - (a) shíshálh Nation's culture and language continue to thrive;
  - (b) shíshálh people, for generations to come, remain deeply connected with their community and rooted in their identity as shíshálh people;
  - (c) we achieve standards of living for shíshálh people on par with or exceeding non-Indigenous communities, including standards related to housing, infrastructure, roads, education, participation in the economy, well-being, health, access to safe drinking water, and recreation opportunities for youth; and
  - (d) shíshálh Nation can achieve economic self-sufficiency in order to support and maintain the well-being of, and maintain healthy standards of living for, shíshálh people.

- 3.10 To achieve our joint goals, we will take a collaborative, innovative, and progressive approach to design and implement appropriate and adequate social and health services, community-based and culturally appropriate education and training opportunities, language programs, housing and infrastructure, and measures for the exercise of shíshálh Nation's laws, jurisdiction and government responsibilities.

### **Building the Economy and Stewarding the Environment**

- 3.11 Areas and resources in the shíshálh swiya are vital to shíshálh peoples' way of life, and hold economic, social, cultural, and spiritual importance for shíshálh Nation and shíshálh people. At the same time, the shíshálh swiya is the home for many who have chosen to live and work there. Through reconciliation, our goals are to:
- (a) achieve a strong and sustainable economy for the region, in which shíshálh Nation is a major participant;
  - (b) ensure that the lands and resources in the shíshálh swiya are managed and used in ways that are respectful of, and align with, the cultural, ecological, and social values critical for shíshálh people, as well as the values shared by all residents in the shíshálh swiya; and
  - (c) strengthen the ways in which all governments and residents in the shíshálh swiya can collaborate and build common approaches to stewarding the land and resources in the shíshálh swiya.
- 3.12 Strengthening the economy in ways that provide significant roles for shíshálh Nation and steward the shíshálh swiya will be achieved through efforts to:
- (a) align values and objectives for the use of lands and resources in the shíshálh swiya;
  - (b) align how decisions are made regarding lands and resources in the shíshálh swiya through predictable and transparent decision-making regimes; and
  - (c) clarify the relationship between shíshálh laws and jurisdiction and the Province's laws and jurisdiction.

### **Building Partnerships**

- 3.13 The work of reconciliation cannot be done between us alone. We have approached Canada to be a part of this work, and we will jointly encourage Canada to join us in implementing the joint vision set out under this Foundation Agreement.
- 3.14 Individuals, communities, organizations and industry throughout the shíshálh swiya will have roles to play to support the work under this Foundation Agreement and will be engaged in various ways throughout the life of this Foundation Agreement, including building understandings in relation to the work being done together through this Foundation Agreement.



## Principles

- 3.15 The success of this Foundation Agreement will require an effort from us that is, on the one hand, inventive, bold and courageous and, on the other hand, systematic, timely and disciplined. To that end, we agree that our respective officials, representatives and teams will:
- (a) act honestly with one another, based on trust and respect for each other's perspectives and constraints;
  - (b) be mindful, always, of the ongoing legacies of colonialism that have had destructive impacts on Indigenous peoples' education, cultures and languages, health, child welfare, governance, administration of justice, and economic opportunities and prosperity;
  - (c) endeavour to engage in new ways of thinking with a view to creating a more equitable and inclusive society by closing the gaps in social, health, and economic outcomes that exist between Indigenous and non-Indigenous Canadians;
  - (d) apply a "solutions-oriented" approach to all discussions, negotiations and the implementation of this Foundation Agreement; and
  - (e) deepen awareness of and respect for shíshálh Nation's culture and way of life and understanding of the shíshálh people.

## PART 4 - IMMEDIATE MEASURES

- 4.1 We will implement the Immediate Measures set out in Part 4 of this Foundation Agreement within five years of the Effective Date.

### Gravel Lands

- 4.2 As soon as practicable after the Effective Date the Province will transfer fee simple title to the Gravel Lands, including the gravel on and under the Gravel Lands, in accordance with the Land Transfer Agreement.

### DL 1592

- 4.3 As soon as practicable after the Effective Date, the Province will transfer fee simple title to the DL 1592 Lands in accordance with the Land Transfer Agreement.

### BCTFA Lands

- 4.4 Under section 8.1 of the Land Transfer Agreement, the BC Transportation Finance Authority has agreed to determine whether or not the BCTFA Lands should be declared surplus to its purposes under the *Transportation Act* within three years of the Effective Date, or such other date as may be agreed to among the BC Transportation Finance Authority, the Province and shíshálh Nation.

- 4.5 If the BCTFA Lands are declared surplus within three years of the Effective Date, then the Province will negotiate and attempt to reach an agreement:
- (a) with the BC Transportation Finance Authority on a purchase agreement to acquire the BCTFA Lands for fair market value and, subject to concluding that acquisition, transfer the BCTFA Lands to shíshálh Nation in accordance with the Land Transfer Agreement; or
  - (b) with shíshálh Nation on a contribution agreement that would enable shíshálh Nation to purchase the BCTFA Lands for fair market value directly from the BC Transportation Finance Authority in accordance with the terms and conditions of an agreement to purchase that shíshálh Nation and the BC Transportation Finance Authority may conclude.
- 4.6 If the BCTFA lands have not been declared surplus by the BC Transportation Finance Authority within three years of the Effective Date, then in the event that the BCTFA Lands are declared surplus at any time in the future during the term of this Foundation Agreement, the Province will negotiate and attempt to reach an agreement:
- (a) with the BC Transportation Finance Authority on a purchase agreement to acquire the BCTFA Lands for fair market value and, subject to concluding that acquisition, enter into an agreement with shíshálh Nation on substantially the same terms as the Land Transfer Agreement to transfer the BCTFA Lands to shíshálh Nation; or
  - (b) with shíshálh Nation on a contribution agreement that would enable shíshálh Nation to purchase the BCTFA Lands for fair market value directly from the BC Transportation Finance Authority in accordance with the terms and conditions of an agreement to purchase that shíshálh Nation and the BC Transportation Finance Authority may conclude
- 4.7 We acknowledge that the agreements of the Province under sections 4.5 and 4.6 are subject to the Province obtaining required financial mandates and approvals.

### **Block B Parcel**

- 4.8 Within five years of the Effective Date, we will negotiate and attempt to conclude an agreement that will provide for the transfer of the Block B Parcel to shíshálh Nation or to a Designated Company.
- 4.9 The agreement we will negotiate and attempt to conclude under section 4.8 will include terms and conditions substantially the same as those set out in the Land Transfer Agreement relating to the transfer of the Gravel Lands, including provisions addressing:
- (a) existing third party interests, including, if applicable, sand and gravel quarrying licence number 241793;

- (b) permitted encumbrances as agreed to by shíshálh Nation and the Province;
  - (c) the exclusion and grant of statutory rights-of-way for roads and utility infrastructure as agreed to by shíshálh Nation and the Province;
  - (d) the potential relocation of existing roads; and
  - (e) the environmental condition of the parcel.
- 4.10 We acknowledge that the agreement of the Province under section 4.9 to negotiate and attempt to reach an agreement regarding the transfer of the Block B Parcel is subject to the Province obtaining required financial mandates and approvals.

### **Golf Course Lands**

- 4.11 We will work with the District of Sechelt to transfer fee simple title to the Golf Course Parcel to shíshálh Nation as set out in the Golf Course Letter.
- 4.12 If the Golf Course Parcel cannot be transferred to shíshálh Nation, we will attempt to reach agreement on alternate lands or benefits to be transferred to shíshálh Nation.
- 4.13 If, by February 28, 2021, the Golf Course Parcel has not been transferred to shíshálh Nation or we are unable to reach agreement on alternate lands to be transferred to shíshálh Nation, the Province will, on or before March 31, 2021, provide shíshálh Nation with the equivalent cash value of the Golf Course Parcel in accordance with the Golf Course Letter.

### **Residential Lands**

- 4.14 The Province acknowledges the importance to shíshálh Nation of addressing shíshálh peoples' current housing needs as an Immediate Measure and shíshálh Nation's view that the provision of the Residential Lands and, if necessary, funds to acquire alternate private lands to make up any shortfall in the Residential Lands quantum, are critical to the successful implementation of this Foundation Agreement.
- 4.15 Within 18 months of the Effective Date, we will work together to attempt to identify 80 hectares of provincial Crown land within the shíshálh swiya suitable for the Residential Lands.
- 4.16 If suitable provincial Crown lands are identified under section 4.15, we will negotiate and attempt to conclude an agreement within two years of the Effective Date to transfer those provincial Crown lands to shíshálh Nation within five years of the Effective Date.
- 4.17 If suitable provincial Crown lands are not identified, or less than 80 hectares of provincial Crown land are identified under section 4.15, we will, within 18 months of the Effective Date, work together to identify alternate private lands that may be available on a willing seller-willing buyer basis to make up any shortfall in the Residential Lands quantum.

- 4.18 If alternate private lands are identified under section 4.17, we will negotiate and attempt to conclude a contribution agreement within two years of the Effective Date to provide shíshálh Nation with the funds required to purchase the identified private lands on a fair market value basis within five years of the Effective Date.
- 4.19 Given that as of the Effective Date the Residential Lands have not been identified and agreed to, we acknowledge that we will require applicable mandates and approvals to transfer and to accept the transfer of the Residential Lands or, if applicable, to conclude a contribution agreement to provide the funding to acquire the identified private lands.

### **Nelson Island Land Payment**

- 4.20 The Province will provide shíshálh Nation with a cash payment of **\$900,000** as soon as practical after the Effective Date to enable shíshálh Nation to work with BC Hydro to purchase the Nelson Island Lands.

### **Lands Status**

- 4.21 We will jointly seek to engage with Canada to attempt to establish within five years of the Effective Date a tripartite process to add lands transferred under this Foundation Agreement to Sechelt Lands and to discuss the potential recognition and establishment of those lands as another agreed-to form of land ownership, including Aboriginal title lands.
- 4.22 The Province acknowledges the importance to shíshálh Nation of fully implementing its self-government arrangements under the *Sechelt Indian Band Self Government Act* S.C. 1986, c. 27 and confirms its support, in principle, for the addition of the Gravel Lands, DL 1592 Lands, the lands transferred pursuant to the Reconciliation Agreement and any other lands transferred pursuant to this Foundation Agreement to Sechelt Lands, subject to us and Canada working together to address our respective interests associated with the additions, including:
- (a) access on and over the lands;
  - (b) access to and maintenance of public utility infrastructure on and near the lands;
  - (c) local government fiscal and service delivery implications associated with the addition;
  - (d) the application of applicable environmental and safety standards being met in relation to the regulation of gravel extraction; and
  - (e) such other interests as either of us may identify.

- 4.23 The Province acknowledges that, notwithstanding the terms and conditions of the Land Transfer Agreement, it is a goal of shíshálh Nation to have the exceptions and reservations established under section 50 of the *Land Act* R.S.B.C. 1996, c. 245 not apply to the Gravel Lands, the DL 1592 Lands or any other lands that may be transferred to shíshálh Nation under this Foundation Agreement and, as part of the tripartite process that may be established under section 4.21, we will explore the status and ongoing need for those exceptions and reservations.

## Tenures

- 4.24 The Province will work with shíshálh Nation to identify foreshore areas within the areas fronting Sechelt Lands and shíshálh Nation-owned fee simple parcels as shown in Schedule D and recommend that the responsible Minister withdraw the identified areas from disposition under section 16 or 17 of the *Land Act* R.S.B.C. 1996, c.245 as appropriate.
- 4.25 The Province will work with shíshálh Nation to identify, and assist it to apply for, water licences for both domestic purposes and hydro-electric power generation purposes within the shíshálh swiya.
- 4.26 The Province will work with shíshálh to facilitate the transfer of the Vacant Trapline Licences to shíshálh Nation designates and to explore the reactivation of the Abandoned Trapline Licences.
- 4.27 The Resource Management Table will work to develop a process to identify, manage and potentially transfer vacant trapline licences and outfitter guide licences to shíshálh Nation or its designates.

## Forestry

- 4.28 Over the first five years of the term of this Foundation Agreement, we will work to attempt to increase the share of the volume of timber that may be harvested under replaceable tenures issued to shíshálh Nation, or entities owned or controlled by shíshálh Nation, to 210,000 cubic meters, representing approximately 35% of the annual allowable cut within the shíshálh swiya.
- 4.29 To increase shíshálh Nation's participation in the forest economy in the shíshálh swiya, the Province will provide shíshálh Nation with the interim forestry revenue sharing payments set out in Schedule E.
- 4.30 In connection with the goal set out in section 4.28, to enable shíshálh Nation to purchase replaceable timber volume within the shíshálh swiya on a willing-seller willing-buyer basis, or for such other economic development purposes as shíshálh Nation determines, the Province will provide shíshálh Nation with the following payments:
- (a) **\$2.5 million**, payable as soon as practicable after the Effective Date;

- (b) **\$2.5 million**, within each of the four Fiscal Years following the Effective Date, payable as soon as practicable after receipt of the annual report required under section 30(c) of Schedule P for the applicable prior Fiscal Year; and
  - (c) an amount determined in accordance with Schedule F, within the fifth Fiscal Year after the Effective Date, payable as soon as practicable after receipt of the annual report required under section 30(c) of Schedule P for the prior Fiscal Year.
- 4.31 The calculation and the resulting payment amount set out in Schedule F are confidential in nature and may not be disclosed except as provided for in accordance with Schedule F.
- 4.32 We acknowledge that in furtherance of the goal in section 4.28, we have entered into or will enter into the following agreements:
- (a) a Forestry Tenure Opportunity Agreement dated March 31, 2018;
  - (b) a Strategic Forestry Initiative Agreement dated April 3, 2018; and
  - (c) the following agreements with B.C. Timber Sales:
    - (i) Relationship Agreement;
    - (ii) Disposition Agreement; and
    - (iii) Collaborative Management Agreement.

### **Government-to-Government Structures**

#### **k'ats'awattsut kwe stexwnixws kwe slatsemats tems slelattsut (Solutions Forum)**

- 4.33 We will continue the Solutions Forum created pursuant to the Government-to-Government Agreement as a forum under this Foundation Agreement in accordance with Schedule I, to address:
- (a) Strategic Issues that may arise during the implementation of this Foundation Agreement;
  - (b) Disputes referred to dispute resolution in accordance with sections 6.4 to 6.10;
  - (c) issues arising in relation to the proposed exclusion of Authorizations from the Shared Decision-Making Process in accordance with sections 4.56 and 4.59(a);
  - (d) issues arising at the Forest Licensee Engagement Table in accordance with sections 4.1 and 4.2 of Schedule G;

- (e) issues arising pursuant to the Shared Decision-Making Process in accordance with sections 3.4 and 4.3 of Schedule H;
- (f) issues arising in relation to any proposed termination of this Foundation Agreement in accordance with sections 34 to 41 of Schedule P;
- (g) issues arising in relation to shíshálh Nation proposing to initiate or participate in any Legal Proceeding in accordance with section 16 of Schedule P;
- (h) issues arising in relation to shíshálh Nation proposing to take any further steps in the Title Litigation in accordance with section 17 of Schedule P;
- (i) issues arising in relation to the Province proposing to suspend any benefits under this Foundation Agreement in accordance with section 19 of Schedule P; and
- (j) any such other matters as we may agree.

**k'ats'awattsut kwe stexwnixws kwe sxetalstxws te ?ewkw'stam (Relationship and Implementation Forum)**

4.34 We will establish a bilateral Relationship and Implementation Forum comprised of two representatives from each Party to oversee the implementation of this Foundation Agreement, including to:

- (a) oversee implementation and monitoring of the forestry, land use planning, resource management, socio-cultural, and land transfer commitments set out in this Foundation Agreement;
- (b) oversee implementation of the Shared Decision-Making Process;
- (c) oversee the exploration of consent-based decision-making processes in accordance with sections 4.73 and 4.74;
- (d) explore and discuss potential opportunities to implement shíshálh Nation exclusive decision-making in specific areas as a future Milestone in accordance with this Foundation Agreement;
- (e) review this Foundation Agreement annually and, unless the Relationship and Implementation Forum otherwise agrees, provide annual joint reports to the Senior Representatives on the status of the implementation of this Foundation Agreement;
- (f) coordinate the negotiation of agreements in respect of the Milestones identified in Part 5 of this Foundation Agreement;
- (g) oversee the implementation of any agreements that we may reach in respect of the Milestones identified in Part 5 of this Foundation Agreement;

- (h) discuss how engagement will occur with respect to the on-line filing of mineral claims within the shíshálh swiya under the *Mineral Tenure Act*, RSBC 1996, c. 292;
  - (i) coordinate the participation of shíshálh Nation in any review of provincial laws or policies that the Province may undertake to ensure the alignment of those laws and policies with the UN Declaration;
  - (j) attempt to address Strategic Issues in accordance with section 6.2;
  - (k) attempt to resolve Disputes in accordance with sections 6.5 and 6.6;
  - (l) undertake public engagement with other levels of government, industry and other stakeholders as required to implement this Foundation Agreement; and
  - (m) undertake any work that is necessary to implement this Foundation Agreement that is not assigned to the Board or any table created under this Foundation Agreement.
- 4.35 The Relationship and Implementation Forum will strive to operate by consensus and may develop meeting rules and procedures to guide its operations.
- 4.36 To assist it in carrying out its responsibilities, the Relationship and Implementation Forum may, by consensus, agree to bring additional representatives to meetings as may be required, establish working groups, or identify individual leads to report to the Relationship and Implementation Forum in respect of any activity contemplated under this Foundation Agreement.

#### **kwenamtawlh kwe stsxwinamstxws (Shared Decision-Making Board)**

##### ***Establishment and Roll-Out of Shared Decision-Making Process***

- 4.37 We will establish a Shared Decision-Making Process in relation to Applications in the shíshálh swiya in accordance with sections 4.38 to 4.60 and Schedule H.
- 4.38 The Shared Decision-Making Process will establish a new way of co-operating between shíshálh and the Province that will:
- (a) move towards a more holistic, shared and transparent process where there is equal accountability;
  - (b) enhance and develop a working relationship between us that is based on trust and respect for each other's perspectives and constraints;
  - (c) improve the efficiency and harmony of engagement between us in relation to resource development decisions;
  - (d) be a consensus-building space for land and resource decisions in the shíshálh swiya that are subject to the Shared Decision-Making Process; and



- (e) build process predictability in the shíshálh swiya.
- 4.39 Unless we otherwise agree, the Shared Decision-Making Process will apply to:
- (a) Forestry Decisions, immediately upon the Effective Date;
  - (b) decisions on Dock Tenures, within three months of the Effective Date;
  - (c) decisions on other Authorizations in addition to those in sections 4.39(a) and (b) made by the provincial Ministry of Forests, Lands, Natural Resource Operations and Rural Development, by the second anniversary of the Effective Date; and
  - (d) all other Authorizations in addition to those set out in sections 4.39(a), (b) and (c), by the fourth anniversary of the Effective Date.
- 4.40 As soon as practicable after the Effective Date and no later than six months prior to the applicable anniversary date set out in sections 4.39(c) and (d), the Relationship and Implementation Forum will meet to discuss the process for bringing the Authorizations referenced in those subsections respectively into the Shared Decision-Making Process.
- 4.41 If one of us wishes to exclude specific types of Authorizations set out in sections 4.39(c) or (d) from the Shared Decision-Making Process, our respective representatives on the Relationship and Implementation Forum will advise the Relationship and Implementation Forum accordingly.
- 4.42 If the Relationship and Implementation Forum agrees to exclude any of the Authorizations identified by our respective representatives pursuant to section 4.41, those Authorizations will be excluded from the Shared Decision-Making Process, unless we agree to include those Authorizations in the Shared Decision-Making Process at a later date.
- 4.43 If the Relationship and Implementation Forum does not agree to the proposed exclusion of any Authorizations identified pursuant to section 4.41:
- (a) we will refer the issue of whether those Authorizations should be excluded from the Shared Decision-Making Process to the Solutions Forum for resolution;
  - (b) if the Solutions Forum cannot resolve the issue, the Solutions Forum will refer the issue to our Senior Representatives for resolution; and
  - (c) if our Senior Representatives cannot resolve the issue, the Authorizations at issue will be excluded from the Shared Decision-Making Process, unless we agree to include those Authorizations in the Shared Decision-Making Process at a later date.

4.44 We acknowledge that:

- (a) the exclusion of Authorizations from the Shared Decision-Making Process under section 4.42 or 4.43 will require us to amend this Foundation Agreement or enter into a related side-agreement accordingly; and
- (b) section 4.44(a) does not limit us from agreeing to revise the Shared Decision-Making Process for different types of Applications and, where we reach such agreement, we will amend this Foundation Agreement or enter into a related side-agreement accordingly.

***Board and Working Group***

4.45 Within ten Business Days of the Effective Date, we will establish a Board comprised of at least two and no more than three members appointed by shíshálh Nation and at least two and no more than three members appointed by the Province, to:

- (a) review Applications and make Recommendations; and
- (b) undertake the activities and functions identified in sections 4.50, 4.51 and Schedule H of this Foundation Agreement.

4.46 Within ten Business Days of the Effective Date, we will also establish a Working Group comprised of at least two and no more than three members appointed by shíshálh Nation and at least two and no more than three members appointed by the Province, to:

- (a) conduct an initial review and provide its initial assessment of Applications to the Board in accordance with Schedule H; and
- (b) undertake the other activities and functions identified in Schedule H.

4.47 We may each appoint different representatives to the Board or Working Group as we each consider necessary to deal with Applications from different resource sectors.

4.48 We may each identify alternates to serve in the place of any of our respective appointees to the Board or Working Group who may be temporarily unavailable to attend meetings or perform their Board or Working Group responsibilities.

4.49 Each of us will be responsible for the cost of implementing our respective obligations under the Shared Decision-Making Process, including all costs associated with the participation of our respective appointees to the Board and the Working Group.

4.50 The Board and Working Group will be responsible for developing their respective policies and rules of procedure in a manner consistent with this Foundation Agreement.

### ***Annual Review***

- 4.51 Unless the Board otherwise agrees, the Board will meet annually to review the Shared Decision-Making Process in light of the performance criteria and metrics agreed upon by the Board from time to time and will consider how the Shared Decision-Making Process may be improved or re-designed to create additional efficiencies or resolve any issues that may have arisen with respect to the operation of the Shared Decision-Making Process and how this Foundation Agreement may be amended accordingly.
- 4.52 We acknowledge that the full, effective and successful implementation of the Shared Decision-Making Process will require innovation, learning and new understandings. Our mutual goal in implementing the Shared Decision-Making Process is to continue to strengthen our relationship to allow us to continue collaboration into the future on the path laid out in this Foundation Agreement.

### ***Suspension***

- 4.53 To help support the successful implementation of the Shared Decision-Making Process, where a demonstrable pattern of significant challenges arises in implementing the Shared Decision-Making Process in relation to specific types of Applications, which creates a climate of serious conflict between us, we wish to ensure that there is a mechanism for us to suspend the operation of the Shared Decision-Making Process in relation to those specific types of Applications and a process to seek to address the challenges.
- 4.54 If one of us is of the view that the Shared Decision-Making Process should be suspended for specific types of Applications, due to the challenges and conflict referenced in section 4.53, that Party may provide notice in writing to the other Party advising of its intention to suspend the Shared Decision-Making Process for those specific types of Applications within 45 Business Days.
- 4.55 The notice under section 4.54 must provide detailed written reasons why the Party is of the view that a demonstrable pattern of challenges exists in the Shared Decision-Making Process in relation to the specific types of Applications that has given rise to a climate of serious conflict.
- 4.56 Within 10 Business Days of a notice being provided by one of us pursuant to section 4.54, the Solutions Forum must meet to discuss the issues raised in the notice, including our respective views on whether there is a demonstrable pattern of challenges in relation to a specific type of Application that has given rise to a climate of serious conflict.
- 4.57 For greater certainty, the following are not valid grounds for suspension of the Shared Decision-Making Process:
- (a) disagreement or divergence between us in relation to our respective decisions on specific Applications;

- (b) disagreement or divergence between us in relation to decisions on one, or an insignificant number of, specific Applications; or
- (c) timelines for review of specific types of Applications.

4.58 Once the Solutions Forum has completed its meetings pursuant to section 4.56:

- (a) the Party that provided the notice will provide final written notice to the other Party indicating whether or not it is suspending the Shared Decision-Making Process in relation to the specific types of Applications identified in the notice provided under section 4.54; and
- (b) if the Party indicates in its final written notice that it is suspending the Shared Decision-Making Process in relation to the specific types of Applications identified in the notice provided under section 4.54, the Shared Decision-Making Process will be suspended for those Applications effective as of the end of the 45-Business-Day notice period.

4.59 Where the Shared Decision-Making Process has been suspended in relation to specific types of Applications pursuant to section 4.58, we will:

- (a) refer the suspension issue to the Solutions Forum, with a view to addressing the reasons for the suspension so as to permit us to bring the specific types of Applications back into the Shared Decision-Making Process; and
- (b) meet to determine how to address:
  - i) the specific Applications that were in the process of being reviewed in accordance with the Shared Decision-Making Process when the process was suspended for those types of Applications; and
  - ii) the engagement process for additional Applications for which engagement will be required while the Shared Decision-Making Process for those specific types of Applications is suspended.

4.60 For greater certainty, nothing in sections 4.53 to 4.59 limits our respective rights, or the process, to terminate this Foundation Agreement pursuant to sections 34 to 41 of Schedule P.

**k'ats'awattsut kwe sninishinmitit te seysiyayem ?e shíshálh swiya (Forest Licensee Engagement Table)**

4.61 We will establish a Forest Licensee Engagement Table with participating Licensees as a tool for addressing both strategic and operational obstacles to collaborative relations and building a strong forestry economy in the shíshálh swiya, in accordance with Schedule G.

- 4.62 The Province will provide shíshálh Nation with **\$450,000** for the establishment and operation of the Forest Licensee Engagement Table as follows:
- (a) **\$200,000** payable as soon as practicable after the Effective Date; and
  - (b) **\$62,500** within each of the first, second, third and fourth Fiscal Years after the Effective Date, payable as soon as practicable after receipt of the annual report required under section 30(c) of Schedule P for the applicable prior Fiscal Year.

**k'ats'awattsut kwe sninishinmitit te syichams te shíshálh swiya (Land Use Planning Table)**

- 4.63 We acknowledge that the development of a joint land use plan for the shíshálh swiya would be of mutual benefit, advance reconciliation, advance collaborative management and contribute to predictability for all those living within the shíshálh swiya.
- 4.64 We acknowledge that prior to the Effective Date substantial information gathering and pre-planning work has already been undertaken that will contribute to the development of a joint land use plan for the shíshálh swiya, including:
- (a) the development by shíshálh Nation of the shíshálh land use plan; and
  - (b) the completion of studies, including in relation to archaeology and environmental values.
- 4.65 We will establish a Land Use Planning Table comprised of our respective technical representatives to undertake the following work:
- (a) compile and review the relevant studies and information identified in section 4.64(b);
  - (b) based on the studies and information compiled under section 4.65(a), identify agreed to information gaps that need to be addressed to assist in the development of a joint land use plan for the shíshálh swiya, including information and studies respecting:
    - i) ecosystem identification and mapping;
    - ii) contaminated site and area identification;
    - iii) forest annual allowable cut inventory;
    - iv) mineral and aggregate potential;
    - v) foreshore resource (habitat and marine life) inventory; and

- vi) such other information or study as the Land Use Planning Table may agree;
  - (c) develop and recommend to the Province terms of reference for the Province to commission the studies identified and agreed to under section 4.65(b), with the goal of having the agreed to studies completed within three years of the Effective Date; and
  - (d) using the base line studies and information compiled and commissioned under sections 4.65(b) and (c), develop and recommend to the Parties steps to be implemented to design and complete a joint land use planning process and to develop a draft joint land use plan for the shíshálh swiya for our respective review and approval.
- 4.66 We acknowledge that completion of a draft joint land use plan as soon as practicable is a mutual goal, and that specific timelines for completion, and the required approval of the land use plan by each of us, will be established based on agreed to recommendations from the Land Use Planning Table as it completes its work under section 4.65. We further acknowledge that the development, adoption, and approval by each of us of a joint land use plan may take place in stages, with some elements of the plan, or initiatives related to the plan, being adopted and implemented by our mutual agreement prior to the full completion of the studies undertaken pursuant to section 4.65 or the full completion of the plan.
- 4.67 The Land Use Planning Table will develop a public engagement and information sharing process in respect of its work and the development of the draft joint land use plan will include public and stakeholder engagement.
- 4.68 The Land Use Planning Table will set its own operating procedures and meeting schedule.

**k’ats’awattsut kwe sninishinmitit te ʔewkw’ sʔayʔiy ni ʔe tems swiya**  
**(Resource Management Table)**

- 4.69 We will establish a Resource Management Table that will make recommendations to shíshálh Council and relevant provincial ministries or agencies on processes for the joint management of natural resources in the shíshálh swiya, including: fish and wildlife, hunting and fishing, aquaculture, and parks and conservancies.
- 4.70 Recommendations under section 4.69 may include joint compliance and enforcement mechanisms.

**k’ats’awattsut kwe skwennexws she tala kwe skwenamts te shíshálh** (Socio-Cultural Table)

- 4.71 We will establish a Socio-Cultural Table comprised of at least two, and no more than three, representatives with social cultural expertise from each Party.

4.72 The terms of reference for the Socio-Cultural Table are set out in Schedule J.

### **Evolution of shíshálh Nation Self-Government**

4.73 We acknowledge that the evolution and implementation of shíshálh Nation's inherent right of self-government, as expressed in the UN Declaration, is a fundamental aspect of advancing reconciliation between us, and we agree to:

- (a) work collaboratively to further identify and define the relationship between shíshálh Nation laws and jurisdiction and the Province's laws and jurisdiction;
- (b) support shíshálh Nation's governance, including strengthening shíshálh Nation's political, social, cultural, and economic structures in accordance with this Foundation Agreement; and
- (c) explore, design and implement agreed-to models of consent-based decision-making and the operationalization of the standard of free, prior, and informed consent as expressed in the UN Declaration.

4.74 In addition to establishing the Board, Land Use Planning Table, Resource Management Table and Socio-Cultural Table, we will work together to support the evolution and implementation of shíshálh Nation's inherent right of self-government as contemplated under section 4.73 through the following additional initiatives:

- (a) within 18 months of the Effective Date, we will negotiate and attempt to reach agreement on consent-based decision-making initiatives that can be implemented in relation to land and resource decisions in the shíshálh swiya under existing provincial and shíshálh Nation laws as part of further operationalizing the principle of free, prior, and informed consent;
- (b) we will discuss other consent-based decision-making initiatives in relation to land and resource decisions in the shíshálh swiya that we may agree to implement that would require legislative and regulatory amendments to implement and, if such amendments are made, negotiate and attempt to reach agreement on those additional consent-based decision-making initiatives;
- (c) shíshálh Nation will conduct a self-government needs assessment and develop a work plan to identify its priorities for the evolution of shíshálh Nation's model of self-government, including the continued rebuilding of shíshálh Nation's political, social, cultural and economic structures;
- (d) as soon as practicable after the completion of the work plan identified in section 4.74(c), we will determine which priorities set out in the work plan we mutually share and which of those shared priorities could be met through the Milestones, or whether additional initiatives should be jointly designed and implemented in order to achieve the mutually shared priorities set out in the work plan; and

- (e) we will jointly endeavour to engage and include the federal government in implementing this section of the Foundation Agreement as may be appropriate and necessary.

### **Law and Policy Review**

- 4.75 The Relationship and Implementation Board will discuss how engagement with respect to the on-line filing of mineral claims within the shíshálh swiya under the *Mineral Tenure Act* R.S.B.C. 1996, c. 292 may occur.
- 4.76 The Province will ensure that shíshálh Nation is included in any provincial process that may be established to review and amend provincial laws, regulations and policies to ensure alignment with the UN Declaration.

### **Social, Culture, and Community**

- 4.77 The Relationship and Implementation Board will identify and recommend geographical features and locations within the shíshálh swiya to be re-named with shíshálh Nation place names within five years of the Effective Date.
- 4.78 The Relationship and Implementation Board will identify and recommend the installation of highway and road signage with shíshálh Nation place names within five years of the Effective Date.
- 4.79 The Province will provide a payment of **\$950,000** to shíshálh Nation as soon as practical after the Effective Date for socio-cultural or community initiatives to be identified by shíshálh Nation, such as:
  - (a) housing and infrastructure related initiatives, including identifying land options, community needs, and developing a housing strategy;
  - (b) youth programs;
  - (c) health gap analysis, including elder care;
  - (d) developing a strategic plan for cultural revitalisation and language; and
  - (e) funding for post-secondary education.
- 4.80 The Relationship and Implementation Forum will discuss future funding for other infrastructure-related priorities for shíshálh Nation, such as for a capital asset management plan and emergency preparedness. We understand that these discussions will be subject to Canada's participation.
- 4.81 We will attempt to address the Ministry of Education and shíshálh Nation funding dispute in relation to education funding.



## **Implementation Funding**

4.82 The Province will provide funding to shíshálh Nation in the amount of **\$5.15 million** for implementation of the Foundation Agreement, as follows:

- (a) **\$1.03 million** payable as soon as practicable after the Effective Date, and;
- (b) **\$1.03 million** in each of the four Fiscal Years after the Effective Date, payable as soon as practicable after receipt of the annual report required under section 30(c) of Schedule P for the applicable prior Fiscal Year.

For greater certainty, the payments under this section 4.82 are in addition to the amounts provided for elsewhere in this Foundation Agreement.

## **PART 5 - MILESTONES**

### **Identification of Milestones**

- 5.1 In this Part 5 and Schedules K to O, we have identified medium-term Milestones for negotiation between the fifth and tenth anniversaries of this Foundation Agreement, and long-term Milestones for negotiation between the tenth and 25<sup>th</sup> anniversaries of this Foundation Agreement.
- 5.2 We understand that the medium and long-term Milestones cannot be identified with as much detail as the Immediate Measures. We also acknowledge that we may change the Milestones through mutual agreement as circumstances and opportunities change, our relationship evolves and the UN Declaration is implemented. As a result, we will work together, through the implementation of this Foundation Agreement, to further define and negotiate the medium-term and long-term Milestones.
- 5.3 No later than the fourth anniversary of the Effective Date, and within every five year period thereafter, we will identify the priority Milestones that we will attempt to achieve in the next five-year period and will negotiate and attempt to conclude agreements directed at achieving those Milestones within the identified time frame.

### **Forestry**

- 5.4 Our Milestone priorities for forestry are identified in Schedule K.

### **Natural Resources**

- 5.5 Our Milestone priorities for natural resources are identified in Schedule L.

### **Lands and Tenures**

- 5.6 Our Milestone priorities for lands and tenure are identified in Schedule M.

## **Governance and Jurisdiction**

5.7 Our Milestone priorities for governance and jurisdiction are identified in Schedule N.

## **Socio-Cultural Well-being**

5.8 We agree that the development of medium and long-term measures will be responsive to the demographics and social needs of the shíshálh people.

5.9 Our Milestone priorities for socio-cultural well-being are identified in Schedule O.

## **Investments**

5.10 We recognize that reconciliation requires political will, as well as substantial investment of resources. One of the goals of this Foundation Agreement is to close the gaps in social, health and economic outcomes that exist between Indigenous and non-Indigenous Canadians.

## **PART 6 - OTHER MATTERS**

### **Federal Involvement**

6.1 We understand that ongoing reconciliation of our respective interests will require the involvement of Canada. Accordingly, we will endeavour to include Canada in our reconciliation efforts.

### **Strategic Issues**

6.2 In the event that a Strategic Issue arises, either of us may refer the Strategic Issue to the Relationship and Implementation Forum to discuss and attempt to resolve.

6.3 In the event the Relationship and Implementation Forum cannot resolve the Strategic Issue, the Strategic Issue will be referred to the Solutions Forum.

### **Dispute Resolution**

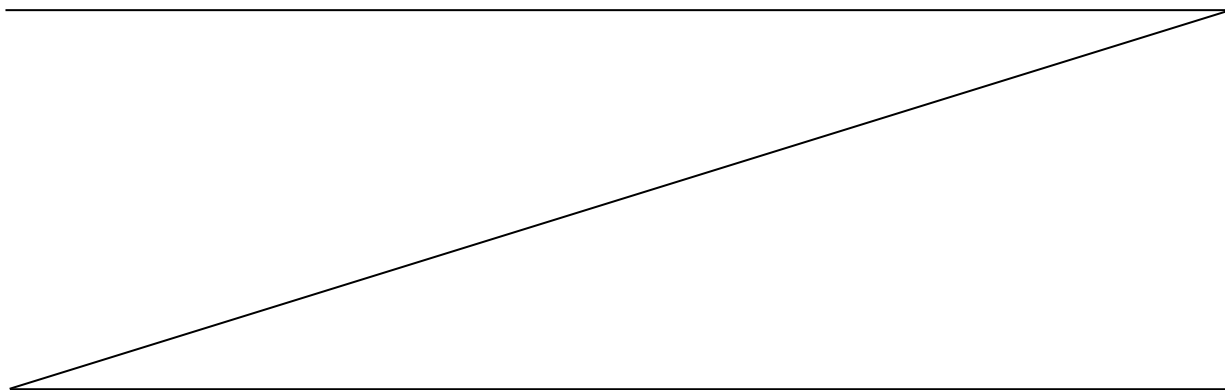
6.4 We agree and acknowledge that unaddressed and unresolved conflicts between us can harm the progress of the implementation of this Foundation Agreement. As such, we agree to adopt the measures set out in sections 6.5 to 6.10 to resolve Disputes in a collaborative, respectful and flexible manner.

6.5 If a Dispute arises at the Socio-Cultural Table, Land Use Planning Table or Resource Management Table, the Dispute will be referred to the Relationship and Implementation Forum. The Relationship and Implementation Forum will have 20 Business Days to attempt to resolve the Dispute and can use whatever processes or approaches our representatives on the Relationship and Implementation Forum agree are appropriate to resolve the Dispute, including a longhouse visit, or other culturally-appropriate venue or community-based mechanisms.

- 6.6 For a Dispute not referenced in section 6.5, including a Dispute at the Relationship and Implementation Forum, or in the event the Relationship and Implementation Forum is unable to resolve a Dispute referred to it pursuant to section 6.5, the Relationship and Implementation Forum will refer the Dispute to the Solutions Forum, and our Representatives on the Solutions Forum can bring in other representatives to help resolve the Dispute, as they agree are appropriate.
- 6.7 In the event the Solutions Forum is unable to resolve a Dispute that is referred to it within 30 Business Days, at the request of either the shíshálh or provincial Representative to the Solutions Forum, the matter will be referred to our Senior Representatives for resolution.
- 6.8 The Solutions Forum and our Senior Representatives, as the case may be, can use whatever processes or approaches they agree are appropriate to resolve the Dispute, including a longhouse visit, or other culturally-appropriate venue or community-based mechanism, and can consider whether amendments to this Foundation Agreement or additional agreements are required to address the Dispute, in which case they can recommend those amendments or other agreements to our respective decision-making bodies for consideration.
- 6.9 If Senior Representatives agree that the Dispute be mediated, we will refer the Dispute to a mutually agreed-upon mediator, with each of us paying our own costs of the mediation and one-half of the costs of the mediator.
- 6.10 The Relationship and Implementation Forum or the Solutions Forum, as applicable, may agree to extend or shorten timelines for each stage of this dispute resolution process as required by the nature of the Dispute at issue and any external time constraints.

**Engagement**

- 6.11 We are committed to engaging with local governments and stakeholders in the shíshálh swiya about this Foundation Agreement and its implementation. The purpose of this engagement is to progressively build support for our joint vision and joint pathways throughout the life of this Foundation Agreement, including the land transfers contemplated under this Foundation Agreement.



## General Provisions

6.12 The general provisions and interpretative provisions and definitions applying to this Foundation Agreement are set out in Schedules P and Q respectively.

**IN WITNESS WHEREOF** the Parties have executed this Foundation Agreement as of the day and year first above written.

Signed on behalf of:  
**shíshálh Nation**

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Warren Paull  
hiwus (Chief)

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Selina August  
Councillor

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Keith Julius  
Councillor

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Witness of shíshálh Nation signatures

Signed on behalf of:  
**Government of British Columbia**

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Honourable John Horgan  
Premier

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Honourable Doug Donaldson  
Minister of Forests, Lands, Natural  
Resource Operations and Rural  
Development

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Witness of Premier and Ministers'  
signatures

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Alvina Paul  
Councillor

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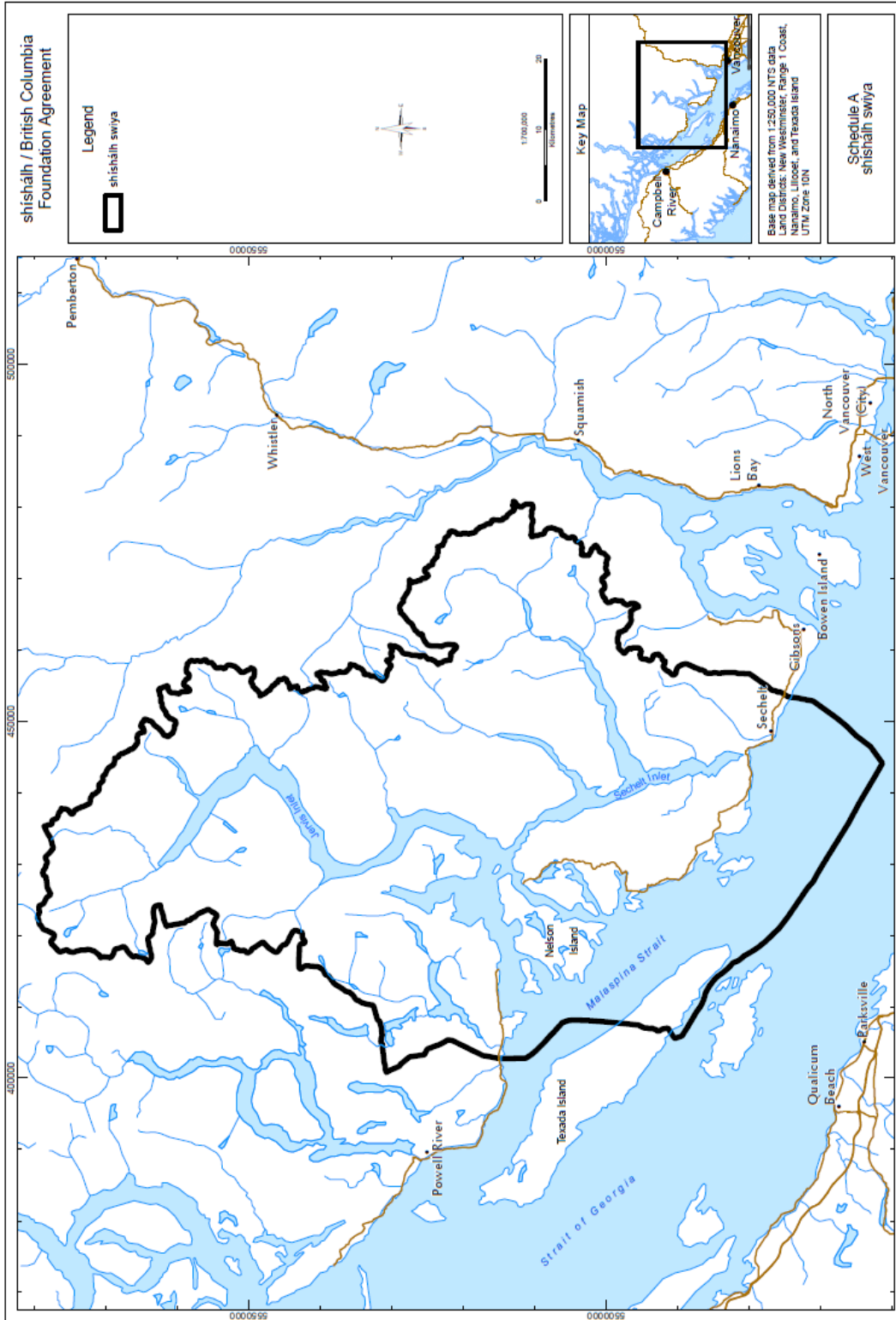
Corey August  
Councillor

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Honourable Scott Fraser  
Minister of Indigenous Relations and  
Reconciliation

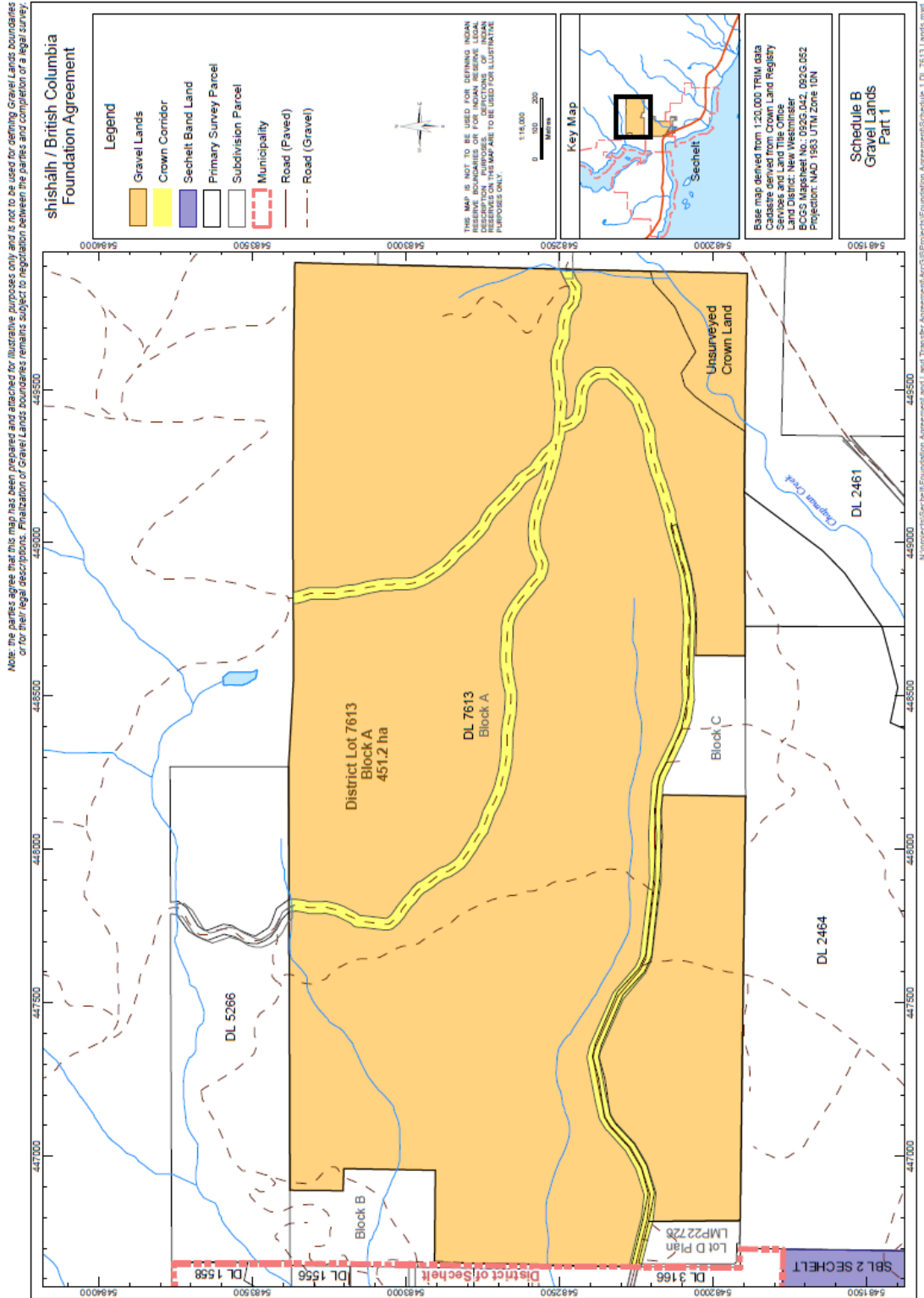
# SCHEDULE A

## Map of the shísháhl swiya



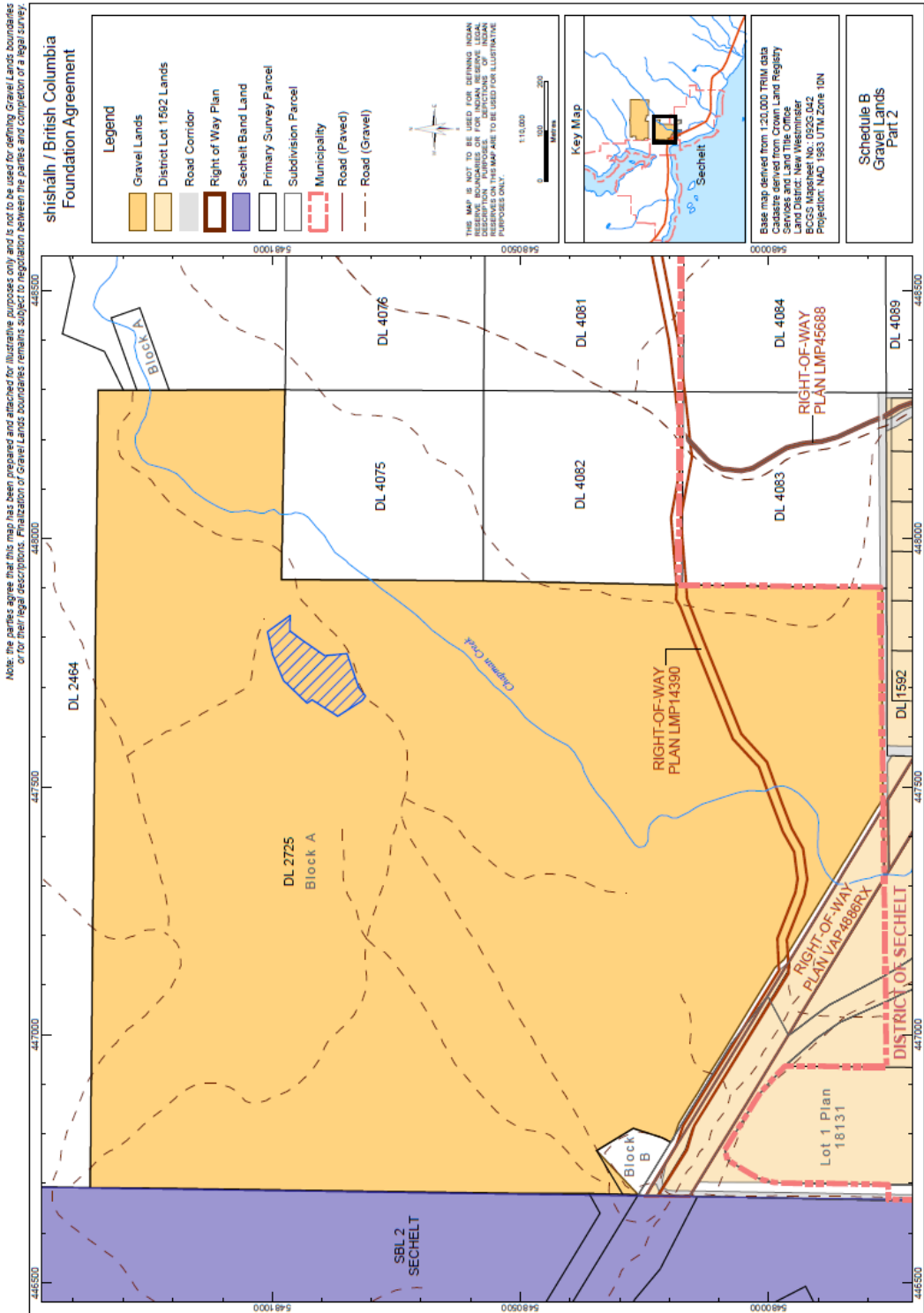
# SCHEDULE B

## Part 1 - Map of Gravel Lands



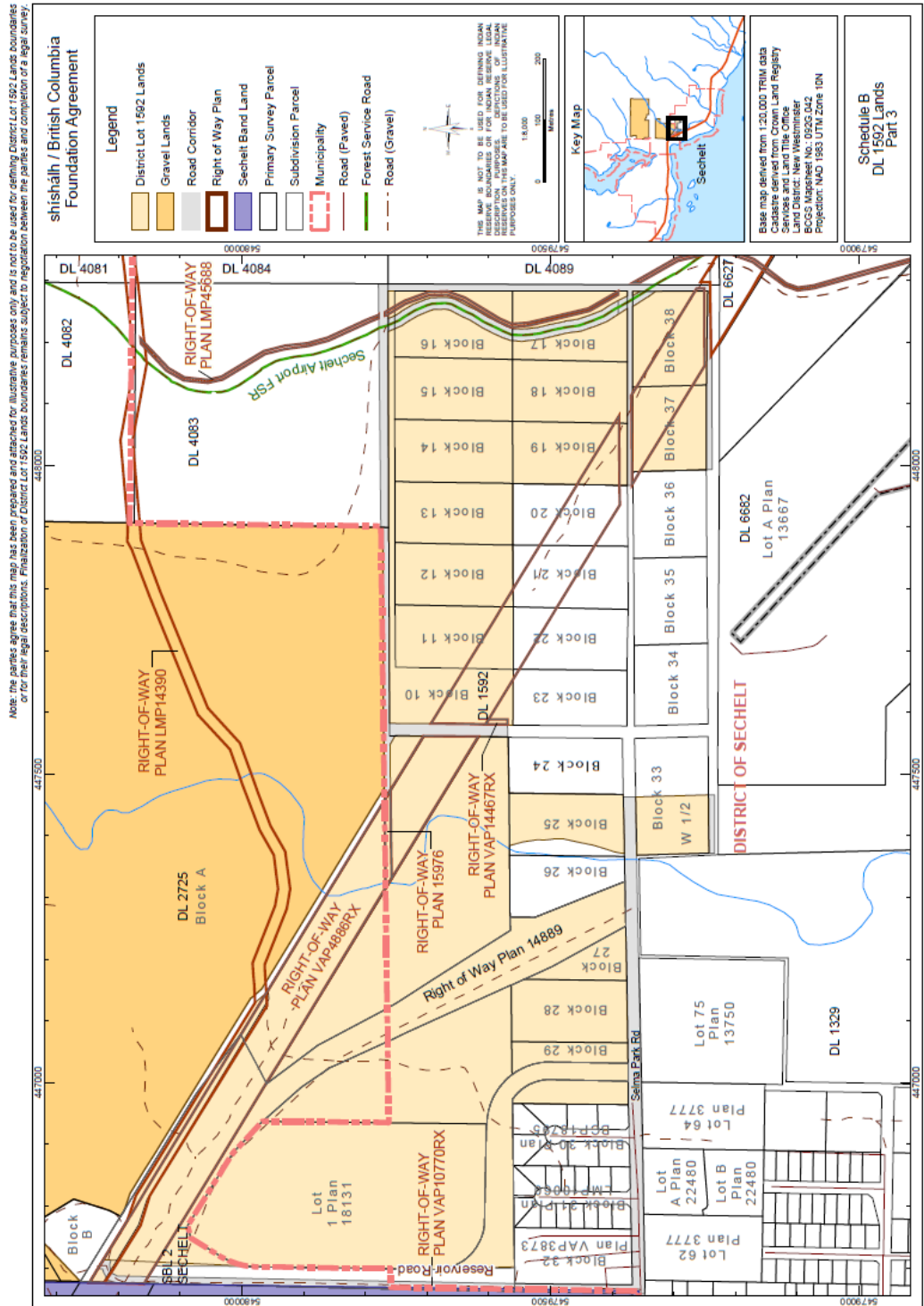
# SCHEDULE B

## Part 2 - Map of Gravel Lands



SCHEDULE B

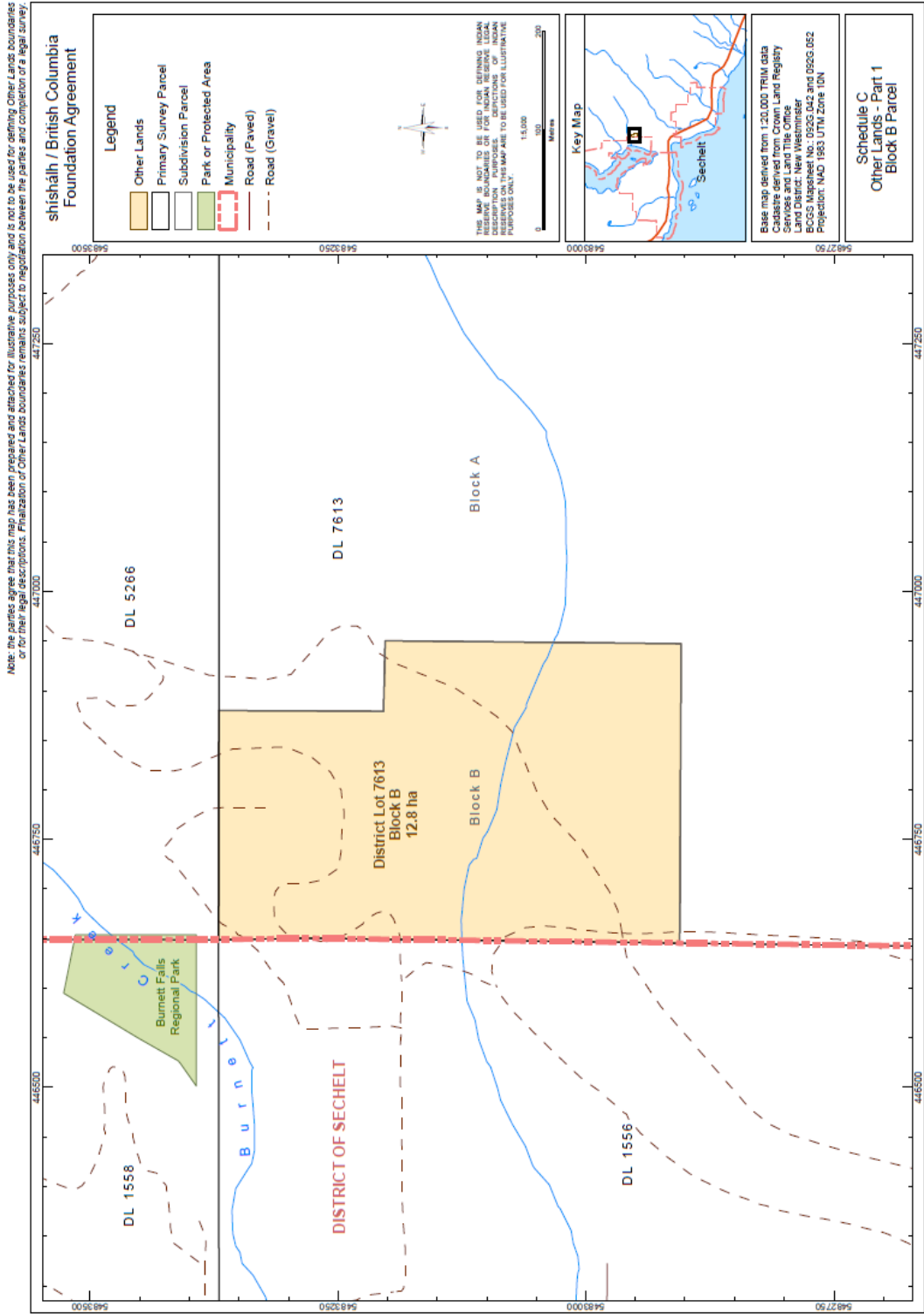
Part 3 – Map of DL 1592 Lands





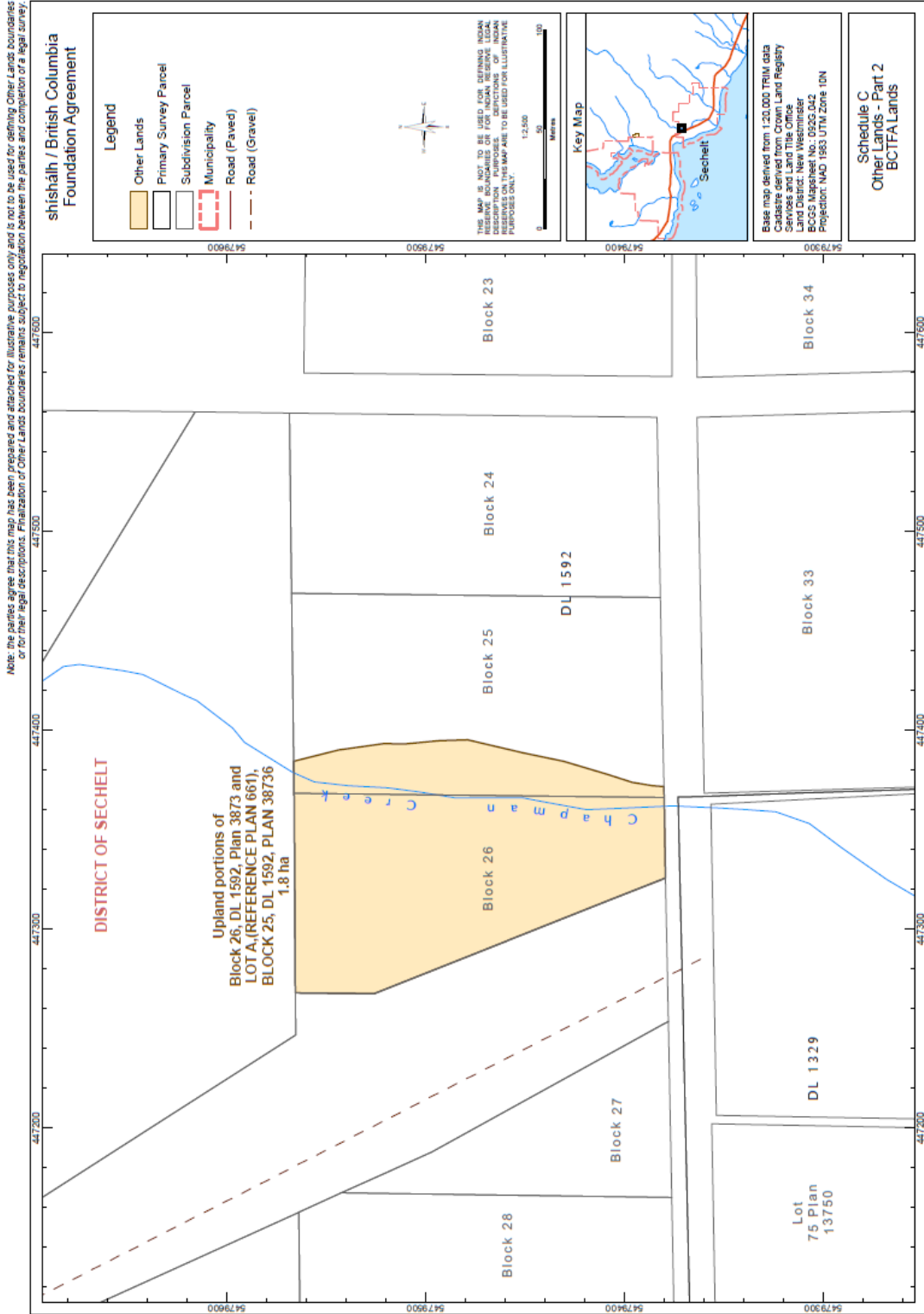
# SCHEDULE C

## Maps of Other Lands Part 1 – Block B Parcel



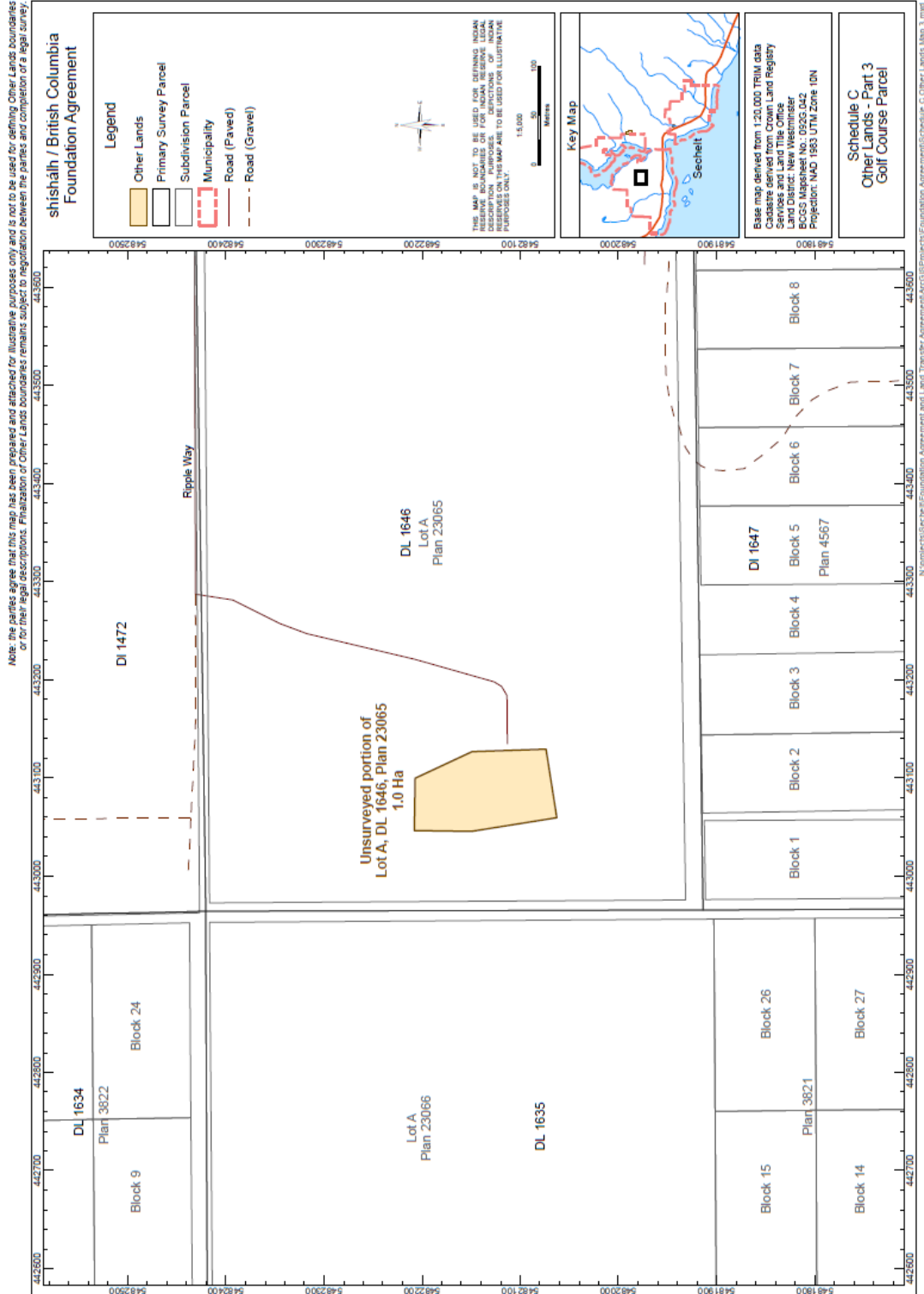
# SCHEDULE C

## Maps of Other Lands Part 2 – BCTFA Lands



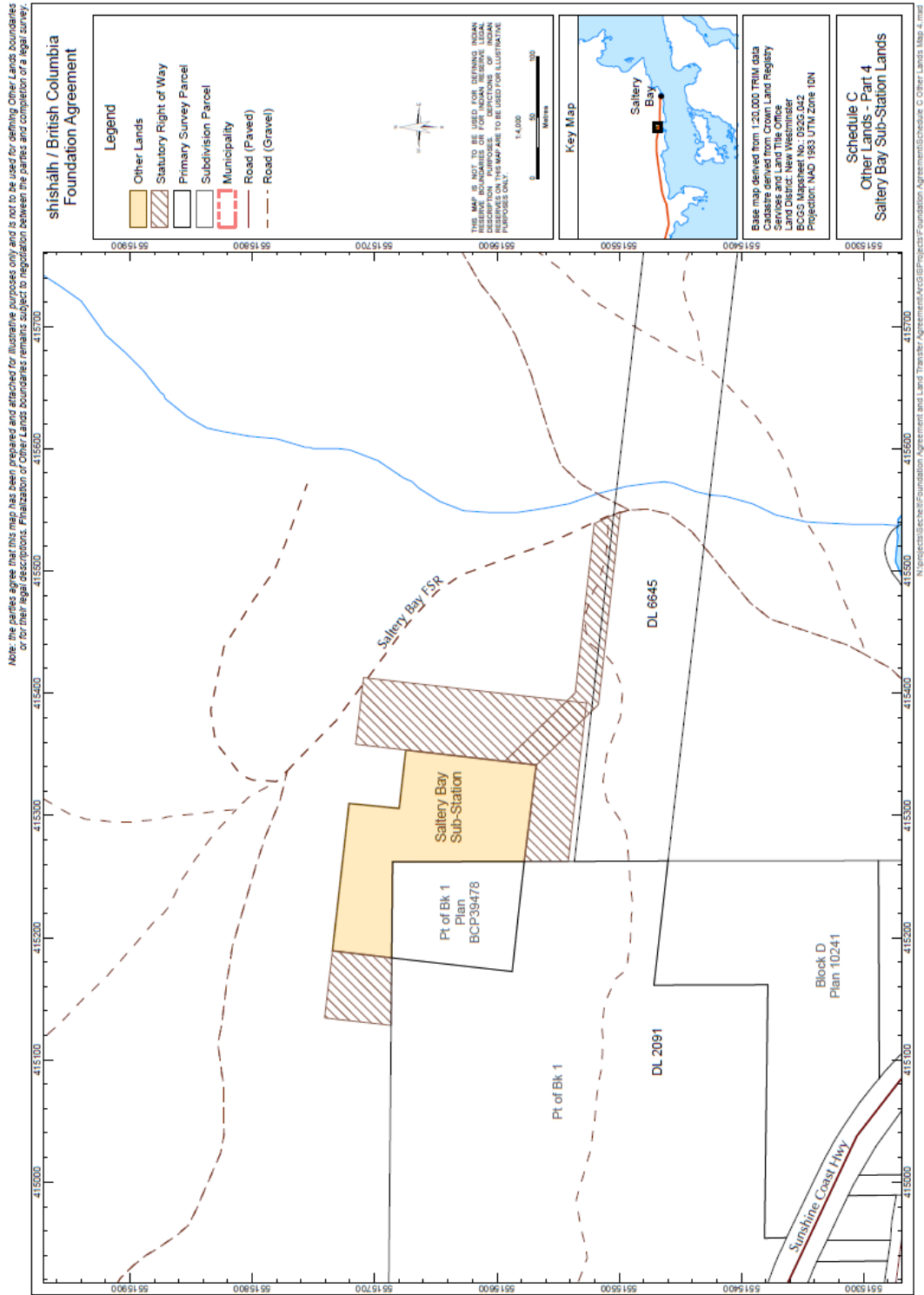
# SCHEDULE C

## Maps of Other Lands Part 3 – Golf Course Parcel



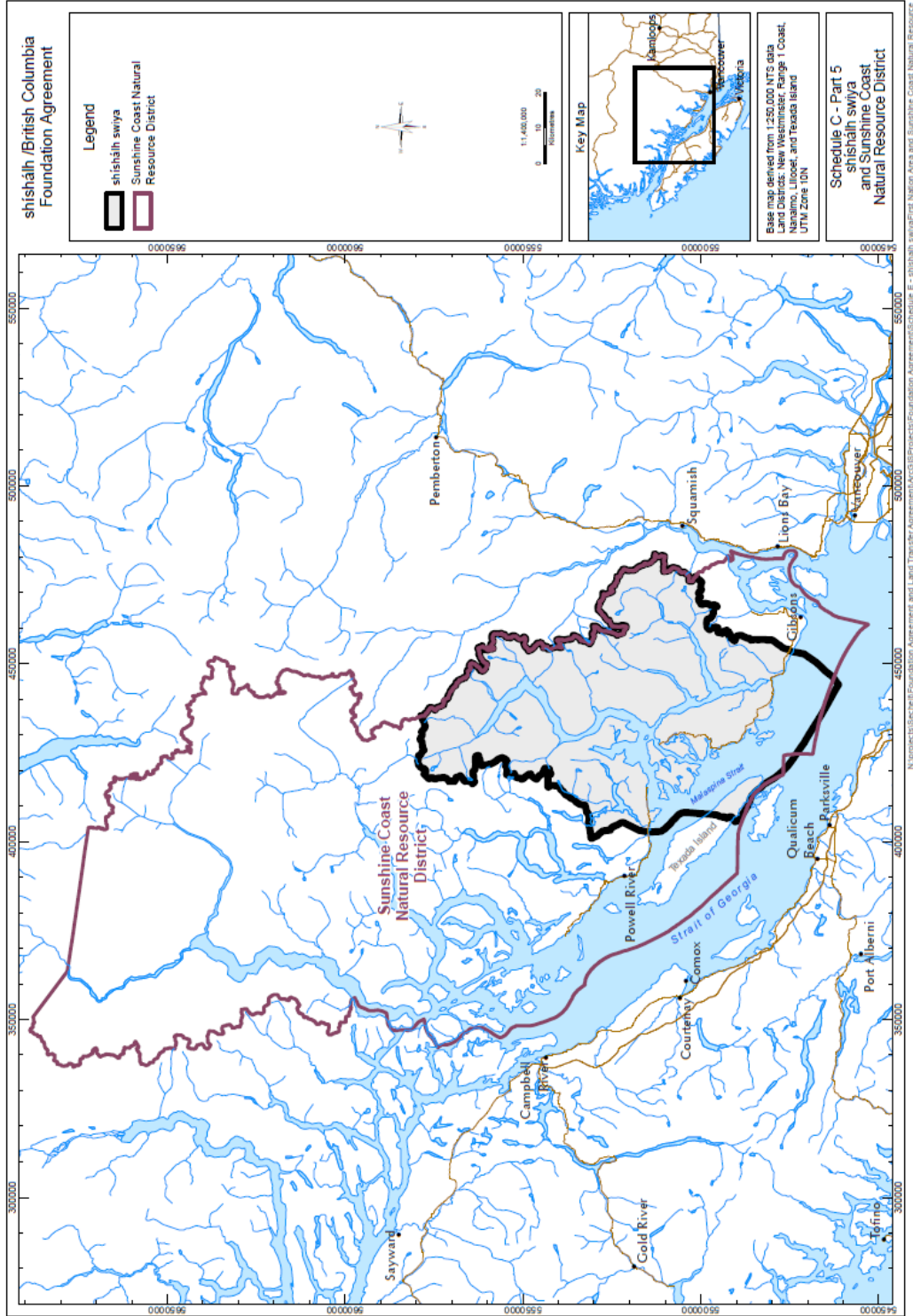
# SCHEDULE C

## Maps of Other Lands Part 4 – Saltery Bay Sub-Station Lands



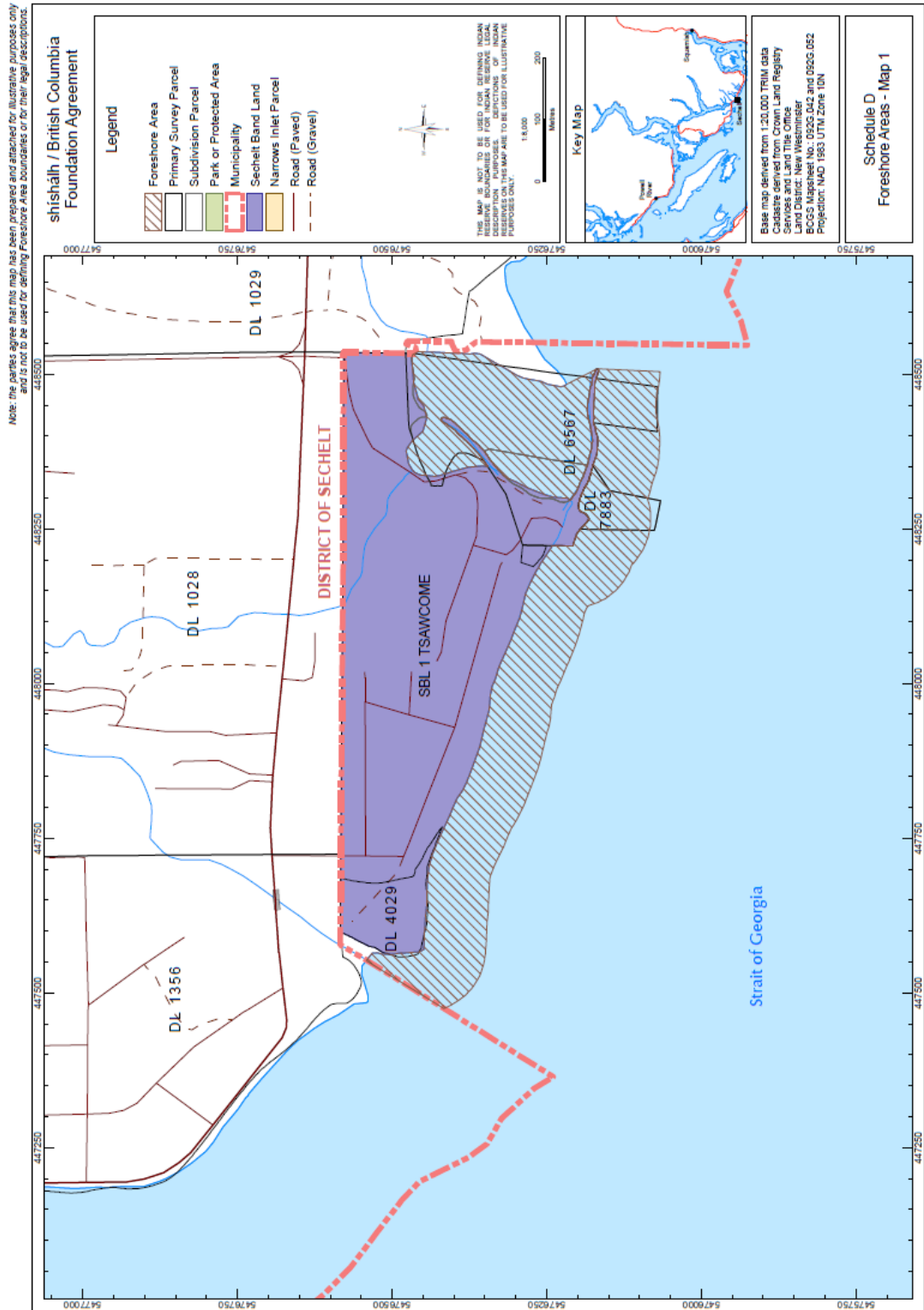
# SCHEDULE C

## Maps of Other Lands Part 5 – shísháhl swiya and Sunshine Coast Natural Resource District

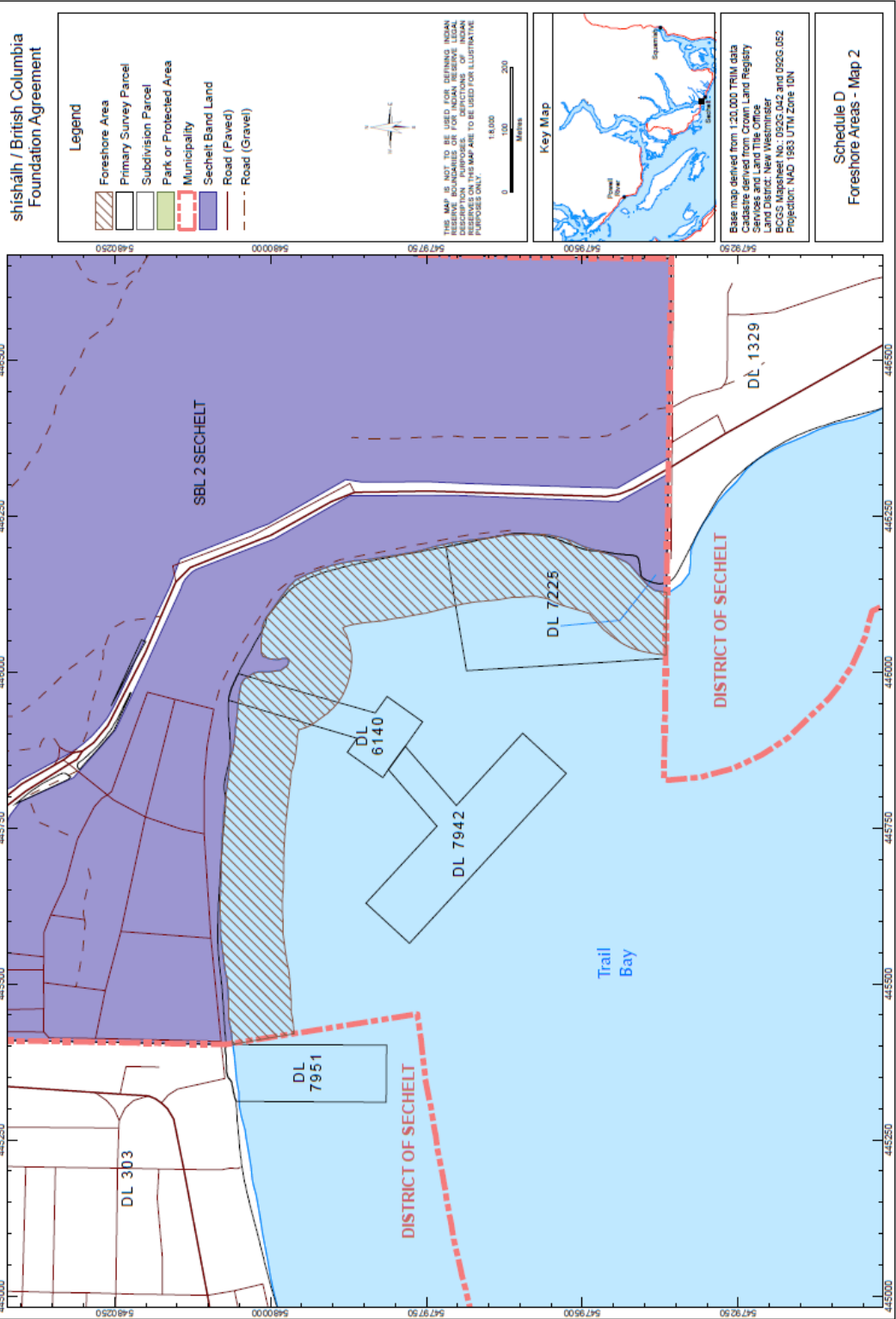


# SCHEDULE D

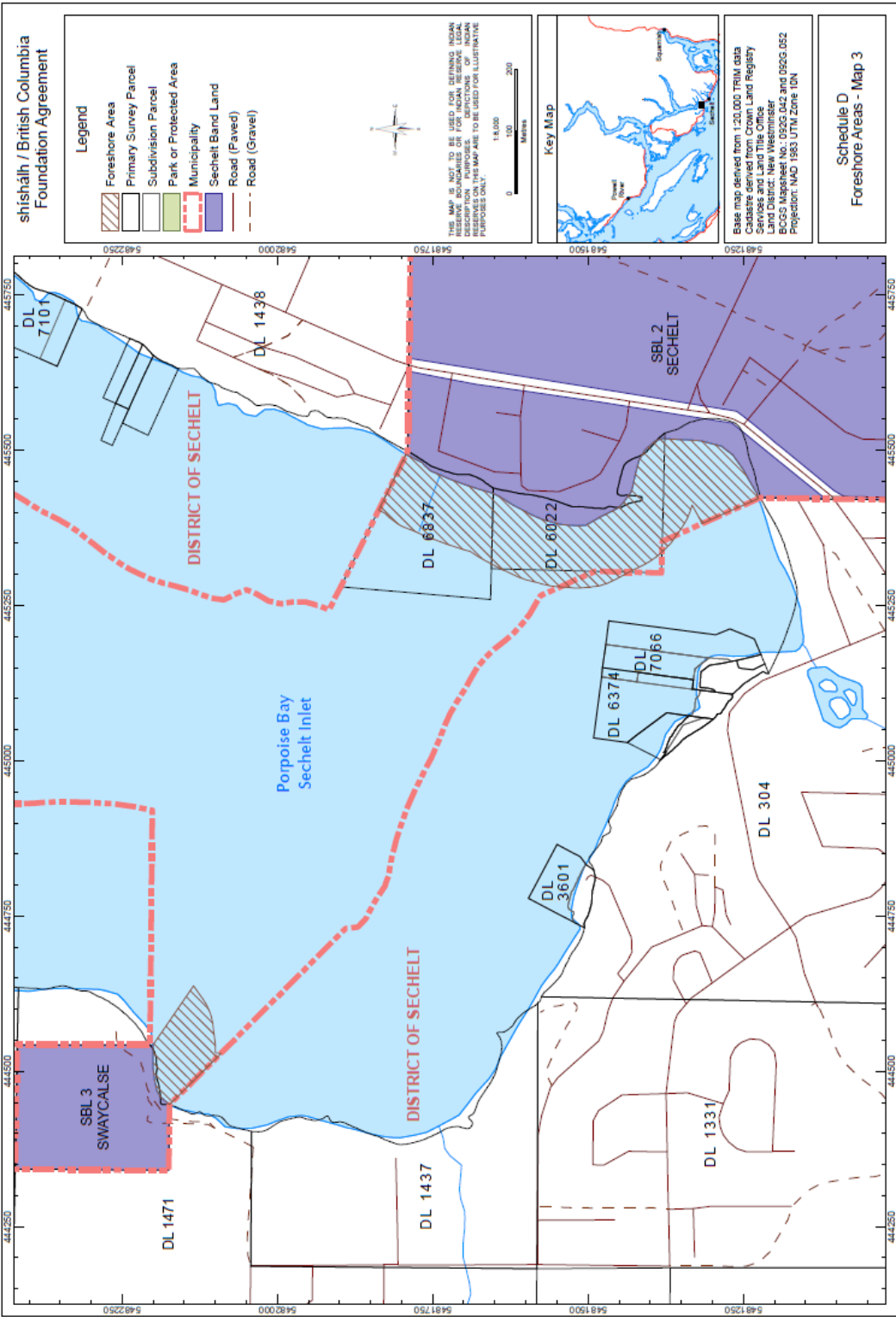
## Maps of Foreshore Areas



Note: the parties agree that this map has been prepared and attached for illustrative purposes only and is not to be used for defining Foreshore Area boundaries or for their legal descriptions.



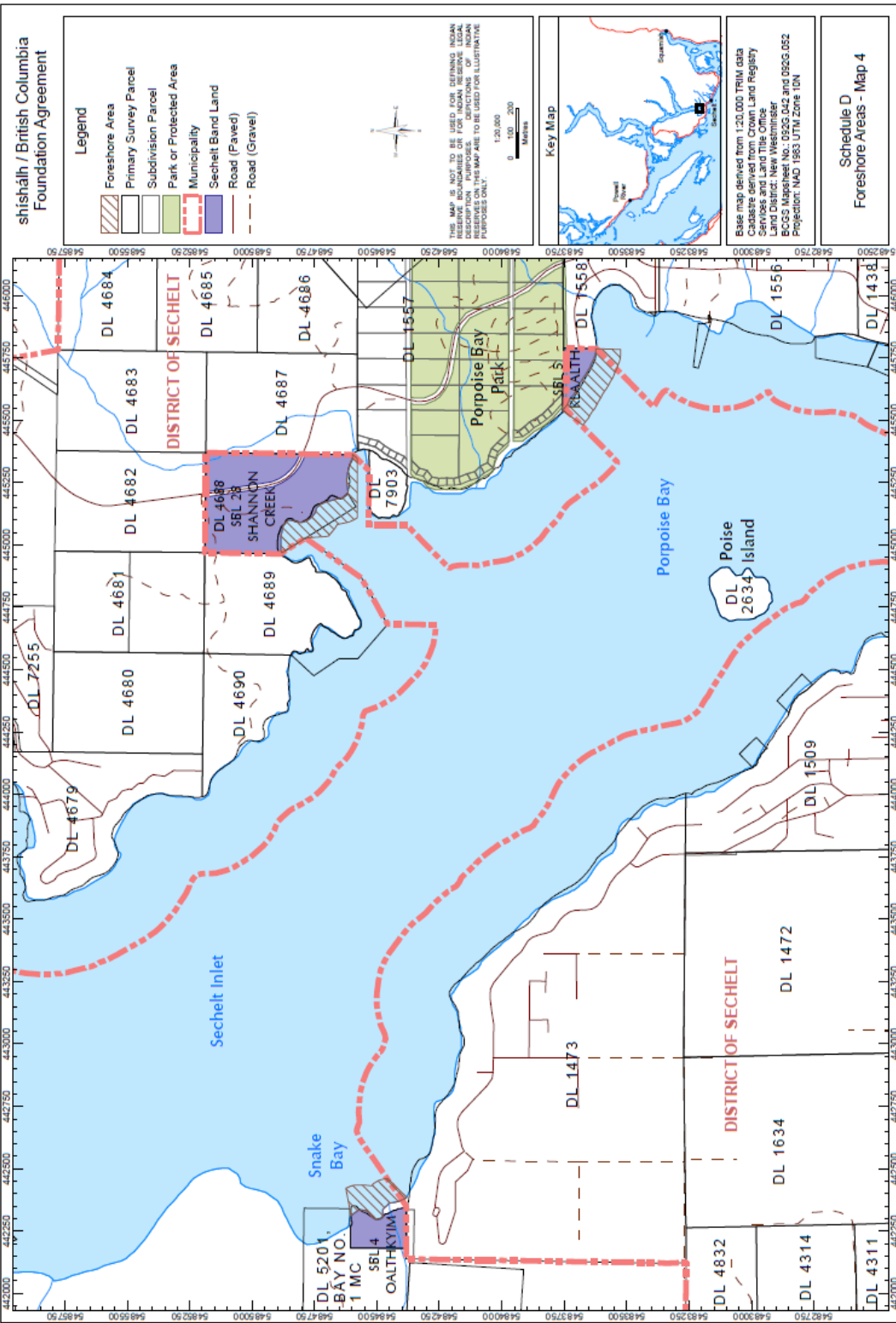
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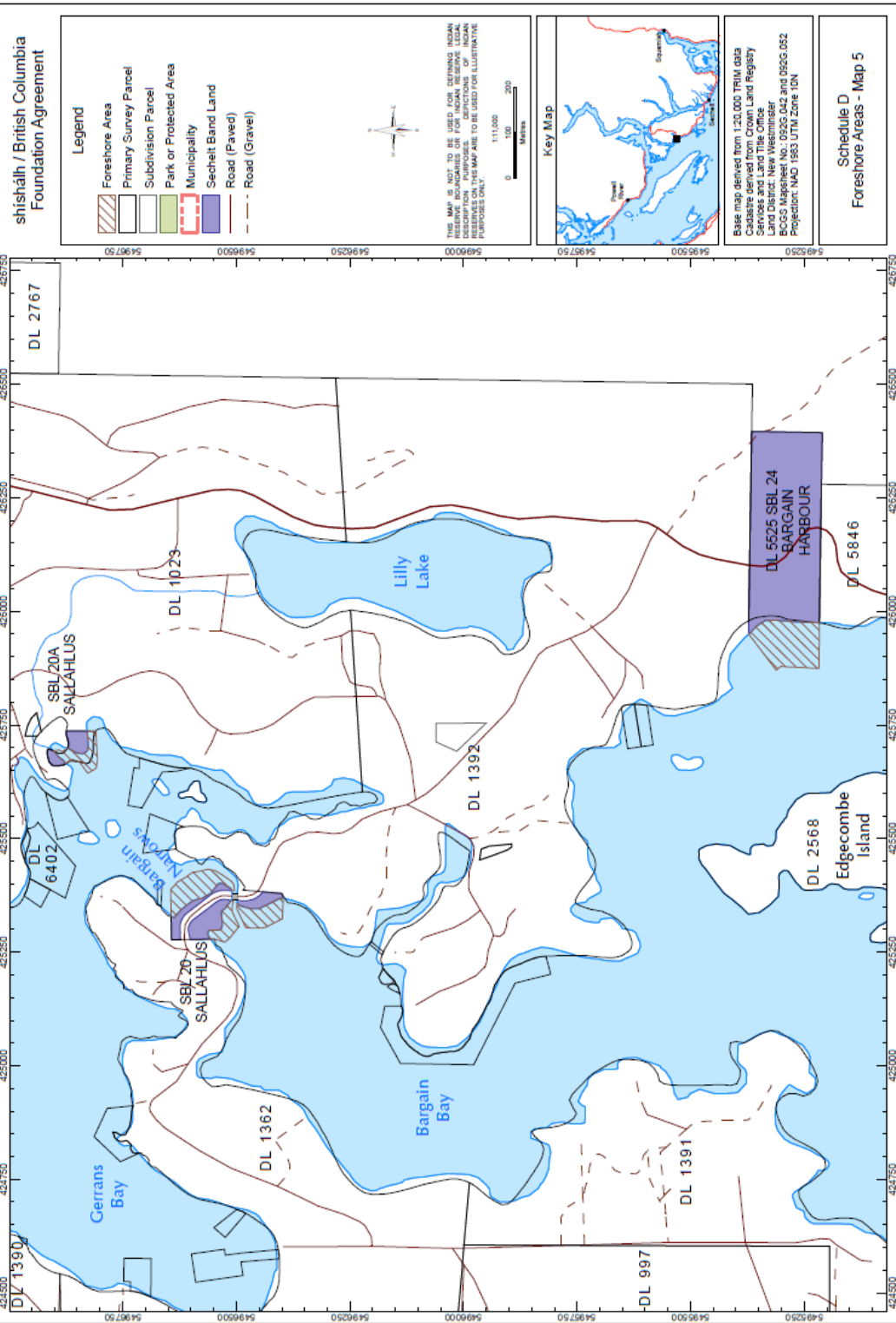


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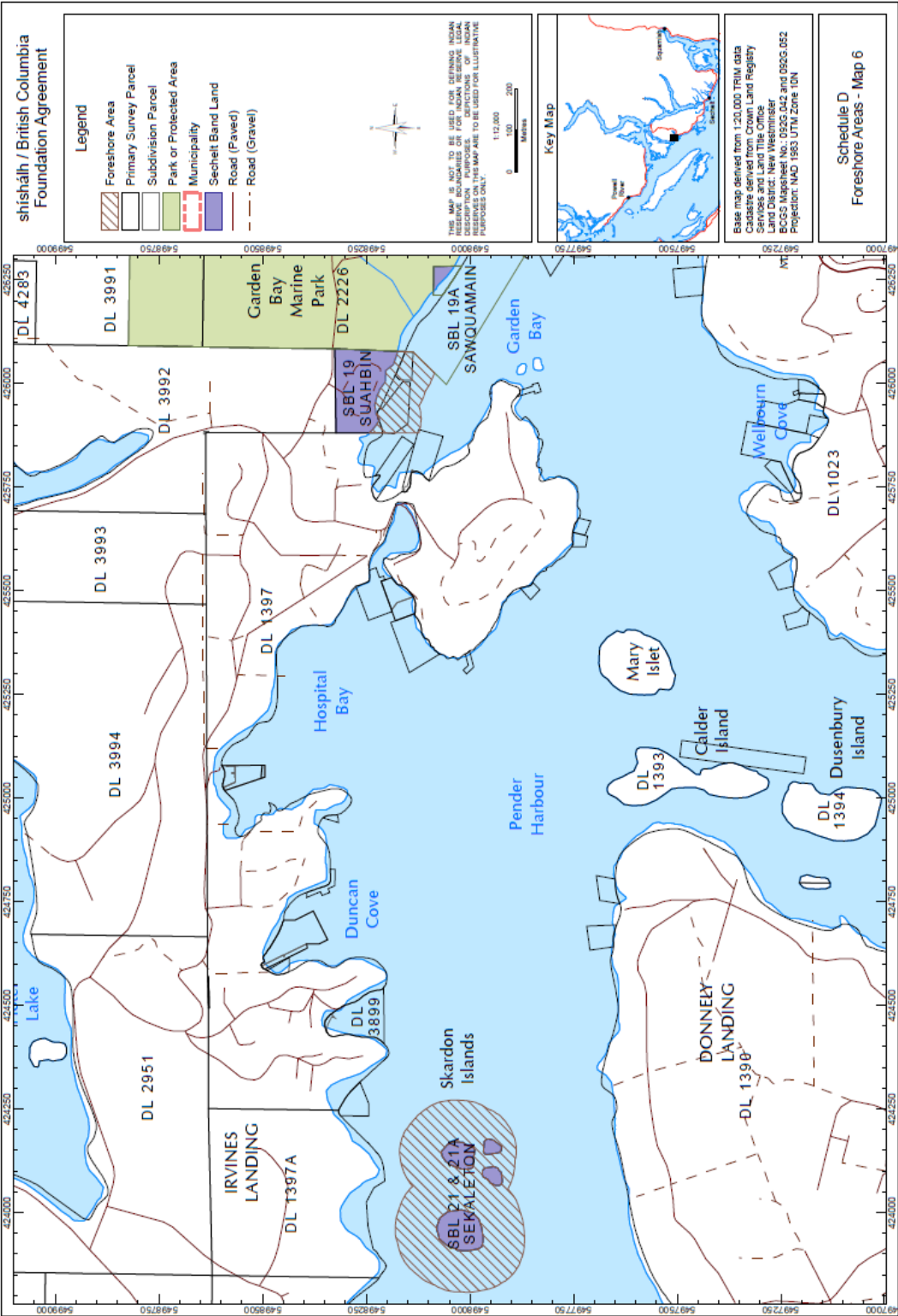


Map of Sechelt Foreshore Area and Land Transfer Agreement/Project/Schedule D Foreshore Area Map.mxd

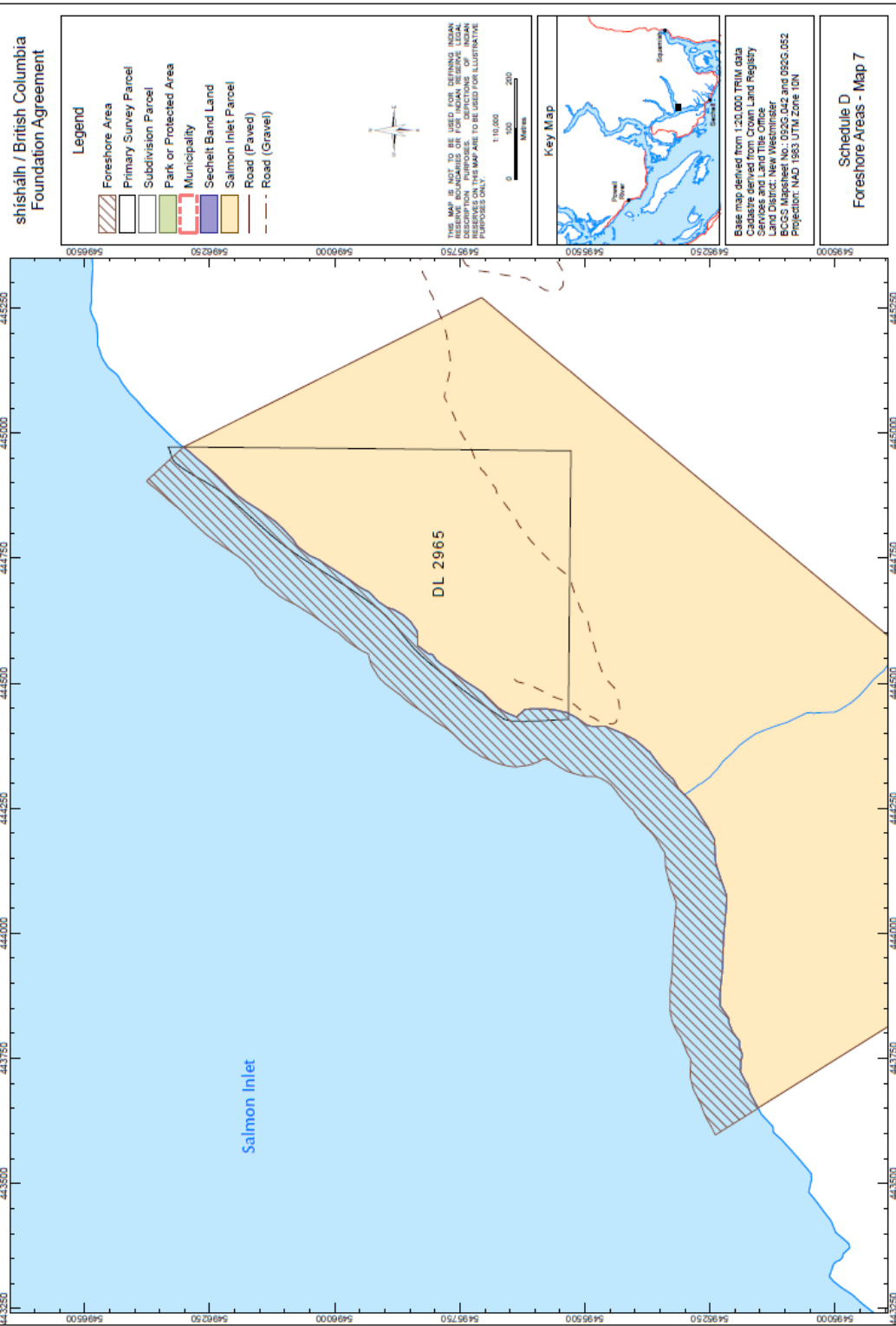
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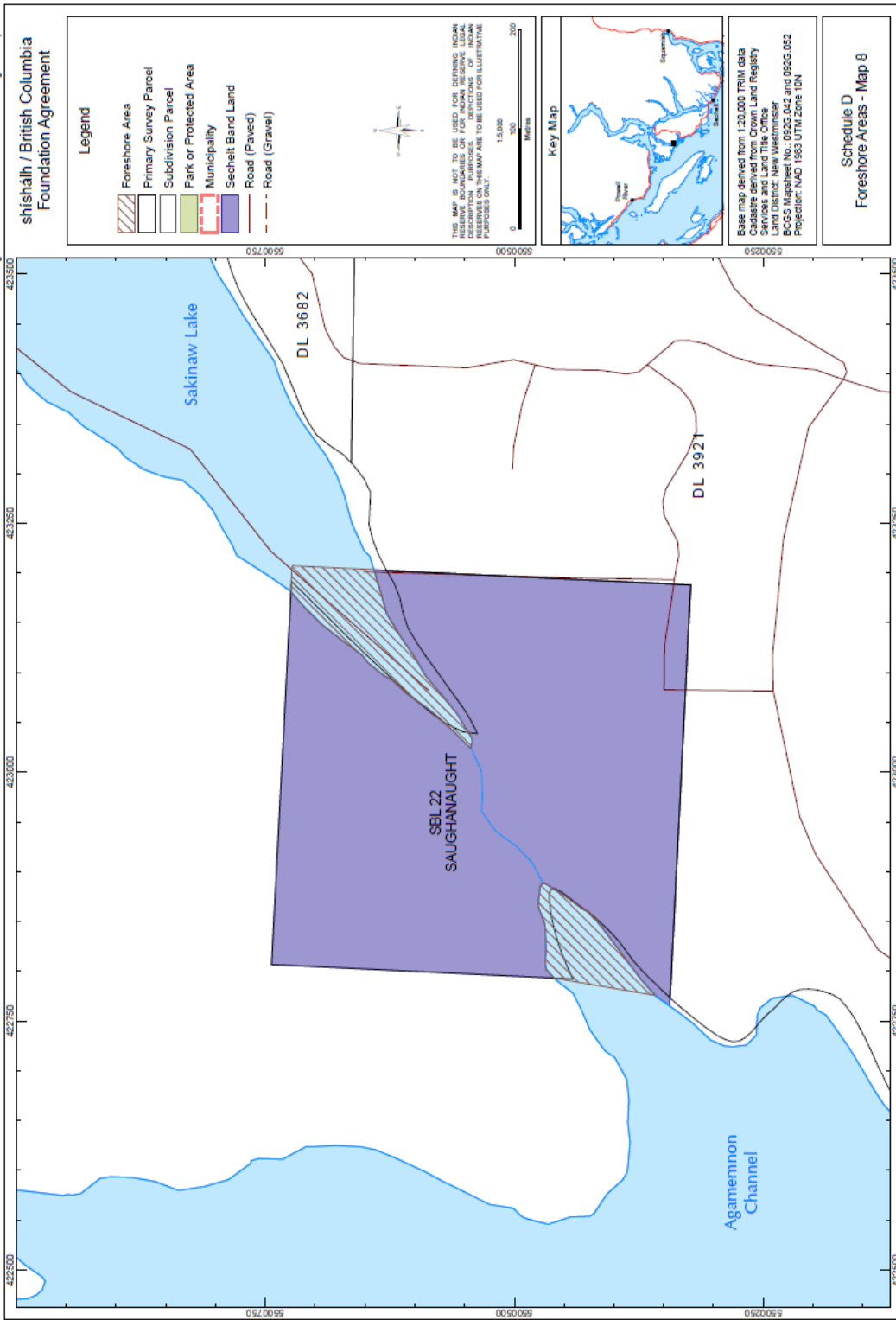


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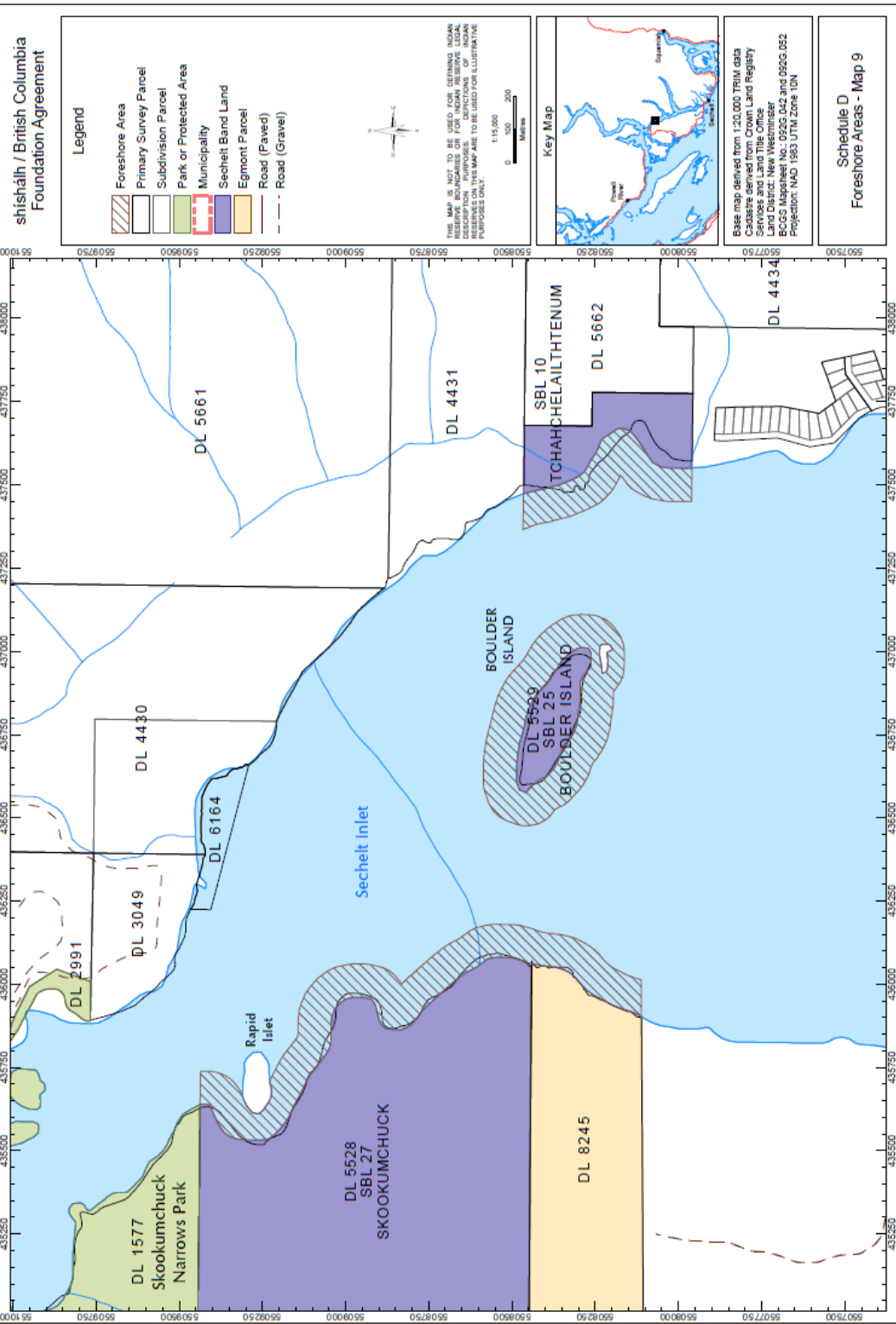


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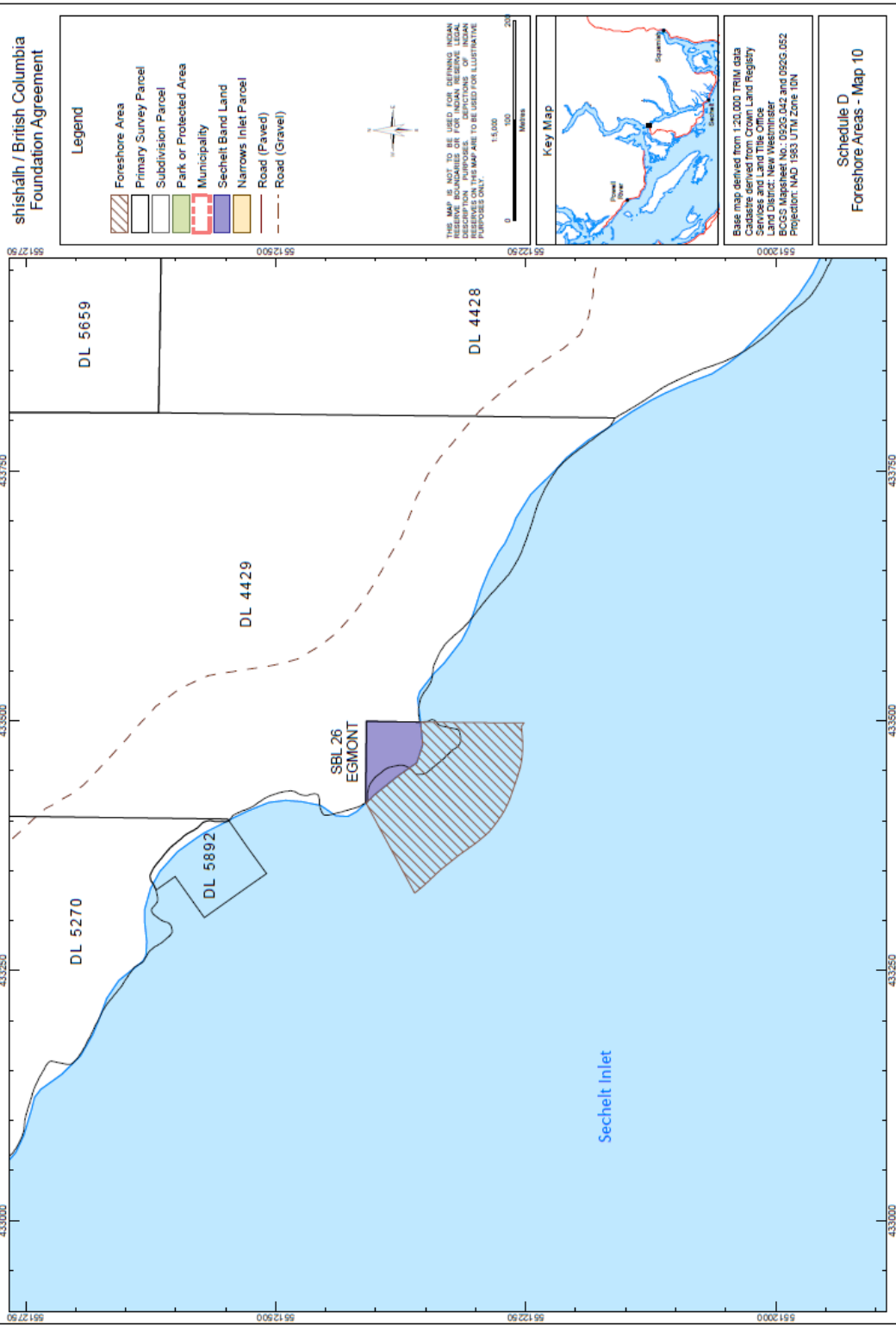


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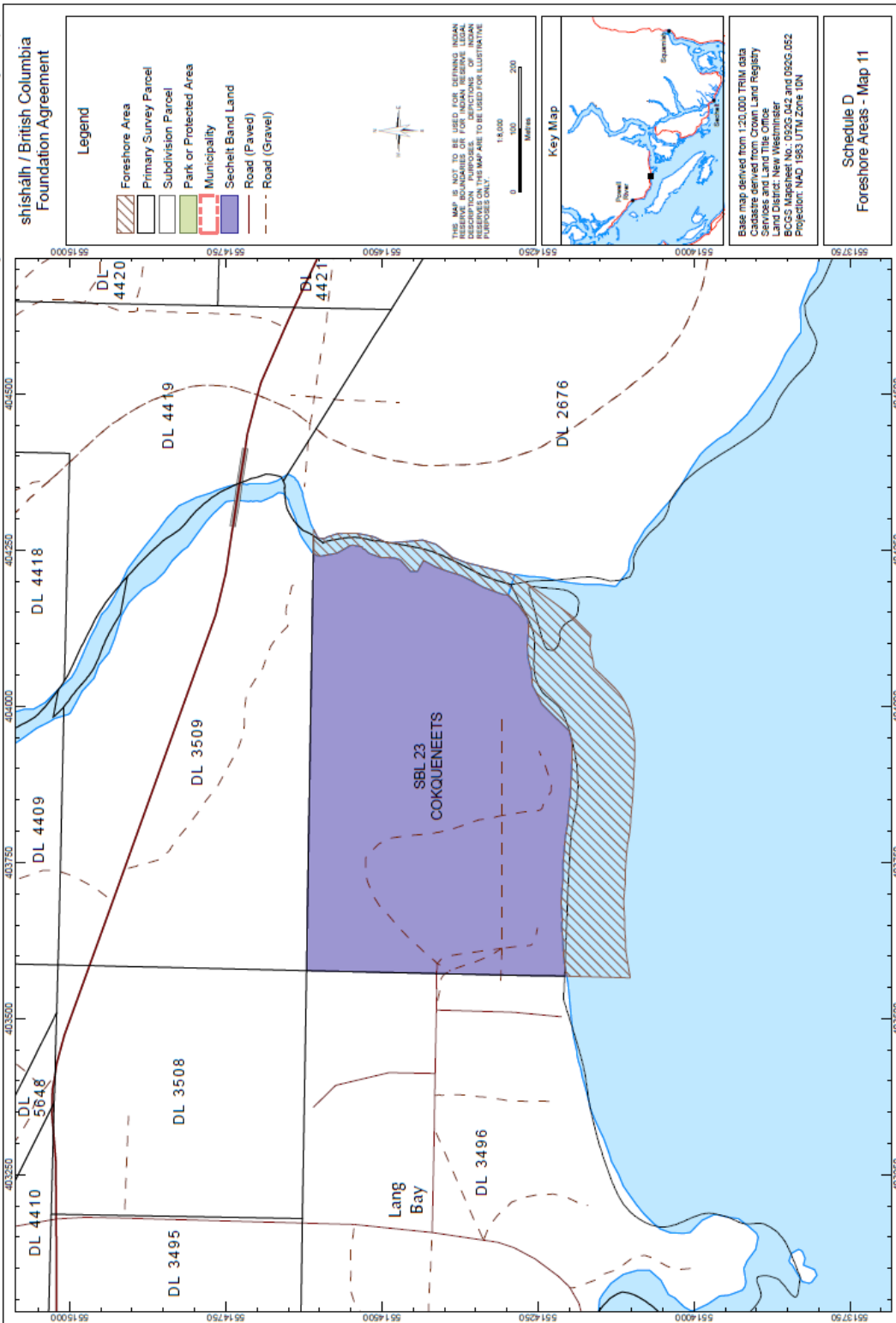
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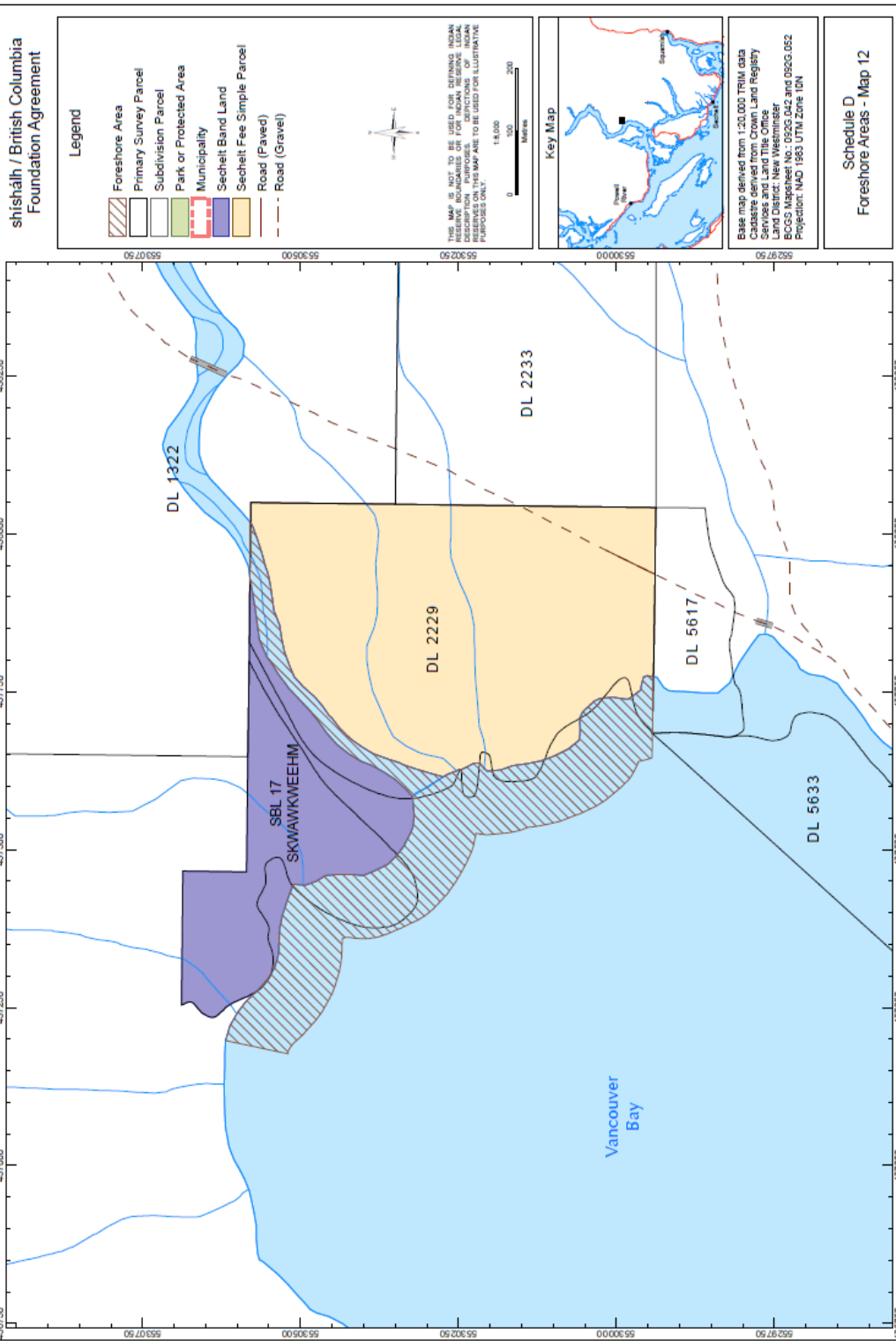
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Note: this survey agreement map has been prepared and attached for illustrative purposes only and should not be used for defining Foreshore area boundaries or for their legal descriptions.

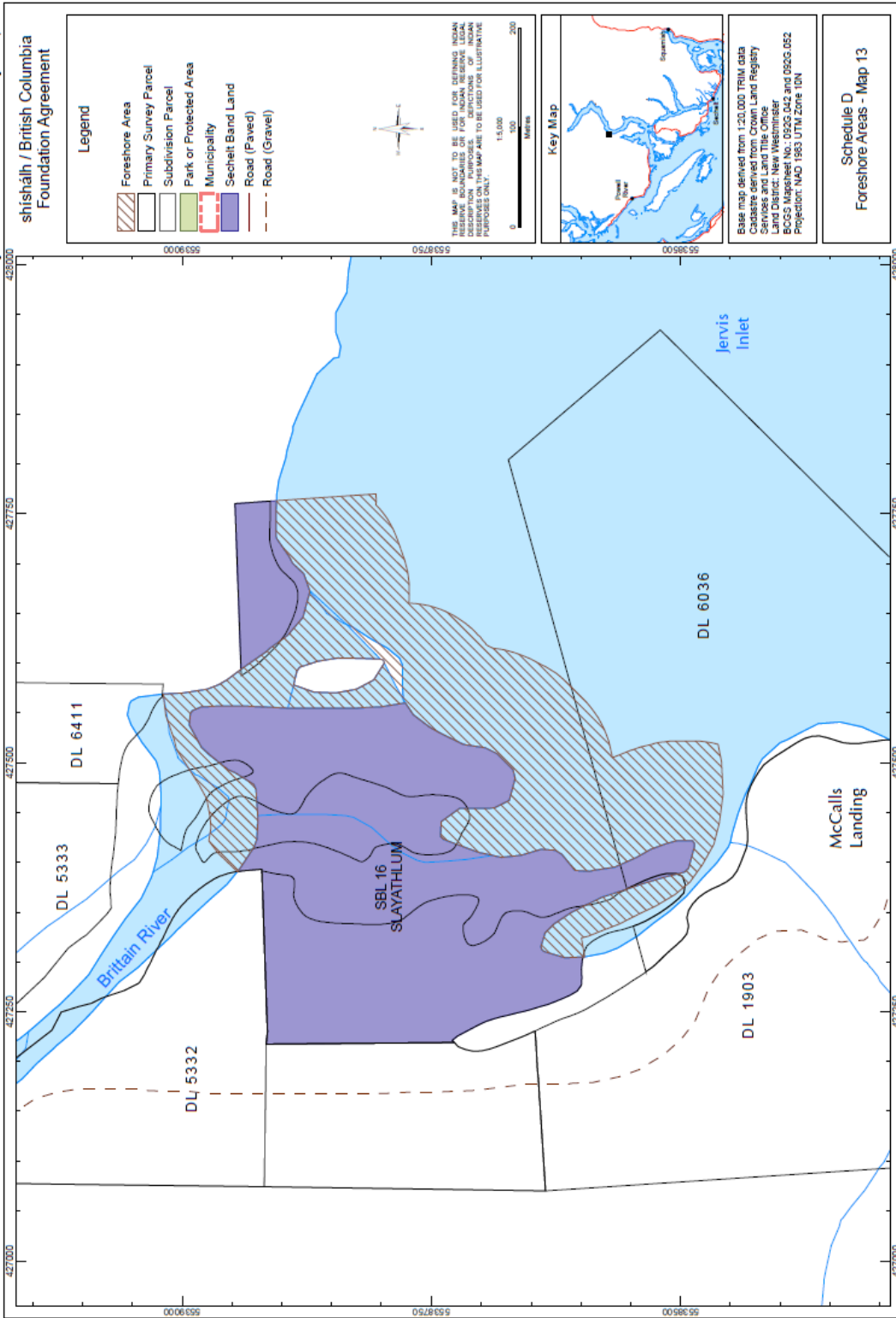




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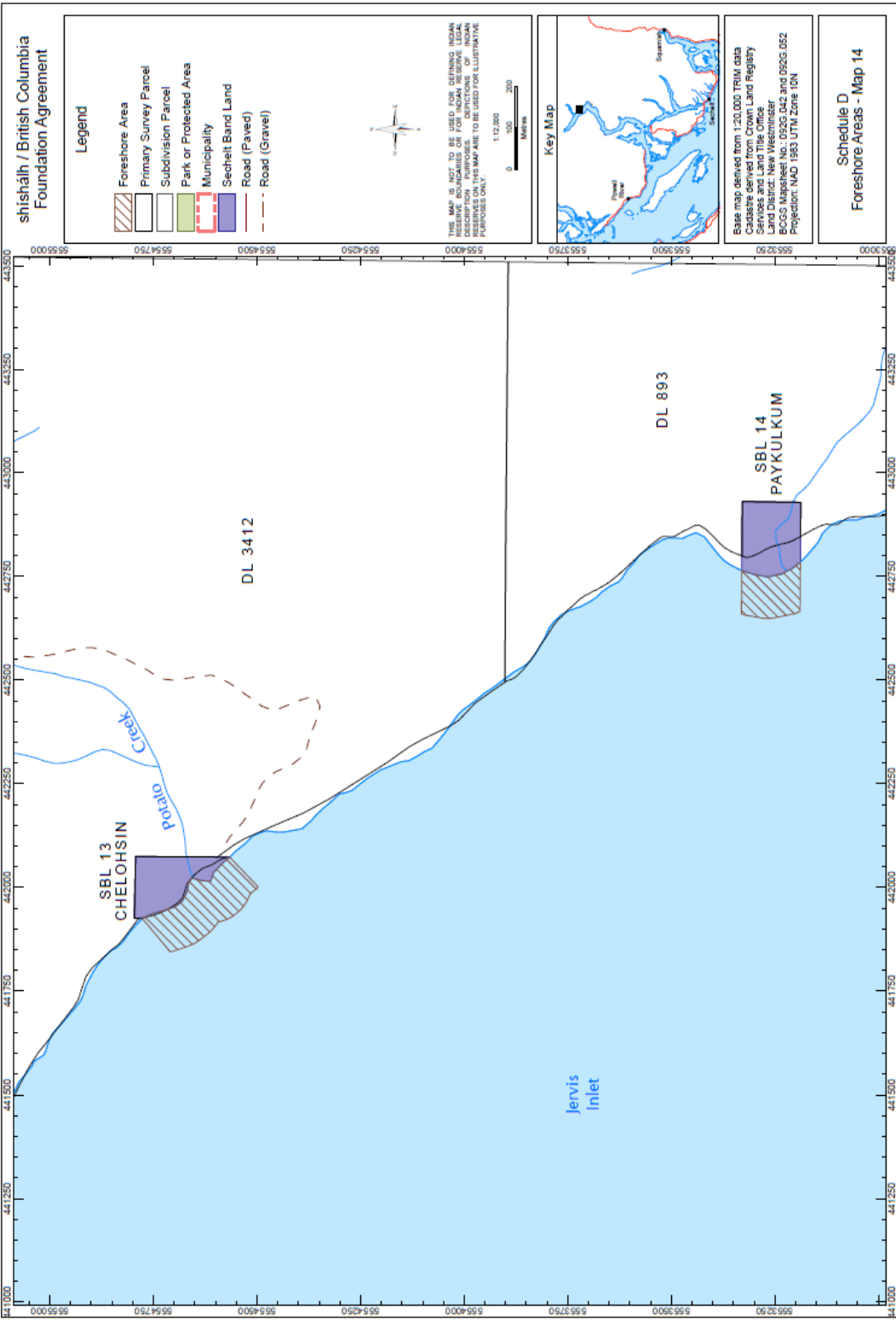


Note: the parties agree that this map has been prepared and attached for illustrative purposes only and is not to be used to define foreshore area boundaries or for other legal descriptions.

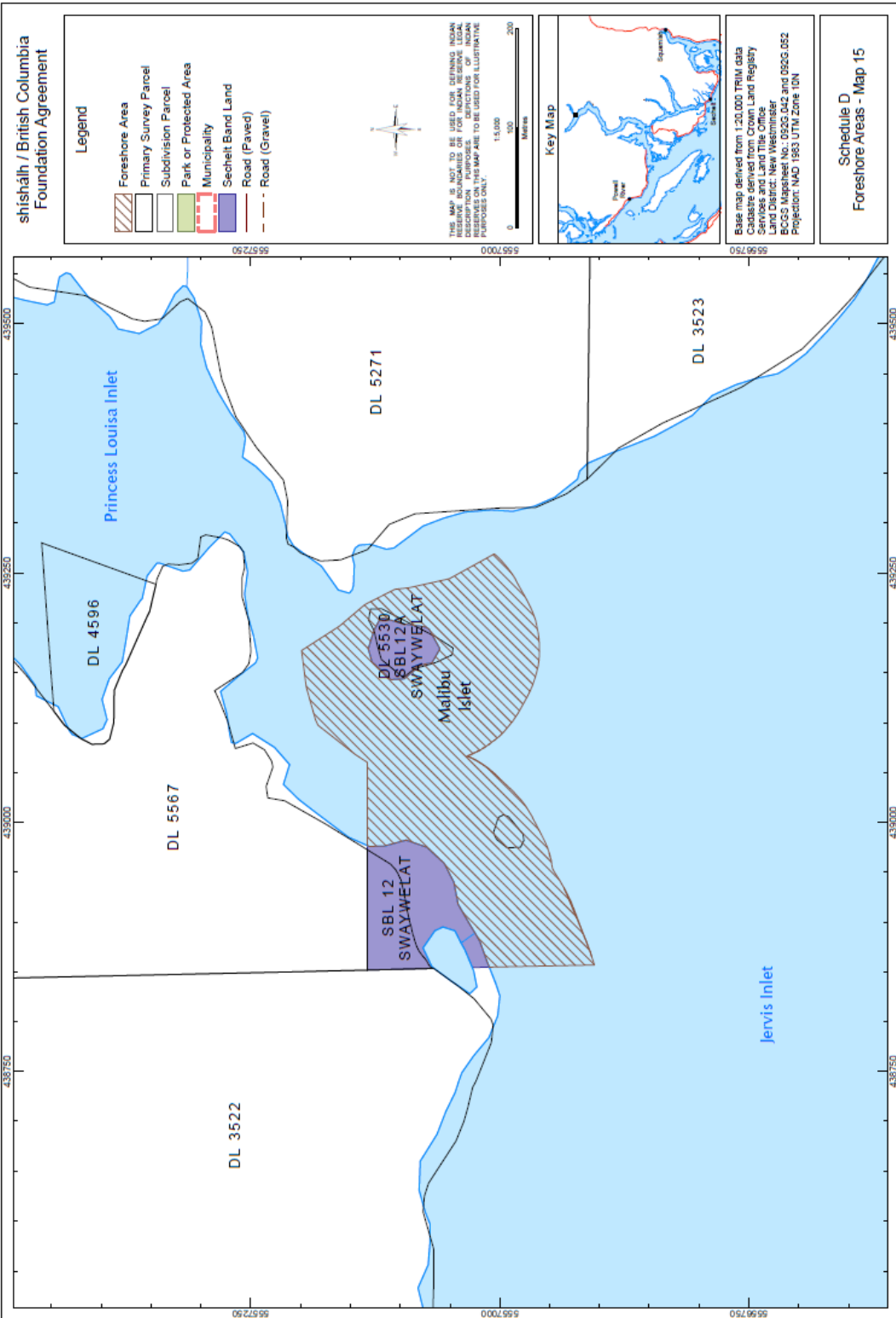


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Note: the various series that this map has been prepared and attached for illustrative purposes only and is not to be used for defining Foreshore area boundaries or for their legal descriptions.

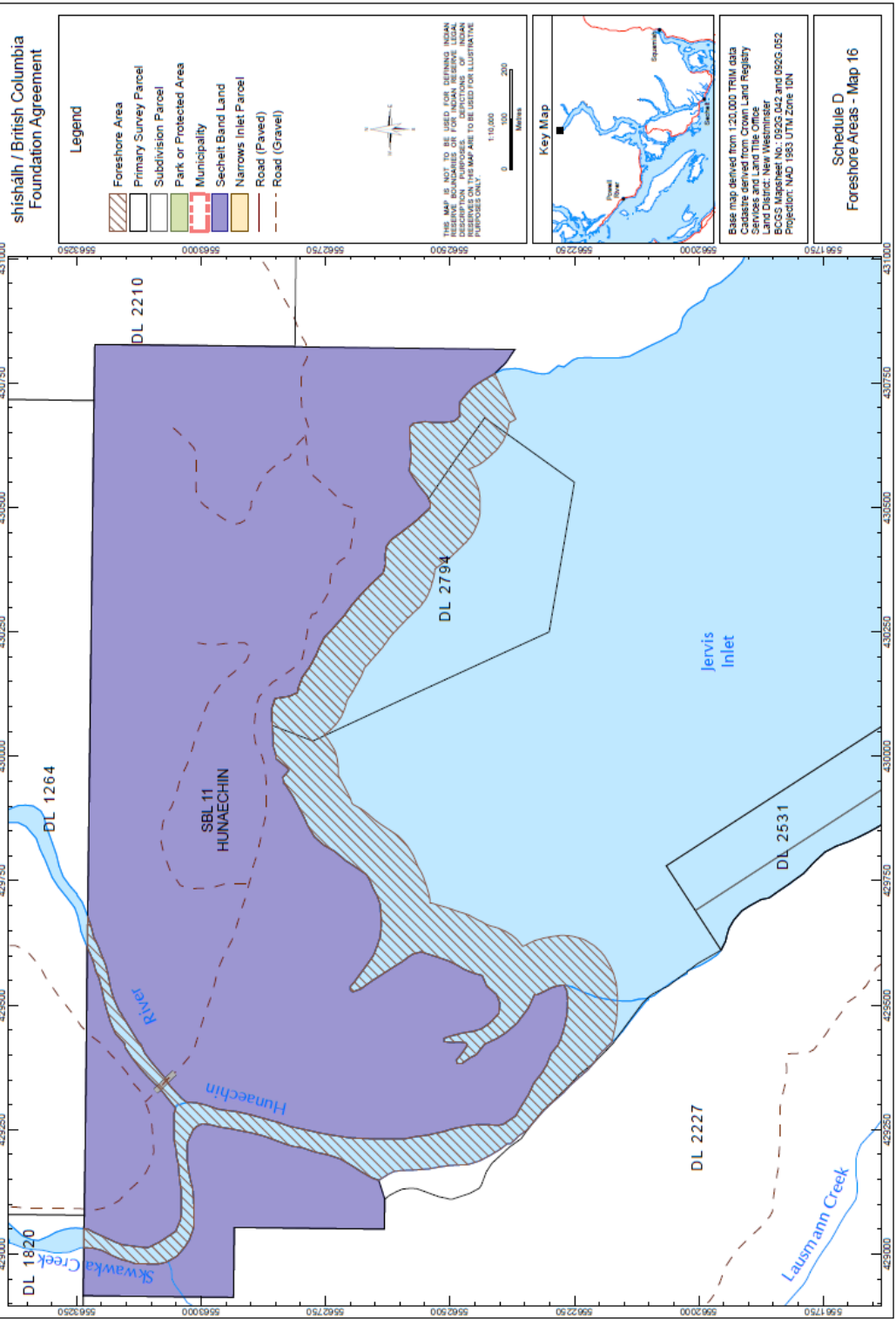


Note: the parcel areas that this map has been prepared and attached for illustrative purposes only and is not to be used for defining Foreshore Area boundaries or for their legal descriptions.

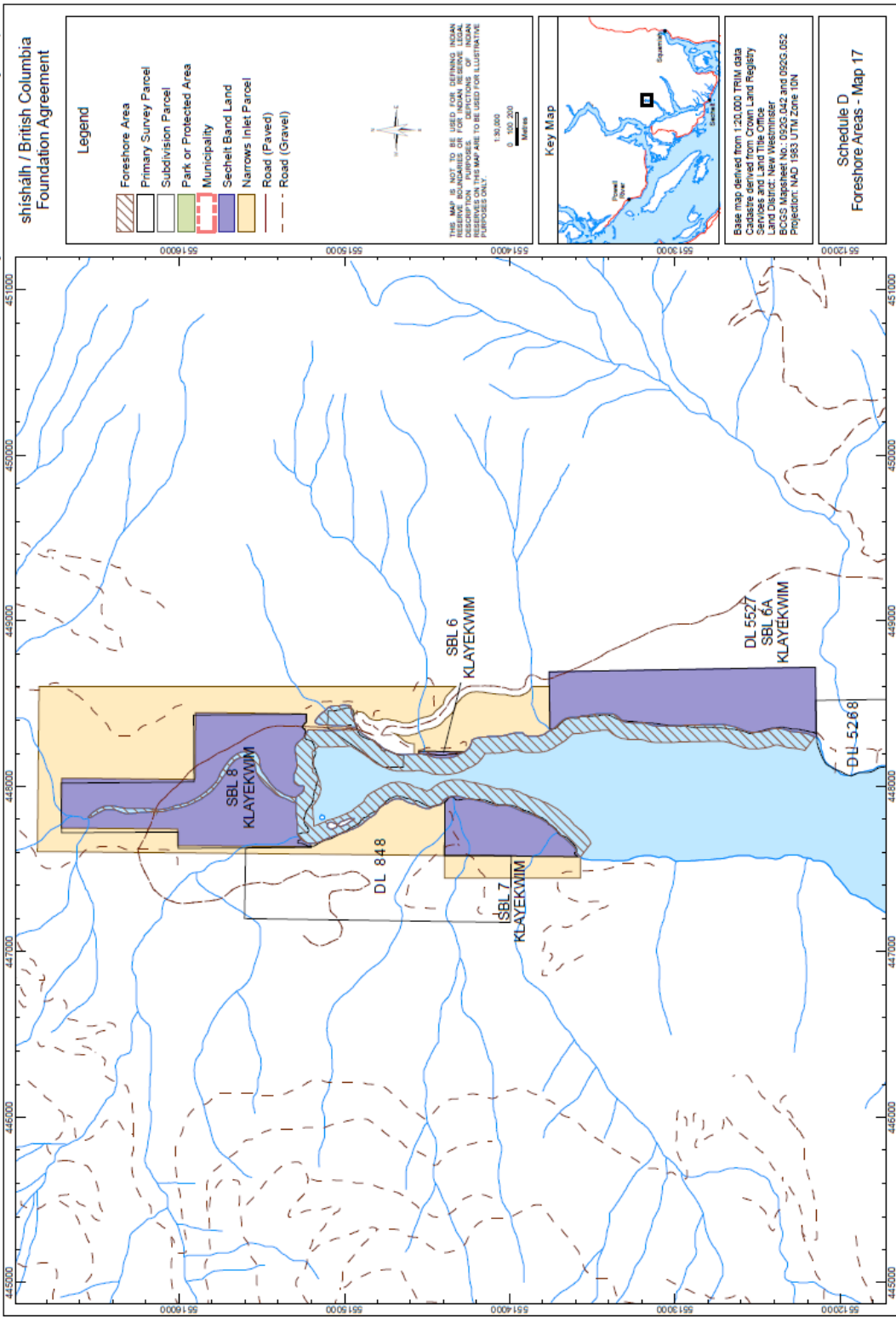


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Note: the service style that this map has been prepared and attached for illustrative purposes only and should not be used for defining Foreshore Area boundaries or for their legal descriptions.

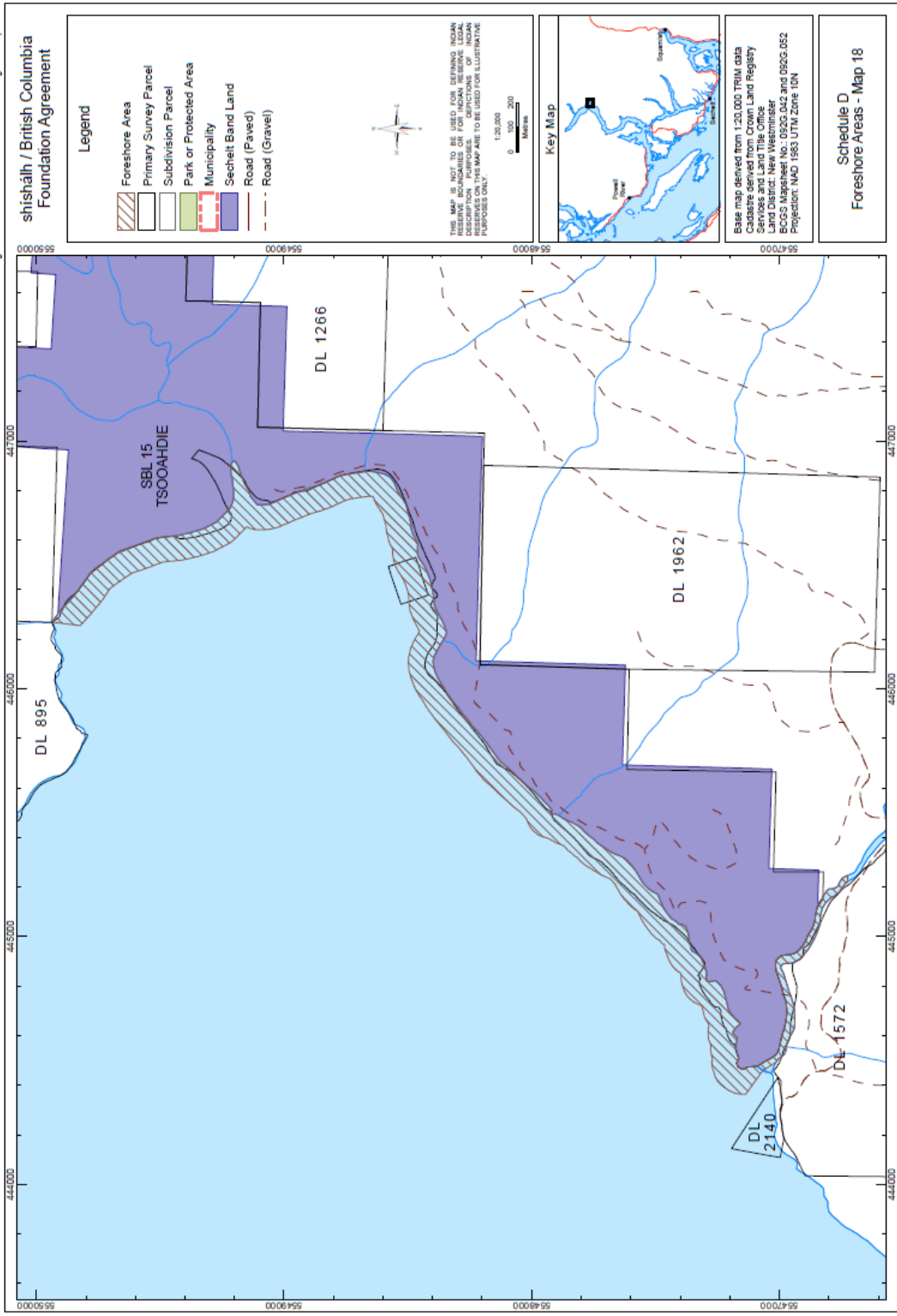


Note: the parties agree that this map has been prepared and attached for illustrative purposes only and is not to be used for defining Foreshore Area boundaries or for other legal descriptions.



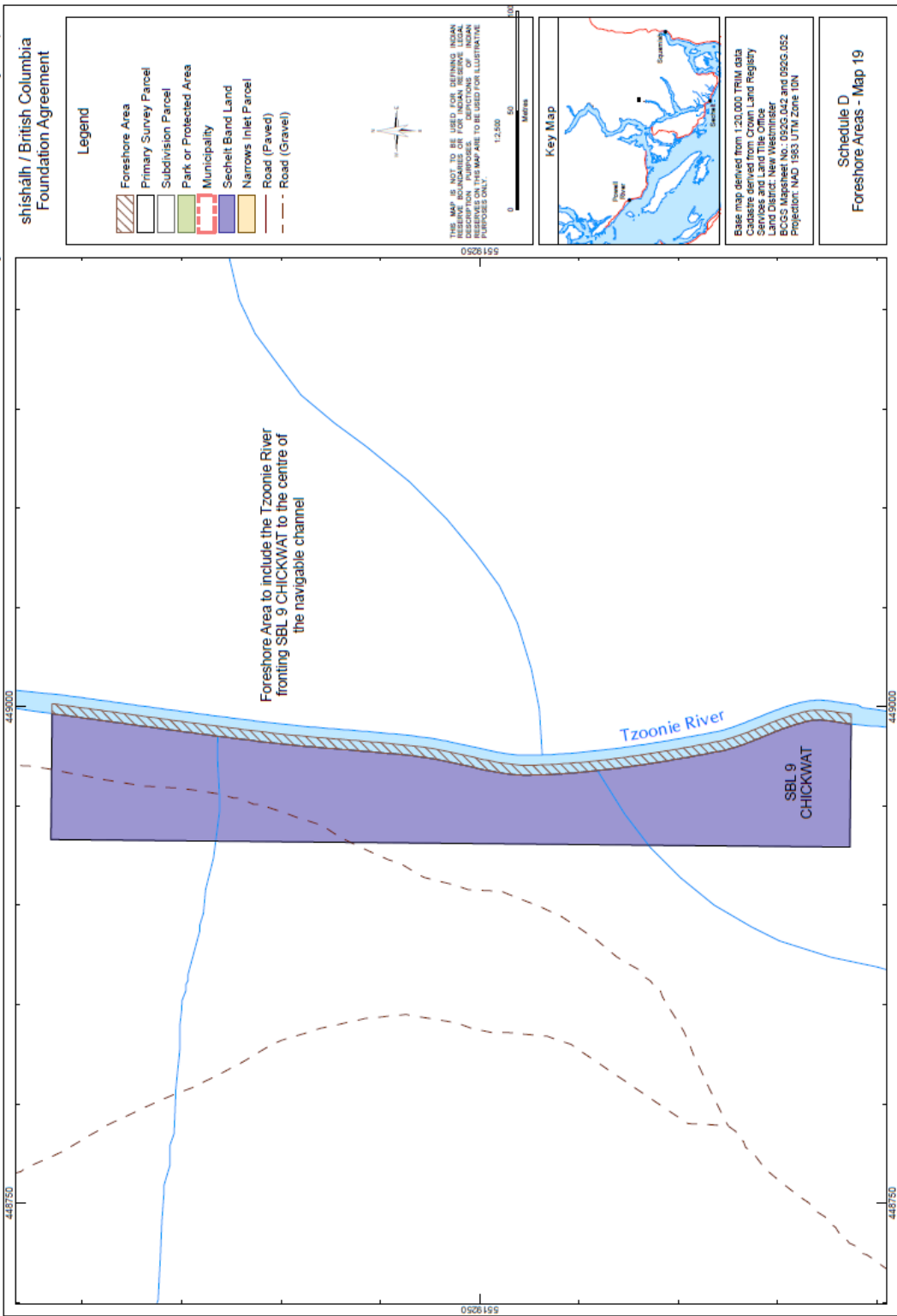
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Note: the parties agree that this map has been prepared and attached for illustrative purposes only and is not to be used for defining Foreshore Area boundaries or for their legal descriptions.



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Note: the parties agree that this map has been prepared and attached for illustrative purposes only and is not to be used for defining Foreshore Area boundaries or for their legal descriptions.





## **SCHEDULE E**

### **Interim Forestry Revenue Sharing**

#### **1. INTERPRETATION**

- 1.1 In this Schedule, “Minister” means the Minister of Forests, Lands and Natural Resource Operations and Rural Development having the responsibility, from time to time, for the exercise of powers in respect of forests and range matters.

#### **2. SCOPE**

- 2.2 This Schedule applies to forest and range activities in the shíshálh swiya.

#### **3. PROJECT PAYMENTS**

- 3.1 Subject to suspension in accordance with section 19 of Schedule P of this Foundation Agreement, the Province will during each of Fiscal Years 2018/2019, 2019/2020 and 2020/2021 make annual forestry revenue sharing payments to shíshálh Nation, calculated in accordance with Appendix 1 to this Schedule E (the “Revenue Sharing Contribution Methodology”), and the forestry revenue sharing payments will be disbursed in two equal payments: the first payment to be paid on or before September 30<sup>th</sup>, and the second payment to be paid on or before March 31<sup>st</sup>.
- 3.2 For the purposes of determining the amount of a forestry revenue sharing payment for a partial Fiscal Year, the amount will be prorated for each month or part thereof that this Foundation Agreement is in effect and forestry revenue sharing payments are to be made in accordance with section 3.1.
- 3.3 Before November 30<sup>th</sup> of each year that annual forestry revenue sharing payments are to be made in accordance with section 3.1, the Province will give the shíshálh Nation notice of the forestry revenue sharing payment for the following Fiscal Year, including the summary document and calculations identified in the Revenue Sharing Contribution Methodology, and the shíshálh Nation agrees that such notice will have the effect for the purposes of this Schedule E of describing the amount of the forestry revenue sharing payment under this Schedule E for that following Fiscal Year.

#### **4. ACKNOWLEDGEMENTS AND COVENANTS**

- 4.1 The shíshálh Nation acknowledges that forest revenues received by the Province fluctuate and that the forestry revenue sharing payments under this Schedule E will vary over time.

## **5. RECIPIENT ENTITY**

- 5.1 Unless shíshálh Nation elects to have a designate receive the forestry revenue sharing payments pursuant to section 5.2, recognizing that any such election does not relieve shíshálh Nation of its obligations under this Schedule E, shíshálh Nation will be the recipient of the revenue sharing payments.
- 5.2 Where shíshálh Nation chooses to have a designate receive the revenue sharing payments under this Schedule E, the Province may withhold payment of the revenue sharing payments until it is satisfied that shíshálh Nation's designate is a registered corporation or society with the legal authority and capacity to receive the funds for the purposes described in this Schedule E on behalf of shíshálh Nation.

## **6. SECURITY DEPOSITS**

- 6.1 In recognition of shíshálh Nation entering into this Foundation Agreement, the Province may choose not to request a silviculture deposit(s) pertaining to licence(s) entered into as a result of the invitation to apply under a Forest Tenure Opportunity Agreement entered into between shíshálh Nation (or a legal entity controlled by the shíshálh Nation) and the Province.
- 6.2 shíshálh Nation agrees that the Province may apply any payment that shíshálh Nation is entitled to receive under section 3.1, to a maximum of the amounts that the Province would have obtained in a silviculture deposit, in order to fully or partially satisfy any unfulfilled financial obligations of shíshálh Nation to the Province arising from a licence(s) entered into as a result of the invitation to apply under a Forest Tenure Opportunity Agreement entered into between shíshálh Nation (or a legal entity controlled by the shíshálh Nation) and the Province.
- 6.3 Prior to the Province applying any payment to satisfy unfulfilled financial obligations of the shíshálh Nation arising from a licence in accordance with section 6.2, the Province will notify the shíshálh Nation of the unfulfilled financial obligation and will discuss the proposed action with the shíshálh Nation.

## **7. STABILITY FOR LAND AND RESOURCE USE**

- 7.1 shíshálh Nation will respond promptly to any discussions sought by the Province in relation to any acts of intentional interference by members of shíshálh Nation with provincially authorized forest and/or range activities and will work co-operatively with the Province to assist in resolving any such matters.

## **8. SUSPENSION AND TERMINATION**

- 8.1 Subject to the process set out in section 19 of Schedule P – General Provisions, the Province may suspend the making of further forestry revenue sharing payments under this Schedule if it determines, acting reasonably, that shíshálh Nation has outstanding unfulfilled financial obligations to the Province arising from a licence(s) issued further to an agreement between the shíshálh Nation and the Province.

8.2 If, during the Term of this Foundation Agreement, shíshálh Nation:

- (a) challenges or supports a challenge to an Administrative or Operational Decision or an Operational Plan or activities carried out pursuant to those decisions or plans, by way of legal proceedings or otherwise, that asserts that the forestry revenue sharing payments provided for in section 3.1 do not provide a component of accommodation for impacts on shíshálh Nation's Aboriginal Rights; or
- (b) supports or participates in any physical acts that frustrate, delay, stop or otherwise physically interfere with provincially authorized forest activities;

then, without limiting any actions that may be taken by the Province and subject to the process set out in section 19 of Schedule P – General Provisions, the revenue sharing payments provided for in section 3.1 may be suspended.

## **9. AMENDMENT OF THE FOREST REVENUE SHARING AMOUNT**

- 9.1 The Province acknowledges shíshálh Nation's interest in obtaining forestry revenue sharing at a level equal to 75% of provincial stumpage repayment on all forestry volumes harvested under tenures issued to shíshálh Nation (or a Designated Company).
- 9.2 If changes are made to the Province's general First Nation forestry revenue sharing program, the Province will provide shíshálh Nation with the benefit of any improvements to the program and we will amend this Schedule accordingly.

## APPENDIX 1 to Schedule E

### Revenue Sharing Contribution Methodology

1. **The shíshálh swiya Forest Revenue Sharing Component Calculation**
  - 1.1 Subsequent to the Minister of Finance's release of the previous Fiscal Year's public accounts, in each Fiscal Year that revenue sharing payments are to be provided to shíshálh Nation under section 3.1 of this Schedule E, the Province will prepare a written summary of the two previous Fiscal Years' forest revenues from the Sunshine Coast Natural Resource District, based on the total of stumpage, waste and annual rent payments received by the Crown for that period. The two annual revenues will be added together and divided by two to produce an average (the "**Sunshine Coast Forestry Revenue**").
  - 1.2 The stumpage payments from Eligible Volume in any shíshálh Nation or shíshálh Nation affiliate Forest Licence (if applicable) will not be included in the Sunshine Coast Forestry Revenue calculation.
  - 1.3 The amount of Sunshine Coast Forestry Revenue attributed to the shíshálh Nation's swiya ("**swiya Forestry Revenue**") will be calculated by determining the percentage of the shíshálh swiya that falls within the Timber Harvesting Land Base in the Sunshine Coast Natural Resource District, multiplied by the Sunshine Coast Forestry Revenue. The swiya Forestry Revenue will be prorated to account for overlapping asserted territories of other First Nations within the shíshálh swiya.
  - 1.4 shíshálh Nation's share of swiya Forestry Revenue ("**shíshálh swiya Forest Revenue Sharing Component**") will be calculated by multiplying swiya Forestry Revenue by 0.05.
  - 1.5 For each Fiscal Year that this Foundation Agreement is in effect, the calculations outlined in sections 1.1 to 1.4 of this Appendix will be performed.
2. **Direct Award Tenure Forest Revenue Sharing Component**
  - 2.1 Subsequent to the Minister of Finance's release of the previous Fiscal Year's public accounts, in each Fiscal Year that revenue sharing payments are to be provided to shíshálh Nation under section 3.1 of this Schedule E, the Province will prepare a written summary of shíshálh Nation's or shíshálh Nation affiliates' Forest Licence (if applicable) forest revenue, based on the total stumpage payments received by the Crown for the previous Fiscal Year from Eligible Volume within shíshálh Nation's or shíshálh Nation affiliates' Forest Licences ("**shíshálh Licence Stumpage**").
  - 2.2 shíshálh Nation's share of shíshálh Licence Stumpage ("**Direct Award Forest Tenure Revenue Sharing Component**") will be calculated by multiplying shíshálh Licence Stumpage by 0.75.

2.3 For each Fiscal Year that this Foundation Agreement is in effect, the calculations outlined in sections 2.1 and 2.2 of this Appendix will be performed.

### 3. Revenue Sharing Calculation

3.1 For each Fiscal Year that revenue sharing payments are to be provided to shíshálh Nation under this Foundation Agreement, the revenue sharing payments will be calculated by adding the total shíshálh swiya Forest Revenue Sharing Component to the Direct Award Tenure Forest Revenue Sharing Component for that Fiscal Year.

3.2 Subject to section 3.3 of this Appendix 1, for each Fiscal Year that revenue sharing payments are to be provided to shíshálh Nation under this Foundation Agreement, if the calculation under s. 3.1 of this Appendix is less than the payments made to shíshálh Nation under the *shíshálh Nation Interim Forestry Agreement* which was signed in 2004 and expired on March 31, 2010, the Province will provide an additional revenue sharing payment (“**Transitional Revenue Sharing Component**”) to shíshálh Nation, calculated by multiplying the payments that were made by the Province to shíshálh Nation in any given full year under that *shíshálh Nation Interim Forestry Agreement* by the following values for the respective years set out below:

(a) 2018/19 Fiscal Year: 0.40;

(b) 2019/20 Fiscal Year: 0.40; and

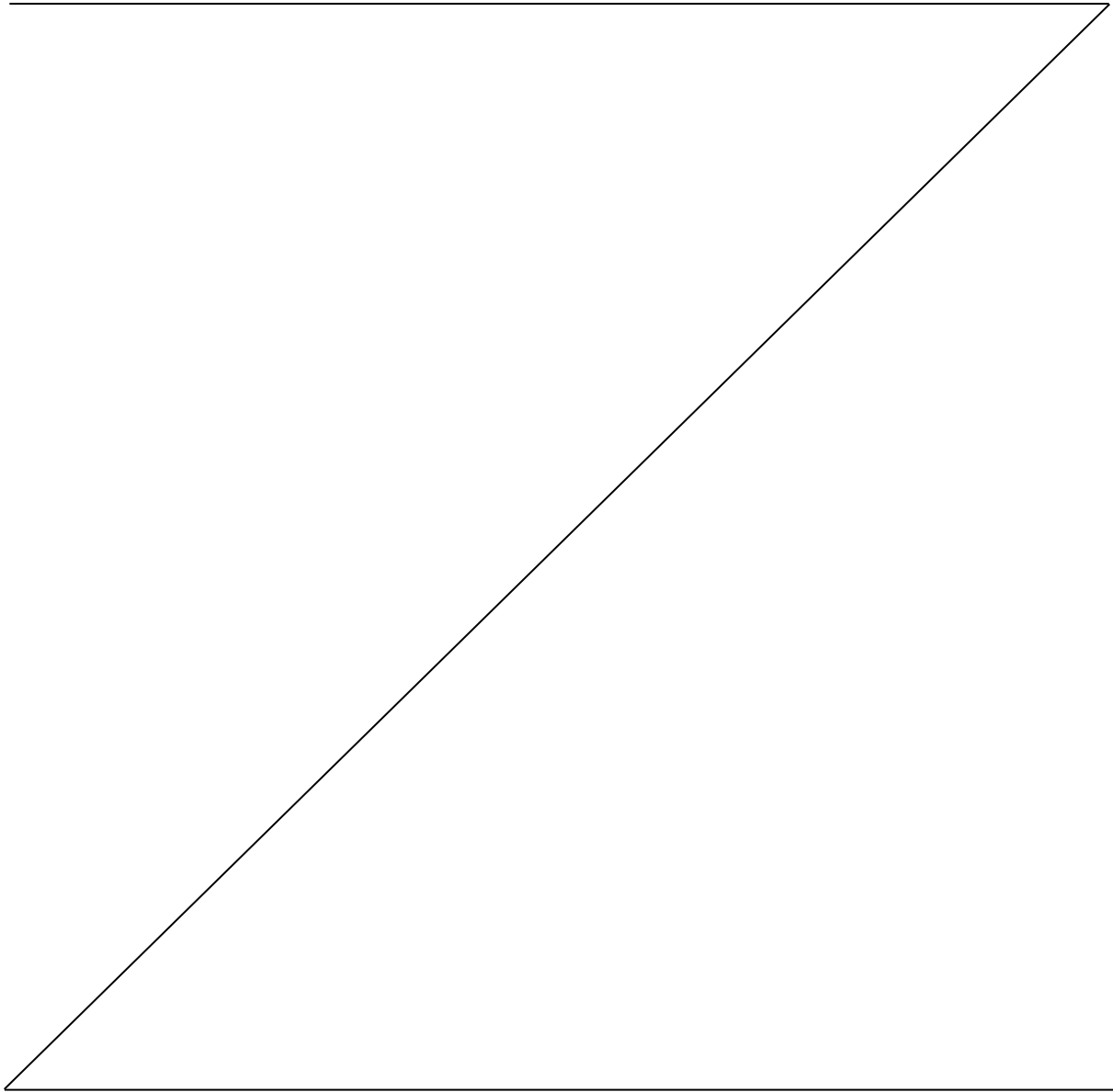
(c) 2020/21 Fiscal Year: TBD.

3.3 For each Fiscal Year that revenue sharing payments are to be provided to shíshálh Nation under this Foundation Agreement, if a Transitional Revenue Sharing Component is payable to shíshálh Nation pursuant to section 3.2 of this Appendix, the total amount payable to shíshálh Nation pursuant to sections 3.1 and 3.2 of this Appendix for that Fiscal Year will be no greater than the annual payment received under the *shíshálh Nation Interim Forestry Agreement* which was signed in 2004 and expired on March 31, 2010.

## SCHEDULE F

### shíshálh Nation Forestry Tenure Payment Calculation

#### 1. Formula for Section 4.30(c) Calculation



#### 2. Confidentiality Provisions

- 2.1 **Confidential provisions.** We acknowledge and agree that the calculations and formulas that are set out in this Schedule F to determine the payment under section 4.30(c), are confidential in nature (“Confidential Provisions”), the disclosure of which could reasonably be expected to harm:

- (a) the conduct by the government of British Columbia of relations between that government and an aboriginal government;
- (b) the conduct of negotiations between the Parties; and
- (c) the financial or economic interests of a public body or the government of British Columbia.

2.2 **No disclosure.** shíshálh covenants and agrees that:

- (a) it will not disclose the Confidential Provisions except as provided for in this Foundation Agreement;
- (b) it may only disclose the Confidential Provisions to:
  - (i) its employees and professional advisors who are required to know the Confidential Provisions in order to act on behalf of or advise shíshálh Nation with respect to this Foundation Agreement, provided they agree to adhere to the confidentiality provisions of this Foundation Agreement; and
  - (ii) shíshálh members by showing such information to shíshálh members in shíshálh's offices or disclosing such information to shíshálh members at a community meeting, provided that shíshálh members are advised of the confidential nature of such information and physical or electronic copies of such information are not made available to shíshálh members;
- (c) it will not publish, release or permit to be published or released the Confidential Provisions except:
  - (i) with the written consent of the Province;
  - (ii) where the release of the Confidential Provisions is required by law; or
  - (iii) where the Confidential Provisions are or become publicly known in circumstances that do not involve an breach of this Foundation Agreement; and
- (d) if it is required to disclose the Confidential Provisions under section 2.2(c)(ii), it will notify the Province as soon as practicable after becoming aware of the disclosure requirement.

## SCHEDULE G

### Forest Licensee Engagement Table

#### 1. Objectives:

1.1 The objectives of the Forest Licensee Engagement Table will be to:

- (a) establish a streamlined and effective forum for shíshálh Nation, the Province, including BCTS if it chooses to participate, and Licensees who choose to participate at the Forest Licensee Engagement Table to review and discuss forest planning in the shíshálh swiya;
- (b) establish a transparent and collaborative process for information sharing that will foster predictable forest planning and development in the shíshálh swiya while protecting cultural and environmental values; and
- (c) develop positive working relationships between shíshálh Nation, BCTS and the Licensees who participate at the Forest Licensee Engagement Table that will increase shíshálh Nation's role and participation in the forest sector.

#### 2. Functions:

2.1 The functions of the Forest Licensee Engagement Table will be to:

- (a) share data and information relevant to multi-year forestry planning in the shíshálh swiya (including in GIS format as agreed to by the participants);
- (b) identify and implement measures to streamline forestry planning and administration in the shíshálh swiya (e.g. discuss potential for a single Forest Stewardship Plan);
- (c) discuss and seek to reach agreement on forestry plans for the shíshálh swiya as a whole (e.g. on matters such as harvesting volumes, access management strategies);
- (d) discuss significant or strategic shíshálh Nation's concerns with Licensee or BCTS operations in the shíshálh swiya and seek to resolve those concerns; and
- (e) establish a data-sharing warehouse that will consist of agreed to existing and new inventory information collected through forest planning & development (e.g. ecosystem inventories, stream locations/classifications, known or identified archaeological resources), on the understanding that some information may not be shared by shíshálh Nation depending on the significance of the identified feature/resource.



### **3. Representation, Meetings and Funding:**

3.1 Representation at the Forest Licensee Engagement Table will be as follows:

- (a) shíshálh Nation will be represented by Stewardship and Natural Resource Management staff, supported by any advisors it deems appropriate;
- (b) the Province will be represented by district staff within the Ministry of Forests, Lands, Natural Resource Operations and Rural Development, with higher level staff involved in more high level issues, and any advisors it deems appropriate;
- (c) participating Licensees will be represented by senior staff, and any advisors they deem appropriate; and
- (d) BCTS will be represented by senior staff, and any advisors it deems appropriate.

3.2 Some discussions at the Forest Licensee Engagement Table may only involve one or some of the Licensees who are participating at the Forest Licensee Engagement Table, where not all participating Licensees are affected.

3.3 Meetings of the Forest Licensee Engagement Table will be quarterly, with additional meetings on time-sensitive matters as needed.

### **4. Issues Resolution:**

4.1 In the event that an issue arises at the Forest Licensee Engagement Table that cannot be fully addressed by the Parties and Licensees, either the Province or shíshálh Nation can refer the issue to the Solutions Forum, and the Solutions Forum will attempt to facilitate the resolution of the issue.

4.2 In attempting to facilitate resolution of the issue, the Solutions Forum may invite representatives of Licensees to participate in the Solutions Forum's discussions in relation to that issue.

## **SCHEDULE H**

### **Shared Decision-Making Process**

#### **1.0 Commencement of Engagement.**

- 1.1 The Province will commence engagement in respect of an Application by providing the shíshálh Nation and the Working Group with a written Review Package in relation to the Application.
- 1.2 A Review Package will include a copy of the Application and any additional information that the Board agrees needs to be included in a Review Package for a specific category of Application.
- 1.3 If engagement between shíshálh Nation and a Proponent has taken place with respect to an Application prior to a Review Package being submitted to the Working Group and shíshálh Nation Chief and Council has determined that it is not opposed to the Application, shíshálh Nation will advise the Working Group, the Board and the Decision Maker accordingly, and the Decision Maker may proceed to make a decision on the Application without the process set out in this Schedule H being followed.

#### **2.0 Working Group Review**

- 2.1 Within 40 Business Days of receiving a Review Package, the Working Group will undertake a review of the Review Package and provide the Board with the Working Group's Initial Assessment setting out the Working Group's:
  - (a) assessment of the completeness of the information provided in the Review Package;
  - (b) recommendation as to the estimated timeframe (20, 40, 60, or 90 Business Days) for the Board to review the Application and provide its Recommendations;
  - (c) summary of any concerns the Working Group may have with respect to the Application; and
  - (d) recommendations to the Board, based on the Working Group's assessment of the Application.
- 2.2 If the Working Group determines by consensus that additional information is required to assess the Application, the Working Group may request in writing that information from the Province, shíshálh Nation or the Proponent, as the case may be.
- 2.3 The timelines under section 2.1 will be suspended as of the date that the Working Group makes a request under section 2.2 and will begin to run again once the requested information has been provided to the Working Group.

- 2.4 If the Province, shíshálh Nation or a Proponent notifies the Working Group that it will not or cannot provide information requested under section 2.2, the timelines under section 2.1 will begin to run again as of the date of that notification.
- 2.5 Concurrently with the Working Group providing its Initial Assessment to the Board, it will notify shíshálh Nation and the Province of its recommendation to the Board under section 2.1(b) regarding the estimated timeframe for the Board to develop its Recommendations.
- 2.6 The members of the Working Group will endeavour to reach consensus on the content of an Initial Assessment.
- 2.7 If the Working Group cannot reach consensus on an Initial Assessment, the members of the Working Group will, within 40 Business Days of the Working Group receiving a Review Package, provide the Board with non-consensus assessments, recommendations and summaries of concerns regarding the matters set out in section 2.1, together with an explanation of why differences amongst Working Group members exist.
- 2.8 In developing an Initial Assessment, the Working Group may consider the:
  - (a) completeness and sufficiency of information provided with the Review Package;
  - (b) additional information gathering and analysis that may be required;
  - (c) relationship of the proposed activity to shíshálh's Title and Rights, including potential adverse impacts;
  - (d) location of the proposed activity;
  - (e) potential effects of the proposed activity on Culturally Sensitive Sites;
  - (f) nature of the proposed activity, including whether it affects water, involves herbicides or insecticides, or affects access to shíshálh Nation's cultural heritage resources;
  - (g) scope of the proposed activity, including the size and magnitude, level of disturbance and temporal aspects (long or short term impact or seasonality);
  - (h) relationship of the proposed activity to past, present, and proposed future activities that could impact shíshálh's Title and Rights;
  - (i) amount of information sharing related to the proposed activity prior to submission of an Application;
  - (j) anticipated scope and complexity of accommodation measures that may be necessary; and

- (k) impact of the Application on such other factors as the Working Group reasonably determines are applicable.
- 2.9 The Working Group may establish sub-groups to focus on specific topics associated with an Application.
- 3.0 Board Review**
- 3.1 No earlier than three and no later than 14 Business Days after receiving an Initial Assessment from the Working Group under section 2.1, the Board will meet to consider the Application and the Initial Assessment provided by the Working Group.
- 3.2 At its first meeting held in accordance with section 3.1, the Board will:
- (a) consider the initial views of the Working Group with respect to the Application;
  - (b) determine by consensus whether any additional information may be required to complete its assessment of the Application;
  - (c) determine by consensus the 20, 40, 60, or 90 Business Day timeframe which the Board will require to complete its assessment of the Application and provide its Recommendations; and
  - (d) notify shíshálh Nation and the Province of the 20, 40, 60, or 90 Business Day timeframe that the Board will require to complete its assessment of the Application and provide its Recommendations.
- 3.3 The Board may by consensus agree to extend or shorten the timeframe required to complete its review of an Application that is established under section 3.2(c) and if the Board agrees to any such timeframe extension or shortening it will notify shíshálh Nation and the Province.
- 3.4 If the Board is not able to reach consensus under section 3.2(c) on the timeframe required to complete its assessment of an Application and provide its Recommendations, or a decision to extend or shorten a timeframe under section 3.3, the Board will by written notice refer the matter to the Solutions Forum and the Solutions Forum will meet within 10 Business Days of receiving the notice to discuss the timeframe and will provide recommendations to the Board as to how to resolve the matter.
- 3.5 Upon completing its review of a Review Package the Board will, within the timeframe set by the Board under section 3.2(c) or 3.3, or within 90 Business Days from the date the issue in relation to the timeframe is referred to the Solutions Forum under section 3.4, provide the Decision Maker and shíshálh Nation Chief and Council with its written Recommendations respecting the Application.

- 3.6 The Board will strive to provide consensus Recommendations for all decisions but if the Board cannot agree by consensus on its Recommendations, the Board members will, within the timeframe set out in section 3.5, provide non-consensus Recommendations to shíshálh Nation Chief and Council and to the Decision Maker.
- 3.7 If requested by the Province, the Board will provide documentation and the rationale supporting the Recommendations on the basis and understanding that such material may be disclosed by the Province to a Proponent to support the making of the decision on the Application.
- 3.8 Notwithstanding section 3.7, any material provided to a Proponent will not include confidential information that has been provided by shíshálh Nation to the Province, unless otherwise agreed by the shíshálh Nation or where such disclosure is required by law.
- 3.9 For certainty, nothing in this Agreement limits or affects any obligation the Province may have under law with respect to the disclosure of any confidential information that has been provided to it by shíshálh Nation.
- 3.10 The Province acknowledges that the disclosure of confidential information to any other party requesting such information under the *Freedom of Information and Protection of Privacy Act* could be reasonably expected to harm the relations between the Province and shíshálh Nation and that if the Province receives a request under the *Freedom of Information and Protection of Privacy Act* or is otherwise required by law to disclose confidential information, the Province will provide shíshálh Nation with notice of the request and the opportunity to express any views regarding the disclosure.

#### **4.0 Responses after receipt of a Recommendation**

- 4.1 If either Party makes a decision on an Application that is consistent with the Board's Recommendations, that Party will, within 10 Business Days, provide written notification of the decision to the other Party and, if requested by that other Party, will also identify how that Party's interests and written comments have been addressed.
- 4.2 If either Party intends to make a decision that is not consistent with the consensus Recommendations of the Board or, if the Board has not made consensus Recommendations, the Recommendations of the Board members appointed by the other Party, that Party will provide notice to the Board and the other Party.
- 4.3 At the written request of either Party, the Solutions Forum will meet within 10 Business Days of receiving notice under section 4.2, or at a time otherwise agreed to by the Parties, to discuss the decision on the Application.
- 4.4 Neither shíshálh Nation nor the Province will make a decision on an Application prior to the earlier of meeting under section 4.3 or the expiry of the time period to meet under section 4.3.

- 4.5 Both shíshálh Nation and the Province will give serious consideration to the issues raised by the other Party at any meeting that may occur under section 4.3 when making a decision on an Application.
- 4.6 Where a decision by shíshálh Nation or the Province is not consistent with the Board's Recommendations or the issues raised by the other Party at the meeting under section 4.3, shíshálh Nation or the Province, as the case may be, will, within 10 Business Days after the decision has been made, notify the other Party of the decision and, if requested, provide a written rationale for the decision identifying how the other Party's interests and concerns have been addressed.

## **SCHEDULE I**

### **Terms of Reference for Solutions Forum**

1. Each of us will appoint a Representative to represent us at the Solutions Forum.
2. Our goals for the Solutions Forum are as follows:
  - (a) to strengthen our working relationship, manage conflict, and increase our capacity for collaboration.
  - (b) to act as a forum through which our Representatives will work collaboratively, undertake dialogue and seek to:
    - (i) address Strategic Issues;
    - (ii) resolve Disputes in the shísháhl swiya in accordance with the dispute resolution process set out in sections 6.4 to 6.10 of this Foundation Agreement;
    - (iii) address issues arising in the Shared Decision-Making Process as set out in Schedule H; and
    - (iv) facilitate the resolution of issues arising at the Forest Licensee Engagement Table as set out in sections 4.1 and 4.2 of Schedule G.
3. Each of us will provide early notice to the other of any Strategic Issues that arise and endeavour to resolve such issues through the mechanisms set out in this schedule.
4. We agree the following principles will guide the work of the Solutions Forum:
  - (a) communications and documents are without prejudice but may be identified in advance in writing by either of us as “with prejudice” and “on the record”;
  - (b) communications and documents are confidential and will not be disclosed except as required by law;
  - (c) early identification of issues of concern, so that early intervention and conflict management can take place; and
  - (d) striving to work by consensus on resolving issues, identifying solutions and implementing those solutions.
5. We agree the following processes will guide the work of the Solutions Forum:
  - (a) the processes set out in sections 6.6 to 6.10 of this Foundation Agreement will apply to Disputes;

- (b) the processes set out in sections 3.4 and 4.3 to 4.5 of Schedule H will apply to issues arising in the Shared Decision-Making Process;
- (c) the processes set out in sections 4.1 and 4.2 of Schedule G will apply to issues arising at the Forest Licensee Engagement Table;
- (d) either of us may bring a Strategic Issue to the Solutions Forum;
- (e) the Representatives will meet as soon as practicable to discuss the Strategic Issue, unless both Representatives otherwise agree;
- (f) the Solutions Forum will set its own meeting schedule as appropriate in the circumstances to address the issues identified;
- (g) the Representatives may set time limits for addressing any matter referred to them, but in the case of Disputes, the time limits set out in section 6.7 of this Foundation Agreement will apply, and in the case of issues arising in the Shared Decision-Making Process, the time limits set out in sections 3.4 and 4.3 of Schedule H will apply;
- (h) meetings of the Representatives may take place by teleconference or in person;
- (i) the Representatives may ask technicians, advisors, or other individuals to attend the Solutions Forum meetings; and
- (j) where the Solutions Forum is unable to resolve a Strategic Issue, we may agree to use other dispute resolution mechanisms to resolve the issue or disagreement.



## SCHEDULE J

### Terms of Reference for Socio-Cultural Table

1. To support shíshálh Nation's ability to access and secure resources to more fully support shíshálh Nation's social and cultural priorities and aspirations, the Socio-Cultural Table will invite and secure the participation of provincial ministries to:
  - (a) clarify shíshálh Nation's interests in a number of community priorities;
  - (b) strengthen shíshálh Nation's strategic and institutional capacity to attract socio-cultural investments;
  - (c) identify relevant provincial and federal government partners to invite to the Socio-Cultural Table;
  - (d) identify and align multiple funding streams that are consistent with advancing shíshálh Nation's priorities;
  - (e) develop multi-year project development plans for community priorities, comprised of investments and milestones;
  - (f) develop a joint social-cultural investment strategy that:
    - (i) is responsive and accountable; and
    - (ii) effectively accesses funding in support of shíshálh Nation's social and cultural priorities in the immediate, short and long term.
2. The intention is to support shíshálh Nation's identified social and cultural priorities with an integrated investment strategy that is stable, sustained for more than one year at a time and enables community planning and capacity development.
3. Ideally, initial provincial investments will enable shíshálh Nation to partner with governments and other organizations (non-governmental organizations, philanthropic organizations etc.) and successfully leverage new resources to augment federal block funding and shíshálh Nation's own source revenues.
4. Within 30 Business Days of the Effective Date, the Socio-Cultural Table will convene its first meeting.
5. Within 60 Business Days of the first meeting of the Socio-Cultural Table, the representatives on the Socio-Cultural Table will create a work plan and budget.
6. The Socio-Cultural Table will meet quarterly.
7. The Socio-Cultural Table will define short term goals, including the design and implementation of studies with provincial partner ministries, and develop priority project plans.

8. The Socio-Cultural Table will seek to access provincial program funding to address shíshálh Nation's immediate priorities.
9. shíshálh Nation and the Province will bring subject matter experts to the Socio-Cultural Table meetings as required to address issues to be discussed at the table.
10. Discussions at the Socio-Cultural Table will seek to clarify interests in each priority area identified by shíshálh Nation.
11. The Socio-Cultural Table will seek to recruit provincial partners and non-governmental organizations for identified issues.
12. The Socio-Cultural Table will jointly develop an evaluation framework.
13. The Socio-Cultural Table will report quarterly to the Relationship and Implementation Forum.

## SCHEDULE K

### Forestry Milestones

We understand that the medium and long-term Milestones cannot be identified with as much detail as the Immediate Measures. We also acknowledge that we may change the Milestones through mutual agreement as circumstances and opportunities change, our relationship evolves and the UN Declaration is implemented. As a result, we will work together, through the implementation of this Foundation Agreement, to further define and negotiate the medium-term and long-term Milestones.

Topic / Timeframe	Medium (5-10 Years)	Long Term (10-25 Years)
<b>Forestry Volume</b>	<ul style="list-style-type: none"> <li>• shísháhlh Nation holds replaceable volume amounting to 45% of the shísháhlh swiya AAC through tenures (including BCTS partnerships) or funding for shísháhlh Nation to purchase tenures from third parties.</li> <li>• Parties are negotiating and attempting to reach agreement on potential future volumes to a maximum amount (cash or volume) &gt;50% of ACC in the shísháhlh swiya to take effect after 10 years.</li> </ul>	<ul style="list-style-type: none"> <li>• shísháhlh Nation is the largest tenure holder in the shísháhlh swiya through an increase in shísháhlh Nation volume to &gt;50% of AAC in the shísháhlh swiya by the provision of tenures or funding for shísháhlh Nation to purchase tenures from third parties.</li> </ul>
<b>Forestry Industry Relations</b>	<ul style="list-style-type: none"> <li>• shísháhlh-industry partnerships are supporting a shísháhlh/industry joint AAC of 300,000 m3.</li> </ul>	
<b>Forestry Tenure</b>	<ul style="list-style-type: none"> <li>• New forms of tenure are held by shísháhlh Nation, including long-term replaceable tenures within the shísháhlh swiya (combination of area and volume based).</li> </ul>	<ul style="list-style-type: none"> <li>• New forms of tenure are continuing to be explored, including long-term replaceable tenures within the shísháhlh swiya (combination of area and volume based).</li> </ul>
<b>Forestry Revenue</b>	<ul style="list-style-type: none"> <li>• Province has increased revenue-sharing with shísháhlh Nation tied to shísháhlh Nation volume and all volume harvested by other Licensees in the shísháhlh swiya.</li> </ul>	<ul style="list-style-type: none"> <li>• Province has increased revenue-sharing with shísháhlh Nation to 100% revenue sharing on shísháhlh Nation volume and 50% revenue sharing on all volume harvested by other Licensees in the shísháhlh swiya.</li> </ul>

## SCHEDULE L

### Natural Resources Milestones

We understand that the medium and long-term Milestones cannot be identified with as much detail as the Immediate Measures. We also acknowledge that we may change the Milestones through mutual agreement as circumstances and opportunities change, our relationship evolves and the UN Declaration is implemented. As a result, we will work together, through the implementation of this Foundation Agreement, to further define and negotiate the medium-term and long-term Milestones.

<b>Topic / Timeframe</b>	<b>Medium (5-10 Years)</b>	<b>Long Term (10-25 Years)</b>
<b>Mitigation, Inventory and Rehabilitation Work</b>	<ul style="list-style-type: none"> <li>• Mitigation, inventory, rehabilitation and pollution control work is being undertaken in the swiya including foreshore, fish, wildlife habitat, ecosystems and cultural heritage sites.</li> <li>• Fish and wildlife ecosystems are being improved, to address shíshálh Nation's harvesting and heritage conservation interests.</li> </ul>	<ul style="list-style-type: none"> <li>• Mitigation, inventory, rehabilitation and pollution control work is continuing in the swiya including foreshore, fish, wildlife habitat, ecosystems and cultural heritage sites.</li> <li>• Fish and wildlife ecosystems continue to be improved, to address shíshálh Nation's harvesting and heritage conservation interests.</li> </ul>
<b>Mining/gravel</b>	<ul style="list-style-type: none"> <li>• shíshálh Nation is participating in other gravel operations and other mine operations in the swiya.</li> <li>• Revenue-sharing agreements have been entered into between shíshálh Nation and the Province in relation to mining in the swiya.</li> </ul>	<ul style="list-style-type: none"> <li>• shíshálh Nation's participation in gravel operations and other mine operations in the swiya has increased further.</li> <li>• Additional revenue-sharing agreements have been entered into between shíshálh Nation and the Province in relation to mining in the swiya.</li> </ul>
<b>Aquaculture and Marine Issues</b>	<ul style="list-style-type: none"> <li>• shíshálh Nation's participation in aquaculture industry has increased (e.g. geoduck or black cod pens).</li> <li>• Marine planning is being undertaken in the swiya with federal government participation.</li> </ul>	<ul style="list-style-type: none"> <li>• shíshálh Nation's participation in aquaculture industry has increased further (e.g. geoduck or black cod pens).</li> <li>• Marine planning continues to be undertaken in the swiya with federal government participation.</li> </ul>
<b>Clean Energy Projects</b>	<ul style="list-style-type: none"> <li>• shíshálh Nation's participation in clean energy projects has increased.</li> </ul>	<ul style="list-style-type: none"> <li>• shíshálh Nation's participation in clean energy projects has increased further.</li> </ul>

<b>Revenue-sharing</b>	<ul style="list-style-type: none"> <li>• Revenue-sharing agreements have been entered into between shíshálh Nation and the Province in non-forestry resource development sectors.</li> </ul>	<ul style="list-style-type: none"> <li>• Additional revenue-sharing agreements have been entered into between shíshálh Nation and the Province in non-forestry resource development sectors.</li> </ul>
<b>Natural Resource Development</b>		<ul style="list-style-type: none"> <li>• shíshálh Nation is playing a lead role in industrial activities in the swiya.</li> </ul>

## SCHEDULE M

### Lands and Tenures Milestones

We understand that the medium and long-term Milestones cannot be identified with as much detail as the Immediate Measures. We also acknowledge that we may change the Milestones through mutual agreement as circumstances and opportunities change, our relationship evolves and the UN Declaration is implemented. As a result, we will work together, through the implementation of this Foundation Agreement, to further define and negotiate the medium-term and long-term Milestones.

<b>Topic / Timeframe</b>	<b>Medium (5-10 Years)</b>	<b>Long Term (10-25 Years)</b>
<b>Other lands</b>	<ul style="list-style-type: none"> <li>• Additional lands have been identified for negotiation, and transferred from the Province to shíshálh Nation.</li> </ul>	<ul style="list-style-type: none"> <li>• Additional lands have been identified for negotiation, and transferred from the Province to shíshálh Nation.</li> </ul>
<b>Land status</b>	<ul style="list-style-type: none"> <li>• Additional lands held by shíshálh Nation have become Sechelt Lands.</li> <li>• Other types of land holding (e.g. Aboriginal title lands) are being explored and implemented.</li> <li>• shíshálh Nation laws are being applied to lands held by shíshálh Nation.</li> </ul>	<ul style="list-style-type: none"> <li>• Additional lands held by shíshálh Nation have become Sechelt Lands.</li> <li>• Other types of land holding continue to be explored and implemented(e.g. Aboriginal title lands).</li> <li>• shíshálh Nation laws are being applied to lands held by shíshálh Nation.</li> </ul>
<b>Tenures</b>	<ul style="list-style-type: none"> <li>• shíshálh Nation has applied for and been issued additional tenures, including foreshore tenures and water licences.</li> </ul>	<ul style="list-style-type: none"> <li>• shíshálh Nation has applied for and been issued additional tenures, including foreshore tenures and water licences.</li> </ul>

## SCHEDULE N

### Governance and Jurisdiction Milestones

We understand that the medium and long-term Milestones cannot be identified with as much detail as the Immediate Measures. We also acknowledge that we may change the Milestones through mutual agreement as circumstances and opportunities change, our relationship evolves and the UN Declaration is implemented. As a result, we will work together, through the implementation of this Foundation Agreement, to further define and negotiate the medium-term and long-term Milestones.

Topic / Timeframe	Medium (5-10 Years)	Long Term (10 to 25 Years)
<b>shíshálh – BC joint natural resource decision-making structures and processes</b>	<ul style="list-style-type: none"> <li>• A joint land use plan is complete, approved by both parties and is being implemented.</li> <li>• The Shared Decision-Making Process is being applied to decisions under the <i>Environmental Assessment Act</i>.</li> <li>• Joint decision making initiatives have been expanded through legislative and/or policy changes.</li> </ul>	
<b>Exclusive shíshálh decision – making / law making</b>	<ul style="list-style-type: none"> <li>• Consent-based decision-making processes in additional areas are being implemented.</li> <li>• Exclusive shíshálh Nation decision-making/law-making initiatives are being piloted.</li> <li>• Joint/tripartite environmental and heritage conservation management is being implemented in the shíshálh swiya.</li> </ul>	<ul style="list-style-type: none"> <li>• The work plan for exclusive decision making and joint environmental and heritage conversation management is being fully implemented.</li> <li>• Exclusive shíshálh Nation jurisdiction over specified areas is recognized.</li> </ul>

## SCHEDULE O

### Socio-Cultural Milestones

We understand that the medium and long-term Milestones cannot be identified with as much detail as the Immediate Measures. We also acknowledge that we may change the Milestones through mutual agreement as circumstances and opportunities change, our relationship evolves and the UN Declaration is implemented. As a result, we will work together, through the implementation of this Foundation Agreement, to further define and negotiate the medium-term and long-term Milestones.

Topic / Timeframe	Medium (5-10 Years)	Long Term (10-25 Years)
<b>Standards of Living</b>	<ul style="list-style-type: none"> <li>Projects or programs have been developed and are being implemented to improve the standards of living for shíshálh people.</li> </ul>	<ul style="list-style-type: none"> <li>Standards of living on par or exceeding the standard of living for non-Indigenous communities have been achieved for shíshálh people, including in relation to housing, infrastructure, roads, access to water (domestic), education, well-being, health, recreation and participation in the economy.</li> </ul>
<b>Housing</b>	<ul style="list-style-type: none"> <li>Strategies developed in the first five-year term of the Foundation Agreement are being implemented.</li> </ul>	<ul style="list-style-type: none"> <li>Additional strategies that have been developed by shíshálh Nation and the Province are being implemented.</li> </ul>
<b>shíshálh - BC Socio-Cultural Table</b>	<ul style="list-style-type: none"> <li>shíshálh and the Province's participation in Socio-Cultural Table is continuing and/or capacity is being provided for projects including: youth programs, new community hall/centre, new/expanded museum, multi-use facility built in the shíshálh swiya, longhouse expansion.</li> </ul>	<ul style="list-style-type: none"> <li>Strategies that have been developed by shíshálh Nation and the Province are being implemented.</li> </ul>
<b>Emergency Preparedness</b>	<ul style="list-style-type: none"> <li>shíshálh Nation earthquake preparedness is addressed.</li> </ul>	
<b>Children and Youth</b>	<ul style="list-style-type: none"> <li>Requirements for implementing transfer of jurisdiction, through linkages to the <i>Sechelt Indian Band Self-Government Act</i> or other mechanisms, is being analyzed, including the transfer of jurisdiction from the Ministry of Child and Family Development to shíshálh Nation.</li> </ul>	<ul style="list-style-type: none"> <li>Transfer of Ministry of Child and Family Development jurisdiction to shíshálh Nation is being implemented.</li> </ul>



<b>Health</b>	<ul style="list-style-type: none"> <li>• Elder's care facility/program is underway.</li> </ul>	
<b>Education</b>	<ul style="list-style-type: none"> <li>• Succession planning has been developed.</li> <li>• Mentoring program (elder mentoring) is underway.</li> <li>• Leadership training is underway.</li> </ul>	<ul style="list-style-type: none"> <li>• shísháhlh members have the same or better education levels than other Canadians.</li> </ul>
<b>Cultural Programs</b>	<ul style="list-style-type: none"> <li>• Plans developed in the first five-year term of the Foundation Agreement are being implemented.</li> </ul>	<ul style="list-style-type: none"> <li>• Plans are being reviewed and additional plans are being implemented.</li> </ul>
<b>Language Programs</b>	<ul style="list-style-type: none"> <li>• Plans developed in the first five-year term of the Foundation Agreement are being implemented.</li> </ul>	<ul style="list-style-type: none"> <li>• Plans are being reviewed and additional plans are being implemented.</li> </ul>
<b>Place Names</b>	<ul style="list-style-type: none"> <li>• Additional place names and road and highway signage are identified and being implemented.</li> </ul>	<ul style="list-style-type: none"> <li>• Additional place names and road and highway signage are identified and being implemented.</li> </ul>

## **SCHEDULE P**

### **General Provisions**

#### **Representations and Warranties**

1. shíshálh Nation represents and warrants to the Province, with the intent and understanding that they will be relied on by the Province in entering into this Foundation Agreement, that:
  - (a) it has the legal power, capacity and authority to enter into this Foundation Agreement on its own behalf and on behalf of shíshálh people;
  - (b) it has taken all necessary actions and has obtained all necessary approvals to enter into this Foundation Agreement for and on behalf of shíshálh people; and
  - (c) this Foundation Agreement is valid and binding obligation upon it.
2. The Province represents and warrants to shíshálh Nation, with the intent and understanding that they will be relied on by shíshálh Nation in entering into this Foundation Agreement, that it has the authority to enter into this Foundation Agreement and that this Foundation Agreement is a valid and binding obligation of the Province.

#### **Legal Status of the Milestones**

3. The Milestones set out in this Foundation Agreement are government-to-government understandings between us that we intend to attempt to implement in good faith, however the Milestones are not intended to create legally binding or enforceable obligations on either Party and neither of us is providing any assurance that any particular Milestone will be achieved or implemented.
4. We acknowledge that further decisions, mandates, policies, and approvals are required if we are to achieve the Milestones and accordingly, negotiating and attempting to reach agreement on measures to implement any of the Milestones is subject to each of us making required policy decisions and obtaining all required mandates and approvals including, in the case of the Province, required Cabinet and Treasury Board approvals.
5. In negotiating and attempting to reach agreement on measures to implement any of the Milestones we will consider progress on reconciliation between us, the on-going work of recognition and implementation of shíshálh Nation's Title and Rights, and the interests of all persons living, working and doing business in the shíshálh swiya.

## **Legal Advice**

6. We confirm that each of us has had the full opportunity to review the terms and conditions of this Foundation Agreement and each has sought independent legal advice with respect to the terms and conditions.

## **Reconciliation Agreement and Government-to-Government Agreement**

7. Nothing in this Foundation Agreement is intended to limit any outstanding obligations that either of us may have under either the Reconciliation Agreement or Government-to-Government Agreement.

## **Interim Forestry Agreement**

8. Notwithstanding the terms of the Interim Forestry Agreement, the Interim Forestry Agreement terminates as of the Effective Date.

## **Waivers**

9. Any waiver of:
  - (a) a provision of this Foundation Agreement;
  - (b) the performance by one of us of an obligation under this Foundation Agreement; or
  - (c) a default by one of us of an obligation under this Foundation Agreement;

must be in writing and signed by the Party giving the waiver and will not be a waiver of any other provision, obligation or subsequent default.

## **Enurement**

10. This Foundation Agreement will enure to the benefit of and be binding on us and our respective successors and the Province.

## **Status of Benefits provided under this Foundation Agreement**

11. All land, cash and other benefits provided under this Foundation Agreement constitute a component of any accommodation, including economic accommodation, or compensation that may be required for any impacts on shíshálh Nation's Title and Rights arising from decisions or authorizations of the Province or Provincial Officials made before or after the Effective Date and are a contribution by the Province towards reconciliation of the Province's and shíshálh Nation's interests.

12. The benefits provided to shíshálh Nation under this Foundation Agreement are a contribution by the Province to any final land claims agreement or treaty protected by section 35(1) of the *Constitution Act, 1982* that might be reached with shíshálh Nation.

### **Assurances**

13. shíshálh Nation releases and discharges the Province and all Provincial Officials from:
  - (a) all claims with respect to the Province's obligation to consult and, if appropriate, accommodate in respect of the transfer of the Lands to shíshálh Nation and to a Designated Company pursuant to this Foundation Agreement and the Land Transfer Agreement;
  - (b) all claims with respect to the Province's obligation to consult and, if appropriate, accommodate in respect of BC Hydro's expression of interest for the purchase of the Saltery Bay Sub-Station Lands and any subsequent transfer of those lands to BC Hydro; and
  - (c) all claims of infringement of its Rights and Title in respect of DL 1592 Lands.
14. The Shared Decision-Making Process constitutes the means by which we will fulfill the procedural and information sharing obligations associated with the duty to consult and, if appropriate, accommodate in respect of Authorizations made pursuant to the Shared Decision-Making Process.
15. Subject to the Province being in compliance with the Shared Decision-Making Process, shíshálh Nation will not initiate or participate in any legal action or proceeding that challenges any decision, authorization or authorized activity in the shíshálh swiya that shíshálh Nation Chief and Council have consented to under the Shared Decision-Making Process on the basis that the Province has failed to fulfil its duty to consult and, if appropriate, accommodate shíshálh Nation or that the decision, authorization or authorized activity unjustifiably infringes shíshálh Nation's Title and Rights.

### **Legal Proceedings and Title Litigation**

16. Subject to section 18, prior to shíshálh Nation initiating or participating in any Legal Proceeding:
  - (a) shíshálh Nation will provide the Province with notice in writing of its intention to initiate or participate in the Legal Proceeding;
  - (b) the Province may refer the matter to the Solutions Forum within ten Business Days of receiving the notice from shíshálh Nation;

- (c) if the Province refers the matter to the Solutions Forum, shíshálh Nation will not initiate or participate in the Legal Proceeding until the matter has been considered by the Solutions Forum and, if applicable, the Senior Representatives as set out below;
  - (d) if the Province does not refer the matter to the Solutions Forum within 10 Business Days of receiving the notice from shíshálh Nation, shíshálh Nation may initiate or participate in the Legal Proceeding without further notice to the Province, except as required by the applicable Supreme Court Civil Rules or as otherwise agreed between us;
  - (e) if the Province refers the matter to the Solutions Forum, the Solutions Forum will have 10 Business Days from the date the matter is referred to it to try to resolve the matter, unless the Solutions Forum agrees to extend the timeline;
  - (f) if the Solutions Forum is unable to resolve the matter within 10 Business Days from the date the matter is referred to it, the Solutions Forum may agree to refer the matter to the Senior Representatives;
  - (g) if the Solutions Forum cannot resolve the matter within the time period set out in section 16(e) and, if applicable, the Senior Representatives cannot resolve the matter within 10 Business Days of the matter being referred to them, shíshálh Nation can initiate or participate in the Legal Proceeding without further notice to the Province, except as required by the applicable Supreme Court Civil Rules or as otherwise agreed between us; and
  - (h) if the matter is resolved by the Solutions Forum or the Senior Representatives to our mutual satisfaction, shíshálh Nation will not initiate or participate in the Legal Proceeding.
17. Subject to section 18, prior to shíshálh Nation taking any further steps in its Title Litigation:
- (a) shíshálh Nation will provide the Province with notice in writing of its intention to take such steps in its Title Litigation;
  - (b) the Province can refer the matter to the Solutions Forum within 10 Business Days of receiving the notice from shíshálh Nation;
  - (c) if the Province refers the matter to the Solutions Forum, shíshálh Nation will not take steps in its Title Litigation until the matter has been considered by the Solutions Forum and, if applicable, the Senior Representatives as set out below;

- (d) if the Province does not refer the matter to the Solutions Forum within 10 Business Days of receiving the notice from shíshálh Nation, shíshálh Nation can take further steps in its Title Litigation without further notice to the Province, except as required by the applicable Supreme Court Civil Rules or as otherwise agreed between us;
  - (e) if the Province refers the matter to the Solutions Forum, the Solutions Forum will have 10 Business Days from the date the matter is referred to it to try to resolve the matter, unless the Solutions Forum agrees to extend the timeline;
  - (f) if the Solutions Forum is unable to resolve the matter within 10 Business Days from the date the matter is referred to it, the Solutions Forum may agree to refer the matter to the Senior Representatives; and
  - (g) if the Solutions Forum cannot resolve the matter within the time period set out in section 17(e) and, if applicable, the Senior Representatives cannot resolve the matter within 10 Business Days of the matter being referred to them, shíshálh Nation can take further steps in its Title Litigation without further notice to the Province, except as required by the applicable Supreme Court Civil Rules or as otherwise agreed between us.
18. Sections 16 and 17 do not apply to a Legal Proceeding or the Title Litigation in the event of a time-sensitive situation requiring shíshálh Nation to bring an application for an injunction or to file legal proceedings prior to a limitation period expiring, or to conducting depositions, or seeking a Court order to conduct depositions, of shíshálh Nation witnesses in the Title Litigation as may be agreed to by us or ordered by the Court from time to time.

### **Suspension of Benefits**

19. If shíshálh Nation is in breach of any of its material obligations under this Foundation Agreement or the Land Transfer Agreement, the Province may suspend the transfer or provision of land, cash or other benefit to be provided under this Foundation Agreement or the Land Transfer Agreement, but prior to suspending any transfer or provision of land, cash or other benefit:
- (a) the Province will provide shíshálh Nation with notice in writing that it considers shíshálh Nation to be in breach of a material obligation under this Foundation Agreement or the Land Transfer Agreement;
  - (b) shíshálh Nation may refer the matter to the Solutions Forum within 10 Business Days of receiving the notice from the Province;
  - (c) if shíshálh Nation refers the matter to the Solutions Forum, the Province will not suspend the transfer or provision of any land, cash or other benefit to shíshálh Nation until the matter has been considered by the Solutions Forum and, if applicable, the Senior Representatives as set out below;

- (d) if shíshálh Nation refers the matter to the Solutions Forum, the Solutions Forum will have 10 Business Days from the date the matter is referred to it to try to resolve the matter, unless the Solutions Forum agrees to extend the timeline;
- (e) if the Solutions Forum is unable to resolve the matter, the Solutions Forum may agree to refer the matter to the Senior Representatives and the Senior Representatives will have 10 Business Days to attempt to resolve the matter; and
- (f) if the matter is resolved by the Solutions Forum or the Senior Representatives to our mutual satisfaction, the Province will not suspend the transfer or provision of any land, cash or other benefit to shíshálh Nation.

### **No Admissions**

20. Nothing in this Foundation Agreement will be construed:

- (a) as an admission by either Party of the validity or invalidity of any claim by shíshálh Nation to any Title or Right;
- (b) as establishing, defining, limiting, denying, abrogating or derogating any Title or Right of the shíshálh Nation;
- (c) as an acknowledgment or admission by the Province that it has an obligation to provide financial or economic accommodation or compensation to the shíshálh Nation; or
- (d) as in any way limiting the position either of us may take in any process or proceeding except as expressly set out herein.

### **Section 35 of the *Constitution Act, 1982***

21. We agree that:

- (a) this Foundation Agreement does not constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982*;
- (b) this Foundation Agreement does not preclude the right of either of us to engage in further processes to establish the scope or the geographic extent of the shíshálh Nation's Title and Rights recognized and affirmed under section 35 of the *Constitution Act, 1982*, after following any applicable processes set out in sections 16 and 17 of this Schedule P or as otherwise agreed between us; and

- (c) the commitments and acknowledgments made in this Foundation Agreement regarding the recognition and realization of shíshálh Nation's right to self-determination, including the inherent right to self-government, and the adoption and implementation of the UN Declaration are made within the context of, and are intended to be consistent with, the recognition and affirmation of the Aboriginal rights of the Aboriginal peoples of Canada provided under section 35 of the *Constitution Act, 1982*.

### **Exclusive Decision Making and Law-making**

22. The commitments and Milestones in this Foundation Agreement regarding the exploration and potential implementation of exclusive shíshálh decision making or law-making are not intended to involve discussions or negotiations to amend the *Constitution Act, 1867* and any such measures that we may agree to will be implemented by any required amendments to provincial and shíshálh Nation law and policy.

### **No Fettering**

23. This Foundation Agreement, including the establishment of the Board, Solutions Forum and tables, and the implementation of decision-making processes, does not affect the jurisdiction or fetter the discretion of any Decision Maker or other decision-making authority.

### **Time is of the Essence**

24. Time will be of the essence.

### **Notices**

25. Except as expressly set out herein, any notice, document or communication required or permitted to be given hereunder shall be in writing and delivered by hand or facsimile to the Party to which it is to be given as follows:

To the Province:

Deputy Minister  
Ministry of Indigenous Relations and Reconciliation  
P.O. Box Stn. Prov. Govt.  
Victoria, B.C. V8W 9B1  
Fax No. (250) 387-6073



To shíshálh Nation:

Chief Councillor  
P.O. Box 740  
5555 Sunshine Coast Highway  
Sechelt, B.C. V0N 3A0  
Fax No. (250) 885-3490

or to such other address in Canada as either Party may in writing advise. Any notice, document or communication will be deemed to have been given on the Business Day when delivered or when transmitted with confirmation of transmission by facsimile if done so during or before normal business hours in the city of the addressee and if after such normal business hours the Business Day next following.

### **Amendments in Writing**

26. This Foundation Agreement may be amended from time to time by us in writing.

### **Applicable Laws**

27. This Foundation Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.

### **Invalidity**

28. If any part of this Foundation Agreement is void or unenforceable at law:
- (a) the invalidity of that part will not affect the validity of the remainder, which will continue in full force and effect and be construed as if this Foundation Agreement had been executed without the invalid part; and
  - (b) we will negotiate and attempt to reach agreement on a replacement for the part declared or held invalid with a view to achieving our intent as expressed in this Foundation Agreement.

### **Execution in Counterparts**

29. This Foundation Agreement may be entered into by each of us signing a separate copy of this Foundation Agreement (including a photocopy or facsimile copy) and delivering it to the other by facsimile transmission. All executed counterparts taken together will constitute one agreement.

### **Conditions Precedent to Provision of Provincial Funds**

30. The obligation of the Province to make any payments to the shíshálh Nation under this Foundation Agreement in any Fiscal Year is subject to:

- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, RSBC 1996, c. 138, to enable the Province in the Fiscal Year when any expenditure in respect of an obligation may be required, to make that expenditure; and
- (b) Treasury Board, as defined in the *Financial Administration Act*, RSBC 1996, c. 138, not having controlled or limited expenditure under any appropriation necessary in order to make such payment; and
- (c) shíshálh Nation having provided the Province with a report on or after April 1st of each year of the term of this Foundation Agreement, substantially in the form and with the content set out in Appendix 1 to this Schedule P and satisfactory to the Province acting reasonably, setting out how the funds provided under this Foundation Agreement in respect of the prior Fiscal Year were used in a manner consistent with the purposes of this Foundation Agreement.

### **Assignment**

- 31. Unless we otherwise agree, this Foundation Agreement and any rights or obligations under this Foundation Agreement may not be assigned, in whole or in part.

### **Own Source Revenue Payments**

- 32. With respect to Canada's own source revenue policy and payments made under this Foundation Agreement, the Province will:
  - (a) not take into account any own source revenue capacity that may be acquired by shíshálh Nation as a result of this Foundation Agreement;
  - (b) make reasonable efforts to obtain the agreement of Canada to similarly not take any such own source revenue capacity into account; and
  - (c) if necessary, accede to a request by shíshálh Nation to consider amendments to this Foundation Agreement that would ensure that payments made from the Province under this Foundation Agreement do not result in reductions of payments by Canada to shíshálh Nation.

### **Additional Benefits**

- 33. Nothing in this Foundation Agreement precludes shíshálh Nation from accessing economic opportunities and benefits, including in the forestry sector, which may be available to it in addition to those expressly set out in this Foundation Agreement.

## **Termination**

34. It is acknowledged that if either of us determines that the particular path of reconciliation set out in this Foundation Agreement is not working, either of us must be able to step off this path and terminate this Foundation Agreement as set out in this Schedule P and pursue other directions. However, we agree that termination is a last resort that should only be undertaken after the requirements set out in sections 35 to 41 of this Schedule are met.
35. shíshálh Nation or the Province may terminate the Foundation Agreement at any time following 60 Business Days written notice to terminate to the other, with a detailed explanation of the reason for termination.
36. With 30 Business Days of a written notice to terminate being provided by one of us, the Solutions Forum will meet to discuss the reasons for termination, seek to address the reasons, and consider whether amendments to this Foundation Agreement or additional agreements may address the reasons.
37. If the Solutions Forum is unable to address the reasons for the proposed termination within 30 Business Days of a notice to terminate being provided by one of us, our Senior Representatives will meet to attempt to address the reasons for termination.
38. If the Solutions Forum or our Senior Representatives are able to address the reasons for termination to our mutual satisfaction, this Foundation Agreement will not be terminated.
39. If our Senior Representatives are unable to address the reasons for termination prior to the expiration of the 60-Business-Day notice period, the Party providing the notice to terminate may provide a final notice to the other Party advising that this Foundation Agreement is terminated.
40. In attempting to address the reasons for termination within the 60-Business-Day notice period, the Solutions Forum and our Senior Representatives will consider the use of third parties, such as facilitators, mediators, or arbitrators.
41. We may agree to extend the 60-Business-Day notice period.

## **Survival**

42. Subject to the applicable lands having been transferred, we agree that section 13 of this Schedule P will survive despite the termination of this Foundation Agreement.

## **Term**

43. The term of this Foundation Agreement will commence on the date that it is signed by both shíshálh Nation and the Province.

**Appendix 1 to Schedule P**  
**Annual Report Template**

<b>Foundation Agreement section</b>	<b>Fiscal Year _____ Activities</b>	<b>Fiscal Year _____ Expenditures</b>
4.31 Activities and expenditures relating to timber volume acquisition or other economic development purposes		
4.63 Activities and expenditures relating to the establishment and operation of the Forest Licensee Engagement Table		
4.83 Activities and Expenditures relating to Foundation Agreement Implementation		

## SCHEDULE Q

### Interpretation and Definitions

1. For the purposes of this Foundation Agreement, the following definitions apply:

**“Abandoned Trapline Licences”** means trapline licences issued under the *Wildlife Act* R.S.B.C. 1996, c.488 numbered TR0205T011, TR0205T025, TR0205T026, TR0205T027, TR0205T028, TR0205T029, TR0205T031, TR0205T032, TR0212T024, TR0212T025, and TR0212T026;

**“Administrative or Operational Decision”** means a decision by the Minister of Forests, Lands and Natural Resource Operations and Rural Development or a Decision Maker related to forest resources under provincial legislation;

**“Application”** means an application by a Proponent, other than BCTS, for an Authorization;

**“Authorization”** means a licence, lease, permit, authorization or other approval relating to land or resources within the shíshálh swiya, including for greater certainty Dock Tenures and Forestry Decisions, that has the potential to adversely affect shíshálh’s Title and Rights, but does not include:

- (a) any application, licence, lease, permit, authorization, approval or decision made under the *Environmental Assessment Act*, SBC 2002, c. 43, other than any application, licence, lease, permit, authorization, approval or decision being considered pursuant to concurrent permitting processes under the *Environmental Assessment Act*;
- (b) the filing of a mineral claim under the Mineral Titles On-line Registry under the *Mineral Tenure Act*, R.S.B.C. 1996, c. 292;
- (c) any licence, lease, permit, authorization or other approval by the BC Oil and Gas Commission; or
- (d) any licence, lease, permit, authorization or other approval that we agree will not be subject to the Shared Decision-Making Process under this Foundation Agreement;

**“Band Lands No.2”** means the lands transferred to shíshálh Nation pursuant to the *Sechelt Indian Band Self-Government Act*, SC 1986, c, 27 and described in the Indian Lands Registry as “Sechelt Band Lands (Sechelt) 2”;

**“BC Final Domestic Demand Implicit Price Index”** or **“BCFDDIPI”** means the British Columbia Final Domestic Demand Implicit Price Index for British Columbia, series v62789718, published regularly by Statistics Canada in Table 384-0039: Implicit price indexes, gross domestic product, provincial and territorial, or its replacement series as specified by Statistics Canada;

“**BC Hydro**” means the British Columbia Hydro and Power Authority;

“**BCTFA Lands**” means those lands legally described as Lot A (Reference Plan 661) Block 25 District Lot 1592 Plan 3873 and Block 26 District Lot 1592 Plan 3873, as shown for illustrative purposes on the map in Part 2 of Schedule C;

“**BCTS**” means B.C. Timber Sales, a business unit within the Province’s Ministry of Forests, Lands, Natural Resources Operations and Rural Development with a mandate to provide the cost and price benchmarks for timber harvested from public land in British Columbia;

“**Block B Parcel**” means those lands legally described as Block B, District Lot 7613, Group 1, New Westminster, as shown for illustrative purposes on the map in Part 1 of Schedule C;

“**Board**” means the kwenamtawlh kwe stsxwinamstxws board established under section 4.45;

“**Business Day**” means a day, other than a Saturday or a Sunday, shíshálh Nation Self-Government Day, December 24<sup>th</sup> to and including January 1<sup>st</sup>, or a statutory holiday in the province of British Columbia;

“**Culturally Sensitive Site**” means a site of archaeological, historical or cultural significance to the shíshálh Nation, including a resting place of shíshálh Nation ancestors and remains, sacred and spiritual place, house site, battle area, wood and stone fish trap, travel route, rock shelter or cave site, or high altitude site;

“**Decision Maker**” means a person with authority to issue an Authorization;

“**Designated Company**” means a company incorporated under federal or provincial law all the shares of which are legally and beneficially owned, directly or indirectly, by shíshálh Nation;

“**Dispute**” means a disagreement about the interpretation or implementation of this Foundation Agreement, not including a dispute arising under the Shared Decision-Making Process;

“**DL 1592 Lands**” means those lands shown for illustrative purposes in Part 3 of Schedule B;

“**Dock Management Plan**” means the Pender Harbour Dock Management Plan dated April 4, 2018 and as amended or replaced from time to time;

“**Dock Tenure**” means an Authorization under the *Land Act*, R.S.B.C., 1996, c. 245 considered pursuant to the Dock Management Plan, not including any application to renew an existing dock or boathouse tenure that was submitted prior to the Effective Date for one additional renewal term;

**“Effective Date”** means the date on which this Foundation Agreement was signed by both our respective authorized signatories;

**“Eligible Volume”** means the volume of Crown timber provided to shíshálh Nation in a direct award tenure under section 47.3 of the *Forest Act*, RSBC 1996, c. 157 originating from the volume reallocation of the *Forestry Revitalization Act*, SBC 2003, c. 17 (*Bill 28*) that is appraised through the market pricing system;

**“Fiscal Year”** means the period from April 1<sup>st</sup> of a year to March 31<sup>st</sup> of the following year;

**“Forest Licensee Engagement Table”** means the k’ats’awattsut kwe sninishinmitit te seysiyayem ʔe shíshálh swiya table established under section 4.61 and Schedule G of this Foundation Agreement;

**“Forest Tenure Opportunity Agreement”** means an agreement signed between the Minister of Forests, Lands and Natural Resource Operations and Rural Development and a First Nation that provides for the Minister to direct award forest tenure under the *Forest Act* RSBC 1996, c. 157;

**“Forestry Decision”** means a decision in respect of:

- (a) an Operational Plan; or
- (b) an Administrative or Operational Decision

that may have an adverse impact on shíshálh Nation’s Title and Rights within the shíshálh swiya;

**“Golf Course Letter”** means the letter dated March 3, 2017 from Minister Rustad, the Minister of Aboriginal Relations and Reconciliation, to shíshálh Nation;

**“Golf Course Parcel”** means those lands as shown in Part 3 of Schedule C;

**“Government-to-Government Agreement”** means the shíshálh Nation Government-to-Government Agreement made between us dated April 1, 2016;

**“Gravel Lands”** means those lands shown for illustrative purposes in Parts 1 and 2 of Schedule B;

**“Immediate Measures”** means the measures that we agree will be implemented within five years of the Effective Date, as set out in Part 4 of this Foundation Agreement;

**“Initial Assessment”** means a written report of the Working Group under the Shared Decision-Making Process, as contemplated in section 2.1 of Schedule H;

**“Interim Forestry Agreement”** means the agreement signed by shíshálh Nation on or about March 30, 2016 and by the Province on or about June 20, 2016, as amended from time to time;

**“k’ats’awattsut kwe skwennexws she tala kwe skwenamts te shíshálh”** means gathering together to find funds to help shíshálh;

**“k’ats’awattsut kwe sninishinmitit te ?ewkw’ s?ay?iy ni ?e tems swiya”** means gathering together to discuss all living (animals) in our lands;

**“k’ats’awattsut kwe sninishinmitit te seysiyayem ?e shíshálh swiya”** means gathering together to discuss forests on shíshálh land;

**“k’ats’awattsut kwe sninishinmitit te syichams te shíshálh swiya”** means gathering together to discuss the use of shíshálh land;

**“k’ats’awattsut kwe stexwnixws kwe slatsemats tems slelattsut”** means gathering together to be sure our work is arranged or put in order;

**“k’ats’awattsut kwe stexwnixws kwe sxetalstxws te ?ewkw’stam”** means gathering together to know everything is implemented;

**“kwenamtawlh kwe stsxwinamstxws”** means helping each other in making decisions;

**“Lands”** means any or all of the DL 1592 Lands and the Gravel Lands;

**“Land Transfer Agreement”** means the shíshálh/British Columbia Land Transfer Agreement we have entered into concurrently with this Foundation Agreement to transfer the Gravel Lands and DL 1592 Lands;

**“Land Use Planning Table”** means the k’ats’awattsut kwe sninishinmitit te syichams te shíshálh swiya table established under section 4.65 of this Foundation Agreement;

**“Legal Proceeding”** means a legal action or proceeding to challenge any Authorization made pursuant to the Shared Decision-Making Process;

**“Licensee”** means a holder of a forest tenure or range tenure in the shíshálh swiya;

**“Milestones”** mean the understandings set out in Part 5 and Schedules K to O of this Foundation Agreement;

**“Minister”** means the applicable provincial Minister having the responsibility, from time to time, for the exercise of powers in respect of the matter in question;

**“Nelson Island Lands”** means those lands legally described as Strata Lots 1 through 35, DL 1425, New Westminster District, Plan VAS462;



**“Operational Plan”** means a Forest Stewardship Plan, Woodlot License Plan, a Range Use Plan, or Range Stewardship Plan, as those terms are defined in forestry legislation, that has or will have effect in the shíshálh swiya;

**“Proponent”** means a company, individual, agency or entity that holds or is applying for an Authorization;

**“Provincial Official”** means:

- (a) any minister, public official, employee, contractor, agent or representative of the Province; or
- (b) any person acting as a decision maker under any enactment of the Province;

**“Recommendation”** means a recommendation in relation to a decision in relation to an Application that is developed by the Board and provided to shíshálh Nation Chief and Council and to a Decision Maker in accordance with Schedule H;

**“Reconciliation Agreement”** means the land transfer agreement made between us dated April 1, 2016;

**“Relationship and Implementation Forum”** means the k’ats’awattsut kwe stexwnixws kwe sxetalstxws te ʔewkw’stam forum established under section 4.34 of this Foundation Agreement;

**“Representative”** means, for shíshálh Nation, the individual designated by shíshálh Council and, for the Province, the Deputy Minister of Indigenous Relations and Reconciliation and the Deputy Minister of any other Ministry that the Deputy Minister of Indigenous Relations and Reconciliation deems necessary to participate in the Solutions Forum;

**“Residential Lands”** means approximately 80 hectares of provincial Crown land suitable to address shíshálh Nation’s current residential housing shortage;

**“Resource Management Table”** means the k’ats’awattsut kwe sninishinmitit te ʔewkw’ sʔayʔiy ni ʔe tems swiya table established under section 4.69;

**“Review Package”** means the information to be provided to the Working Group under sections 1.1 and 1.2 of Schedule H;

**“Saltery Bay Sub-Station Lands”** means the land that is currently being used for the existing Saltery Bay sub-station shown for illustrative purposes in Part 4 of Schedule C;

**“Sechelt Lands”** has the same meaning as is set out in s. 2(1) of the *Sechelt Indian Band Self-Government Act*, S.C. 1986, c. 27;

**“Senior Representatives”** means, for shíshálh, the Chief, and for the Province, the Minister of Indigenous Relations and Reconciliation and such other Minister as may be required to address the matter at issue;

**“Shared Decision-Making Process”** means the process in sections 4.37 to 4.60 and Schedule H which will be used to undertake consultation between shíshálh Nation and the Province with respect to Authorizations;

**“shíshálh Nation Self-Government Day”** means October 9<sup>th</sup> of each year or, if that date falls on a weekend or another statutory holiday, the Friday preceding or Monday following October 9<sup>th</sup>, as determined by shíshálh Nation Chief and Council;

**“shíshálh people”** means shíshálh Nation citizens, defined as Sechelt Indian Band members under the *Sechelt Indian Band Self-Government Act*, S.C. 1986, c. 27 and the shíshálh Constitution;

**“shíshálh swiya”** means the territory shown on Schedule A;

**“Socio-Cultural Table”** means the k’ats’awattsut kwe skwennexws she tala kwe skwenamts te shíshálh table established under section 4.71;

**“Solutions Forum”** means the k’ats’awattsut kwe stexwnixws kwe slatsemats tems slelattsut forum continued under section 4.33 of this Foundation Agreement;

**“Strategic Issue”** means an issue or disagreement that arises between us that either of us determines may affect our government-to-government relationship but that does not relate to the interpretation or implementation of this Foundation Agreement;

**“Sunshine Coast Natural Resource District”** means the area shown as the Sunshine Coast Natural Resource District on the map shown as Part 5 of Schedule C;

**“Timber Harvesting Land Base”** means the portion of the total land area of a management unit considered by the Ministry of Forests, Lands and Natural Resource Operations and Rural Development to contribute to, and be available for, long-term timber supply;

**“Title and Rights”** means shíshálh Nation’s asserted or determined Aboriginal rights, including Aboriginal title, which are recognized and affirmed under s. 35 of the *Constitution Act, 1982*;

**“Title Litigation”** means the legal proceedings styled as *Sechelt Indian Band v. Her Majesty the Queen in Right of Canada and Her Majesty the Queen in Right of the Province of British Columbia*, filed in the British Columbia Supreme Court as File No. A980252;

**“UN Declaration”** means the United Nations Declaration on the Rights of Indigenous Peoples;

**“Vacant Trapline Licences”** means trapline licences issued under the *Wildlife Act* R.S.B.C. 1996, c. 488 numbered TR0212T016, TR0205T019, TR)212T010, and TR0212T012; and

**“Working Group”** means the working group established under section 4.46.

2. **Interpretation.** In this Foundation Agreement:

- (a) “includes” and “including” are not intended to be limiting;
- (b) the recitals and headings are inserted for convenience of reference only, do not form part of this Foundation Agreement and are not intended to define, enlarge or restrict the scope or meaning of this Foundation Agreement or any provision of it;
- (c) any reference to a statute includes all regulations made under that statute and any amendments or replacement of that statute or its regulations;
- (d) unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*;
- (e) any reference to a corporate entity includes any predecessor or successor to such entity;
- (f) “consensus” in relation to a decision or Recommendation of the Relationship and Implementation Forum, Board or Working Group means the unanimous agreement of our respective appointees to the Relationship and Implementation Forum, Board or Working Group, as applicable;
- (g) there will be no presumption that doubtful expressions, terms or provisions in this Foundation Agreement are to be resolved in favour of any Party;
- (h) in the calculation of time under this Foundation Agreement, if the time for doing an act falls or expires on a day that is not a Business Day, the time is extended to the next Business Day; and
- (i) the provisions of Schedule P prevail over the other provisions of this Foundation Agreement to the extent of any inconsistency or conflict.