

# **METLAKATLA FIRST NATION DRAFT METLAKATLA TREATY - APPENDICES**



During Stage 5 negotiations, the Appendices will be updated and completed. Some Appendices may be removed and additional Appendices may be created as required.

### **Explanatory Note**

In accordance with Section 2 of the “Metlakatla Transition to Stage 5 and Treaty Revitalization Agreement” (the “Agreement”) this Draft Metlakatla Treaty is intended to inform and guide, but not limit Stage 5 Treaty negotiations.

During Stage 5 negotiations the Parties intend to resolve outstanding issues as identified in this Draft Metlakatla Treaty, informed and guided by the other Foundation Documents. In addition, this Draft Metlakatla Treaty will be revised with some provisions added, deleted, and amended as the Parties negotiate the Metlakatla Treaty. In accordance with paragraph 1b. of the Agreement, some of the provisions in this document may be deleted and included in appendices or side agreements.

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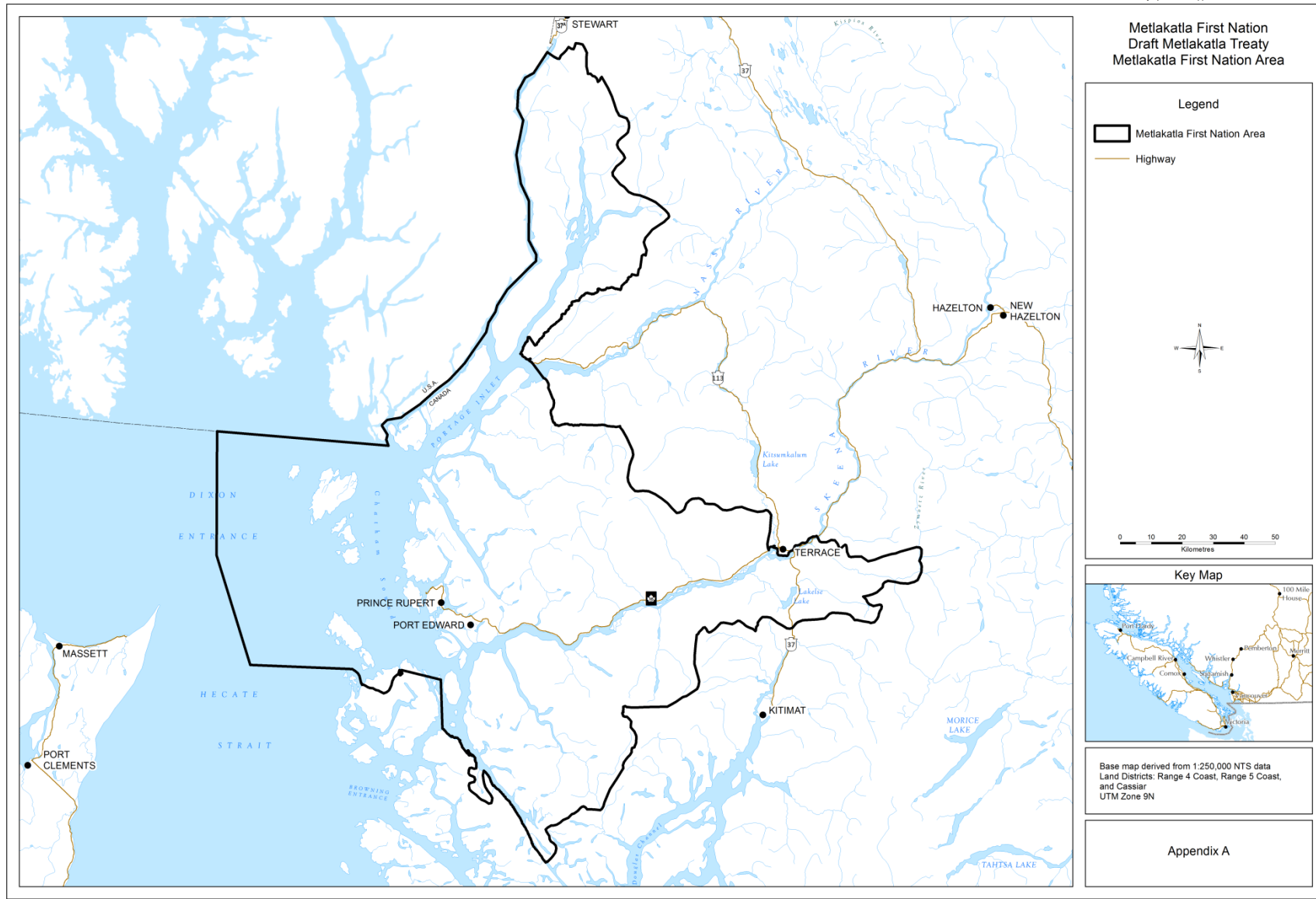
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## APPENDIX A: MAP OF METLAKATLA FIRST NATION AREA

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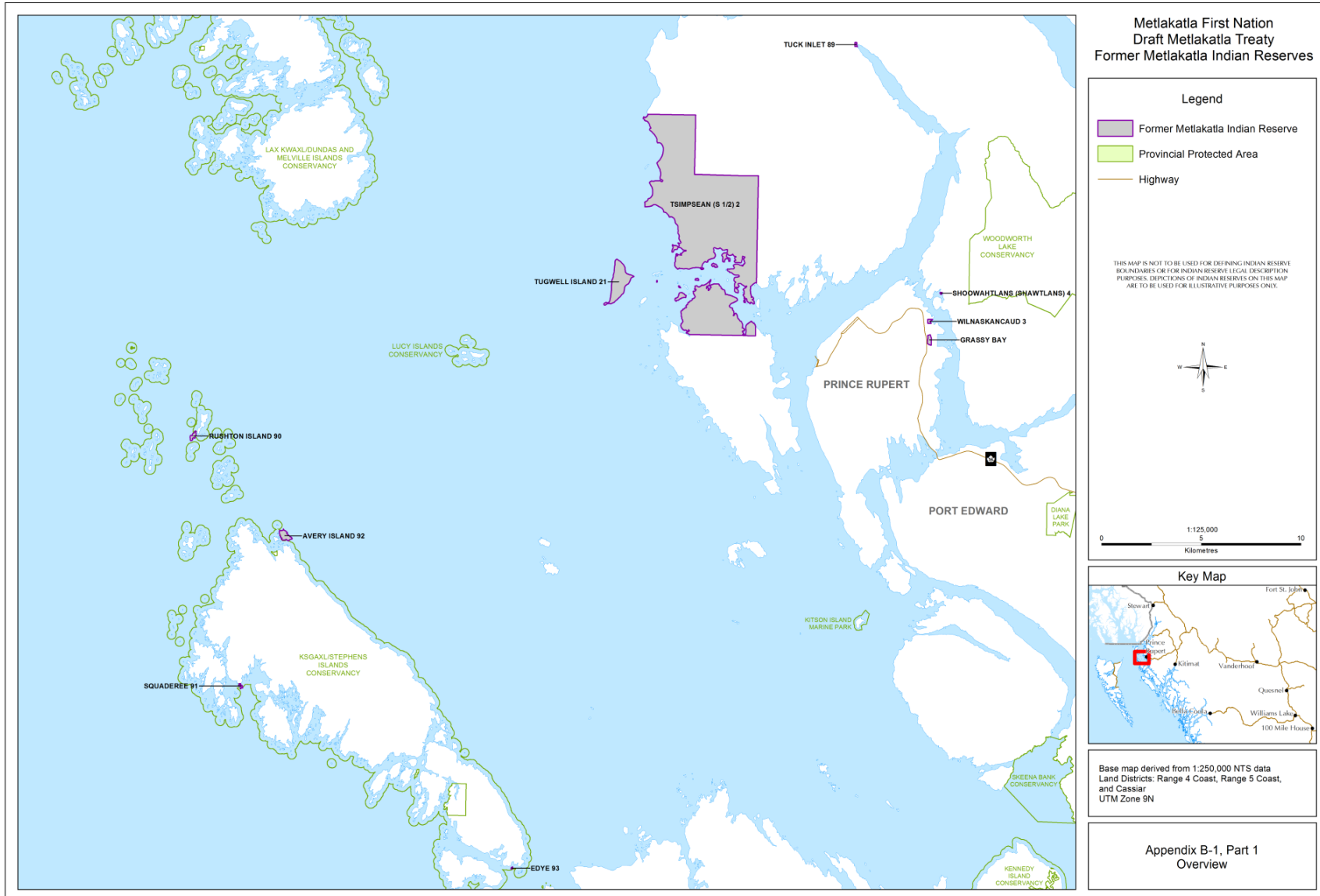


## APPENDIX B: METLAKATLA FIRST NATION LANDS

### Appendix B-1: Part 1 - Overview Map and Maps of Former Indian Reserves

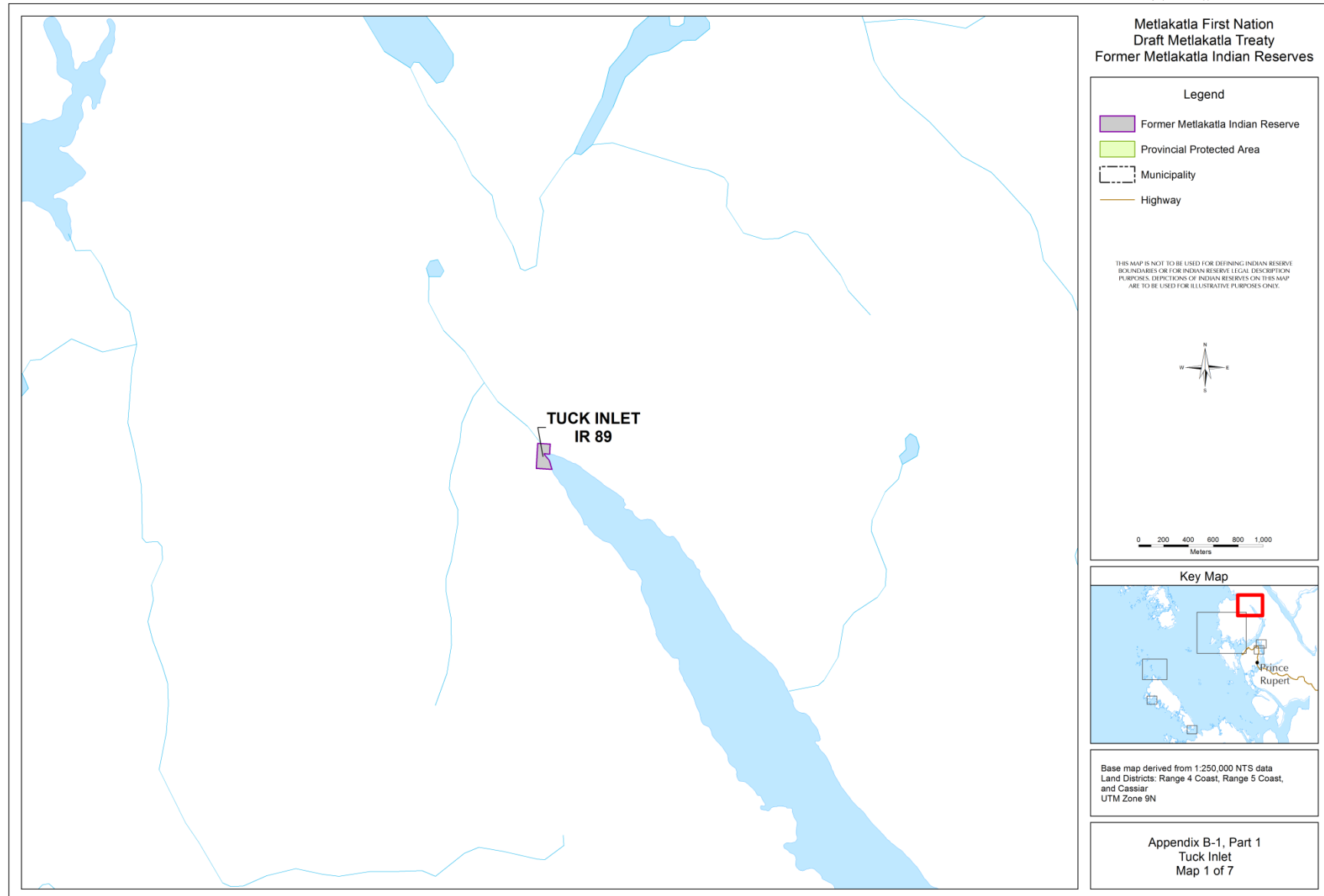
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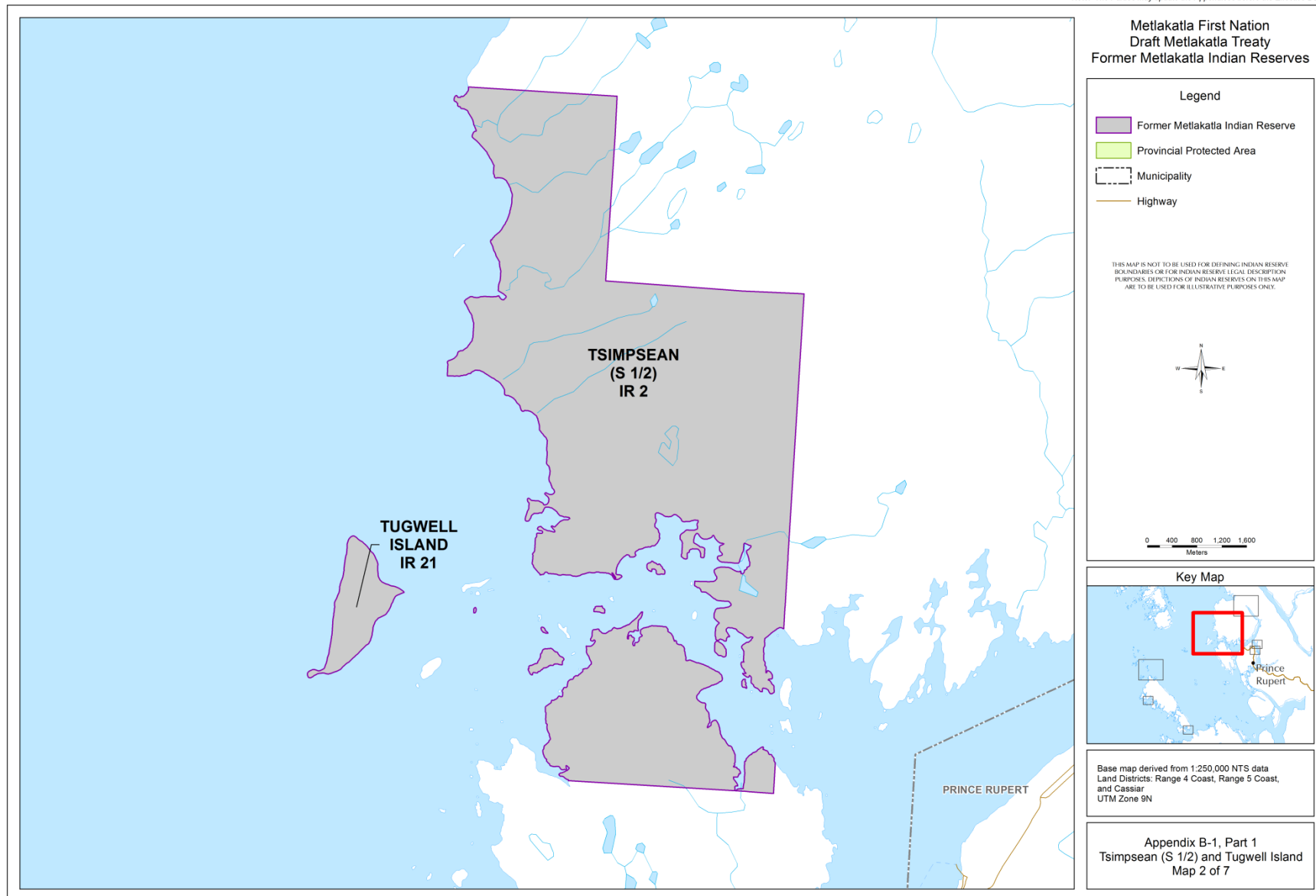
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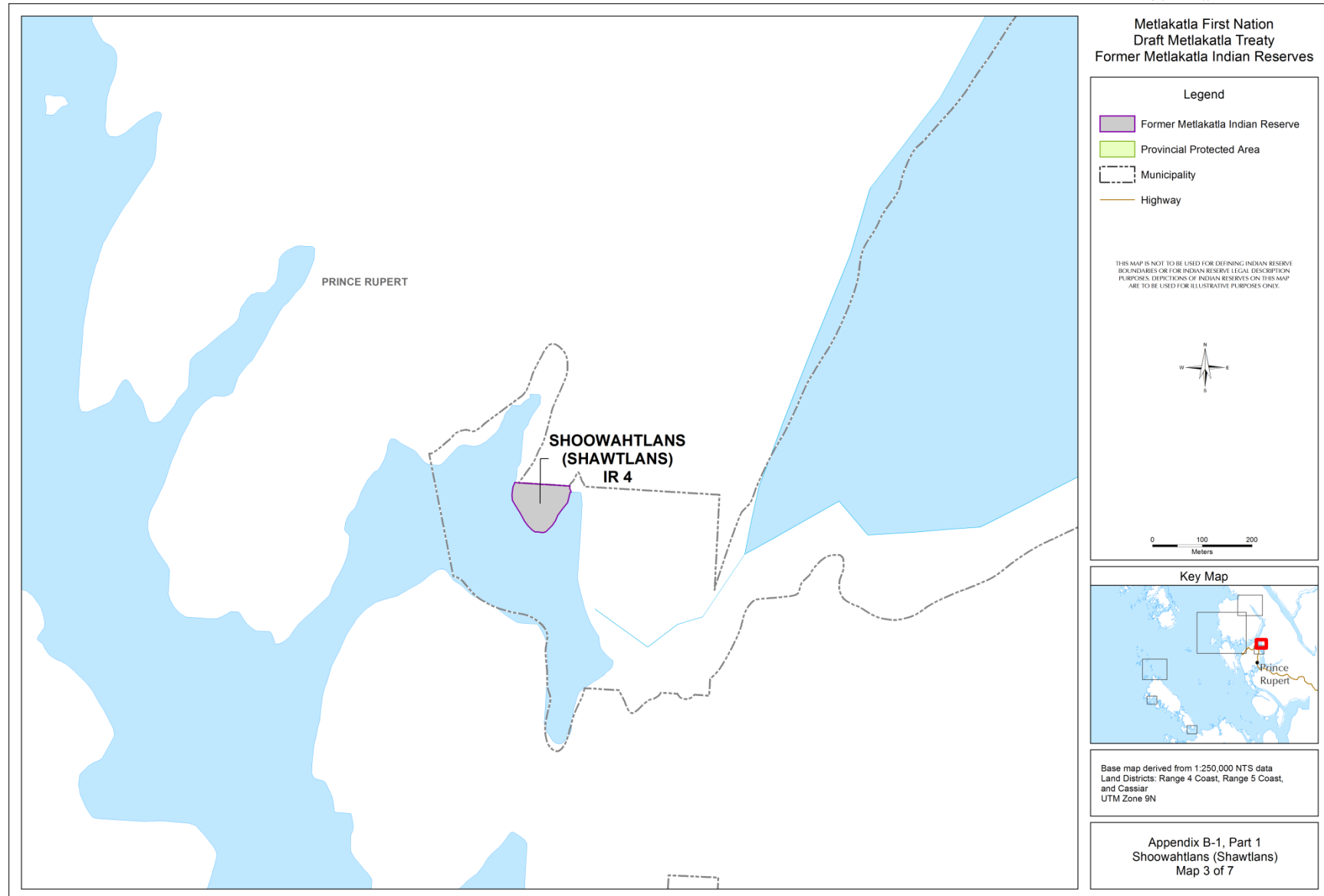
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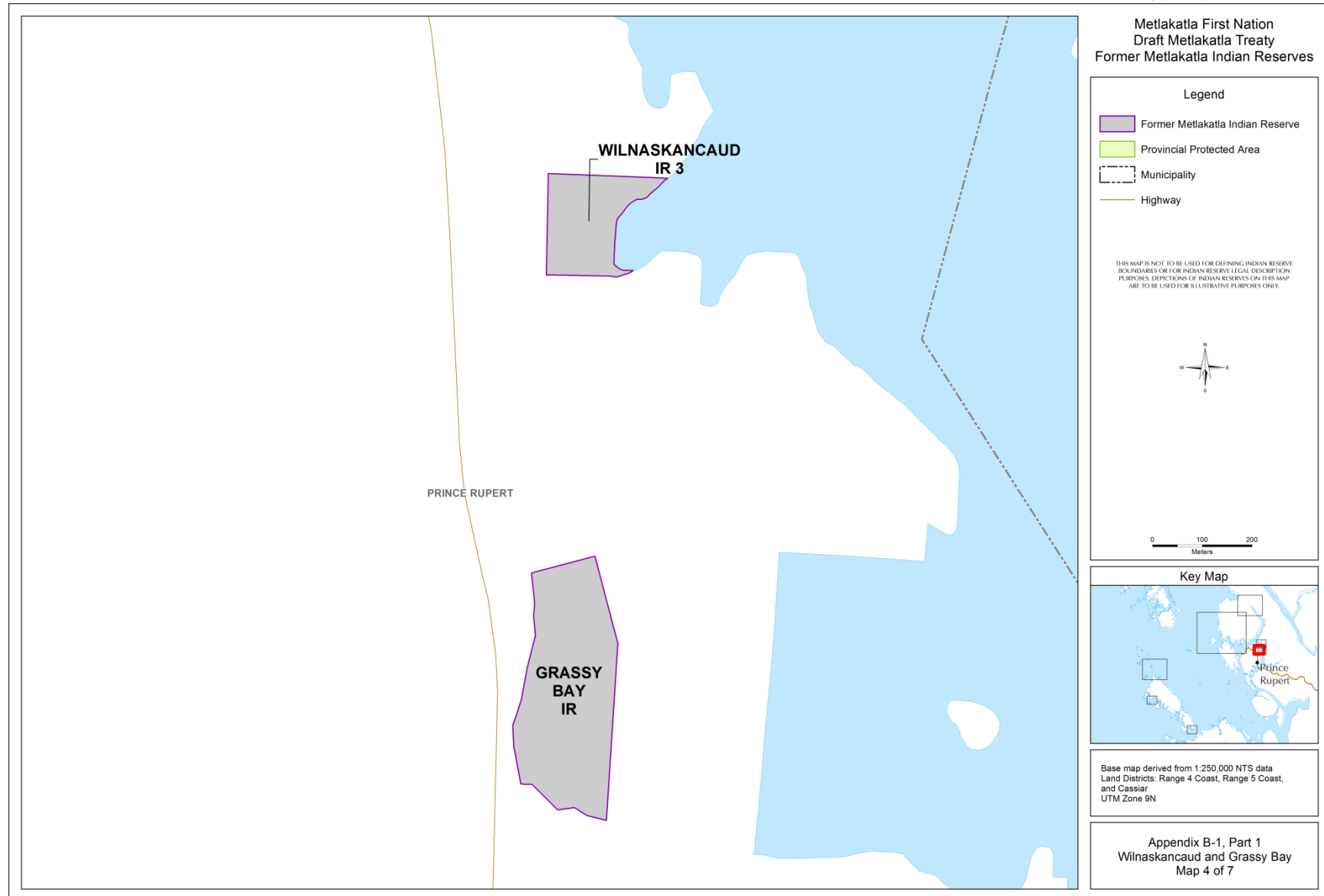
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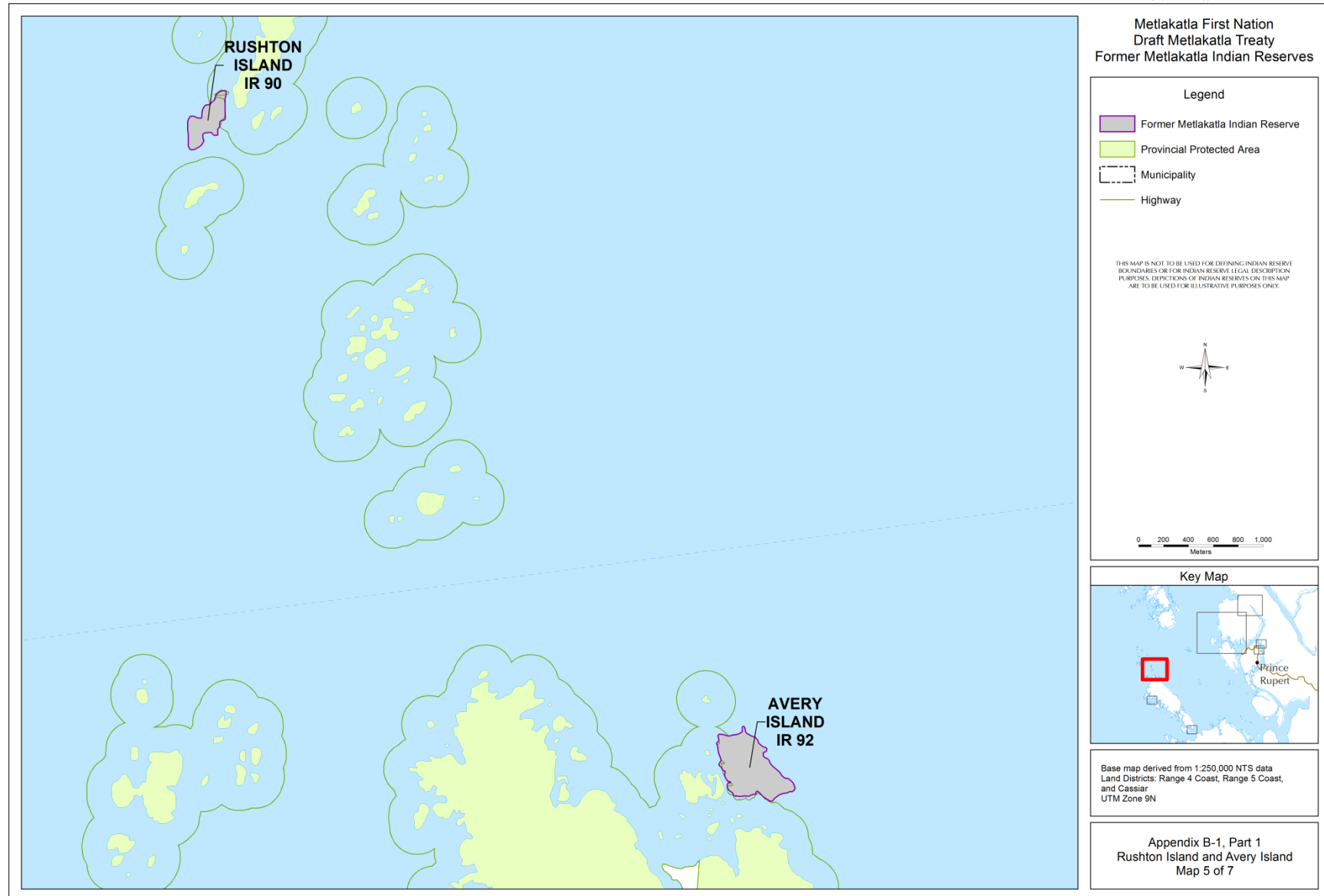
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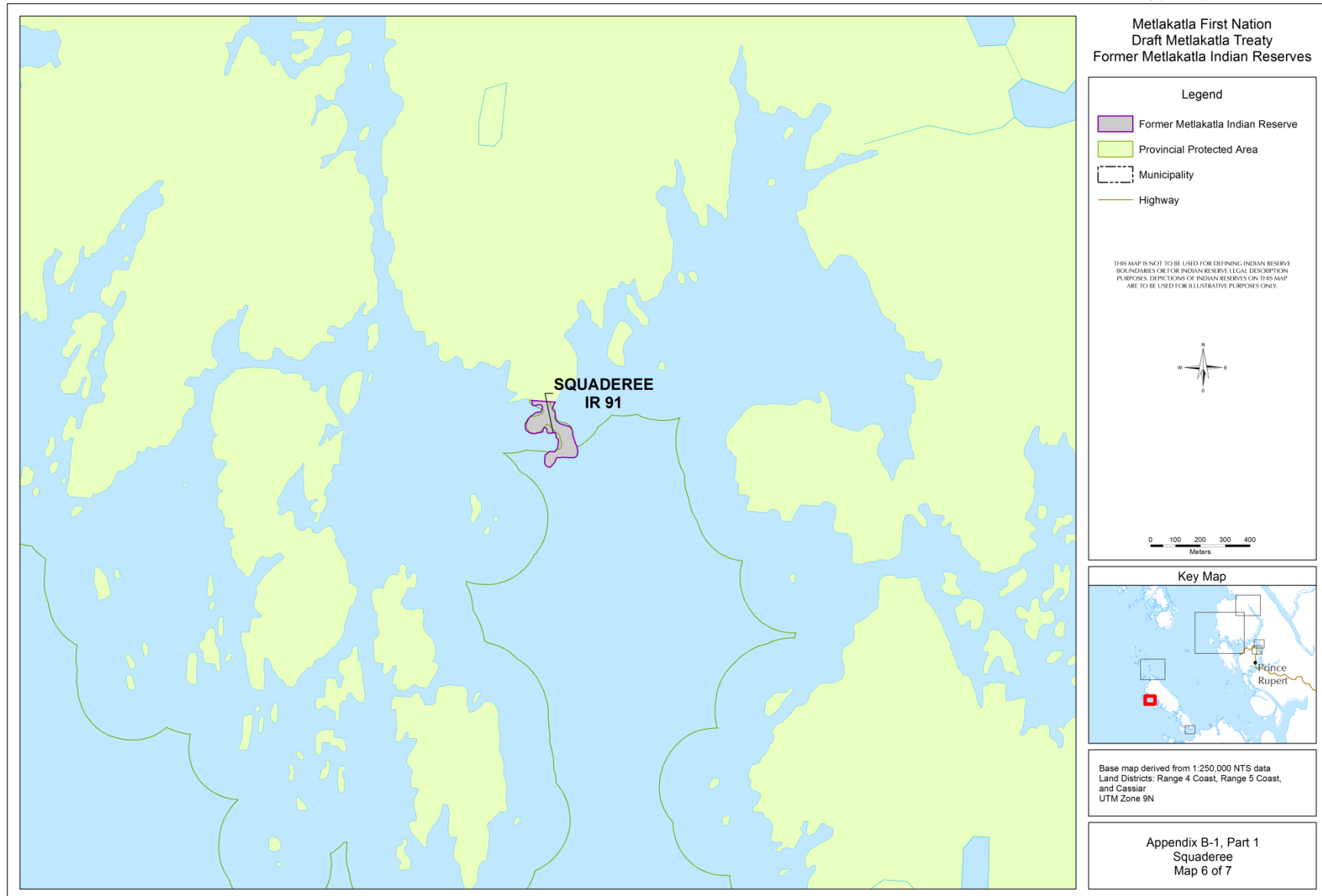
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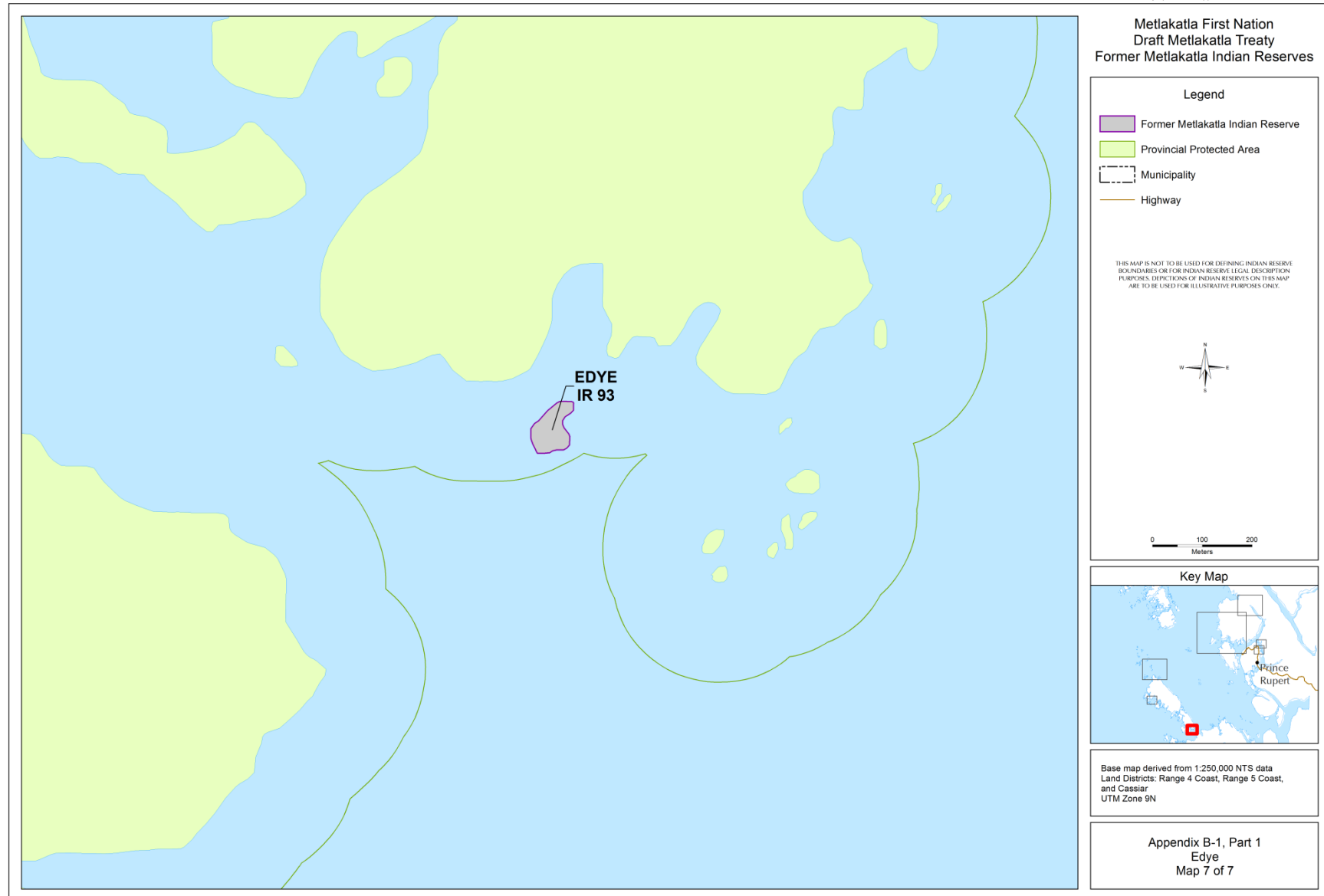
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**Appendix B-1: Part 2 - Legal Descriptions of Former Metlakatla Indian Reserves**

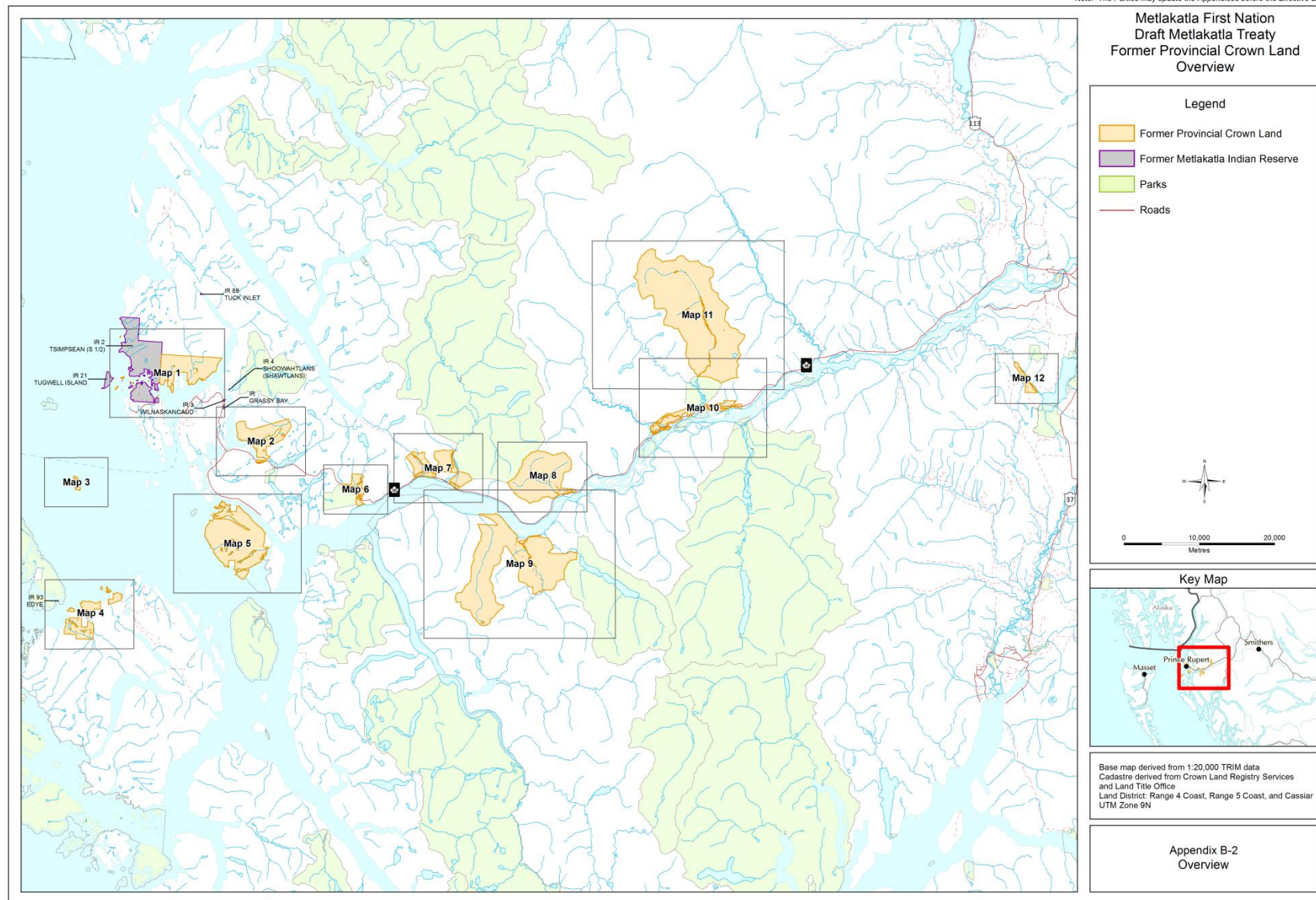
<b>Reserve Name</b>	<b>Reserve No.</b>	<b>Area (hectares)</b>	<b>Land Description</b>
<b>S 1/2 Tsimpsean (07754)</b>	2	3,366	Reserve Lands within the Province of British Columbia, Canada. In Coast District, recorded in the Canada Lands Surveys Records (CLSR) described as: IR No. 2 as shown on Plan BC228 and parcels 1 and 2 shown on Provincial Plan 3124 (recorded in CLSR as FB 32424), except all those portions described as:  5470.95hectares more or less, on Kaien Island, Digby Island, Lak-anian Island, Lak-wilgiapsh Island, and Islets numbered 1 through 8 on Plan BC228 CLSR and portion of the mainland reservation, bordering on Tuck Inlet and Venn Passage.
<b>Wilnaskancaud (07756)</b>	3	2.75	IR No. 3 as shown on Plan 105001 CLSR
<b>Shoowahtlans (07756)</b>	4	0.554	IR No. 4 as shown on Plan BC714 CLSR
<b>Tugwell Island (07760)</b>	21	126.3	IR No. 21 as shown on Plan BC228 CLSR
<b>Tuck Inlet (07765)</b>	89	1.68	IR No. 89 as shown on Plan 105002 CLSR
<b>Rushton Island (07766)</b>	90	6.96	IR No. 90 as shown on Plan BC847 CLSR
<b>Squaderee 91 (07767)</b>	91	2.27	IR No. 91 as shown on Plan BC845 CLSR
<b>Avery Island (07768)</b>	92	20.4	IR No. 92 as shown on Plan BC833 CLSR
<b>Edye (07769)</b>	93	0.53	IR No. 93 as shown on Plan BC842 CLSR
<b>Grassy Bay (10023)</b>		8.34	As shown on Plan 102362 CLSR
<b>TOTAL</b>		<b>3,535.48</b>	



## APPENDIX B-2: OVERVIEW MAP AND MAPS OF FORMER PROVINCIAL CROWN LAND

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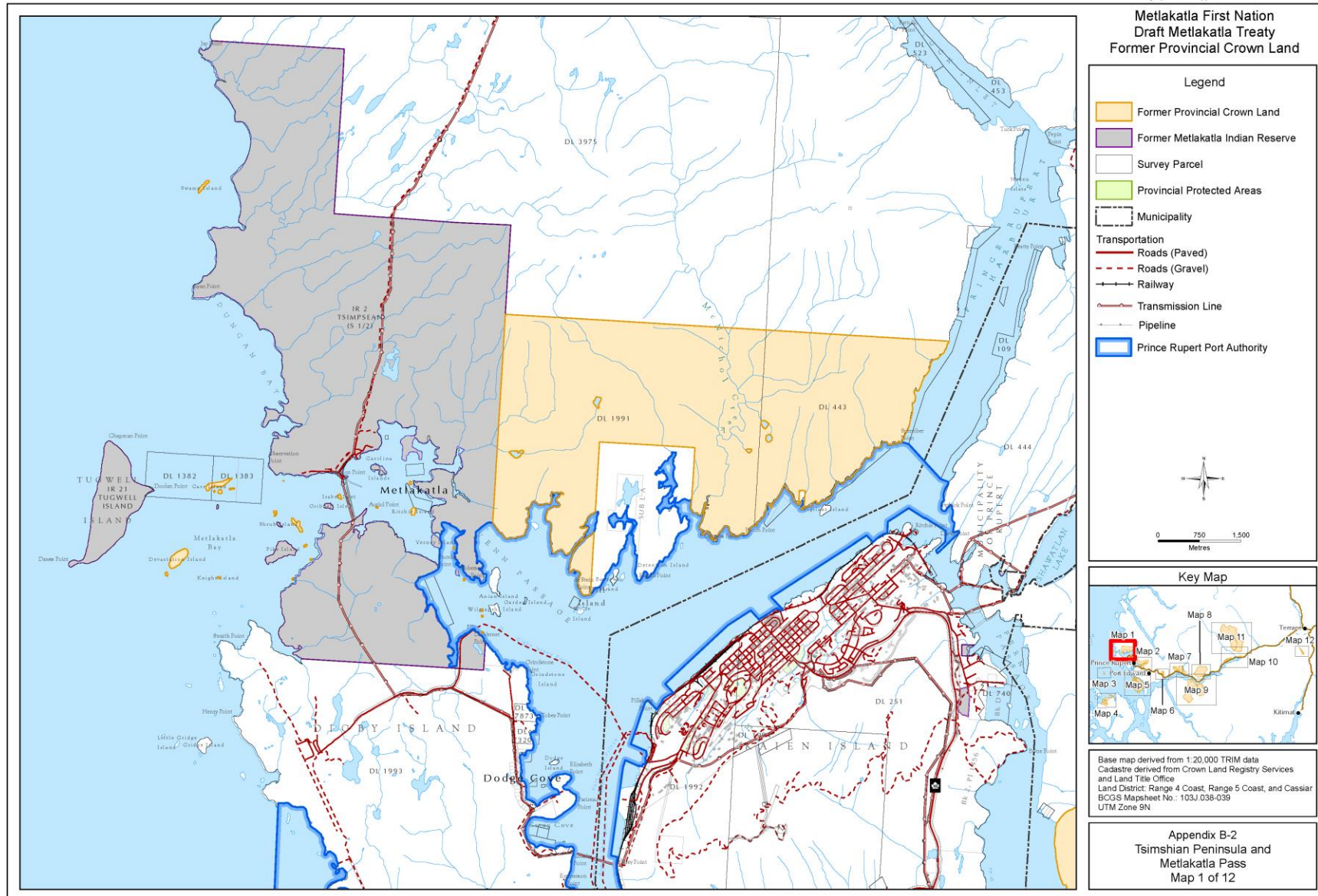
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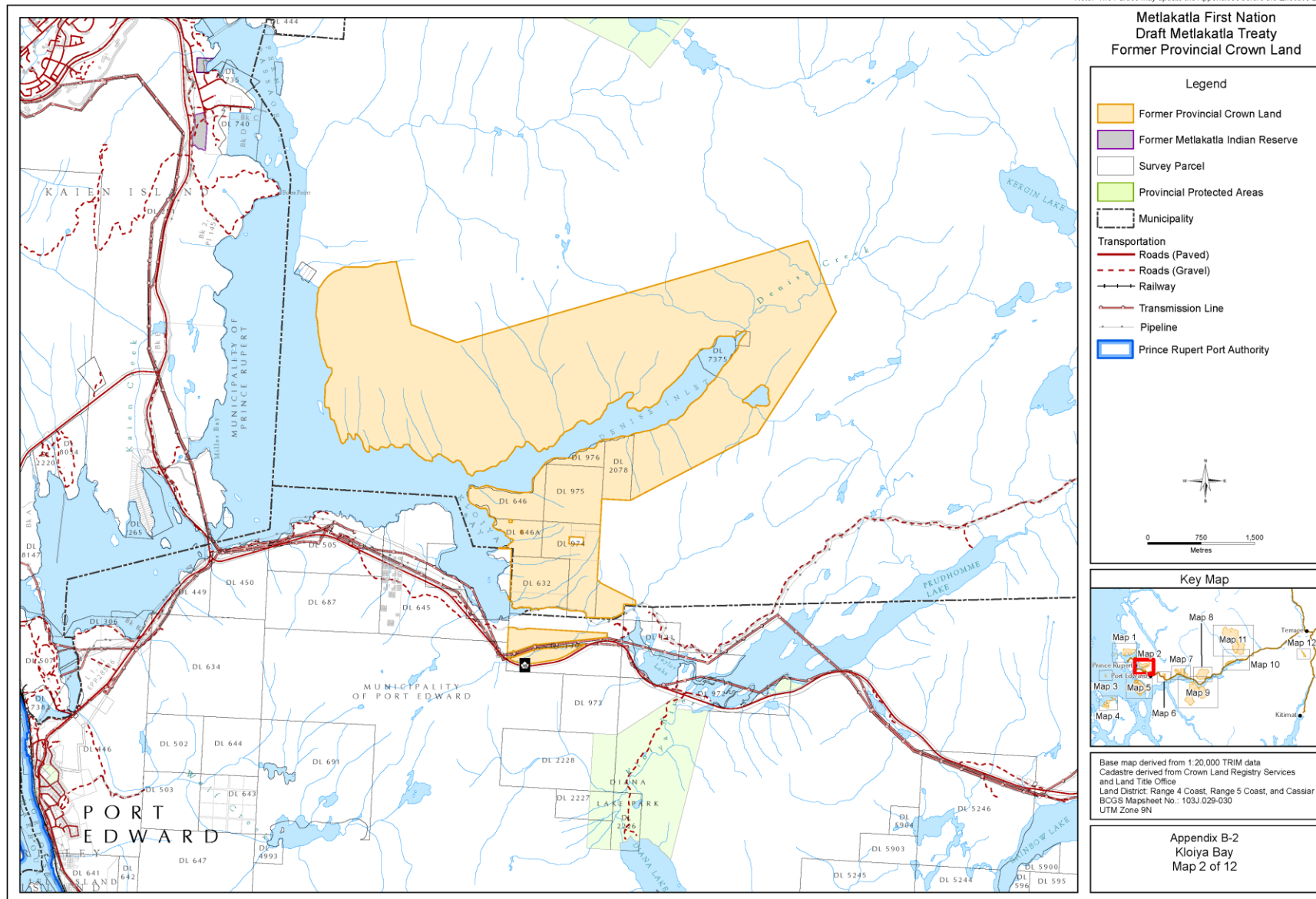
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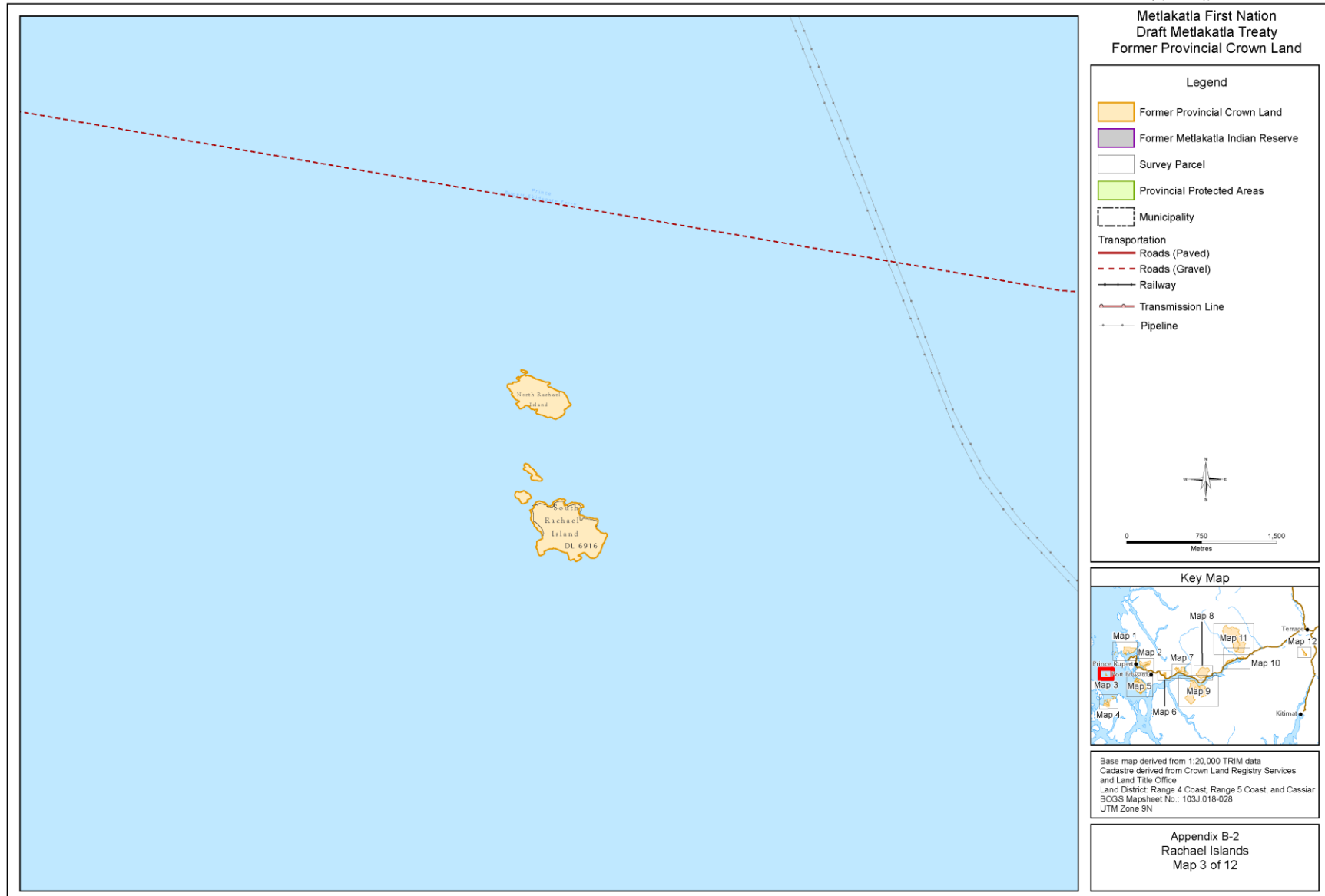
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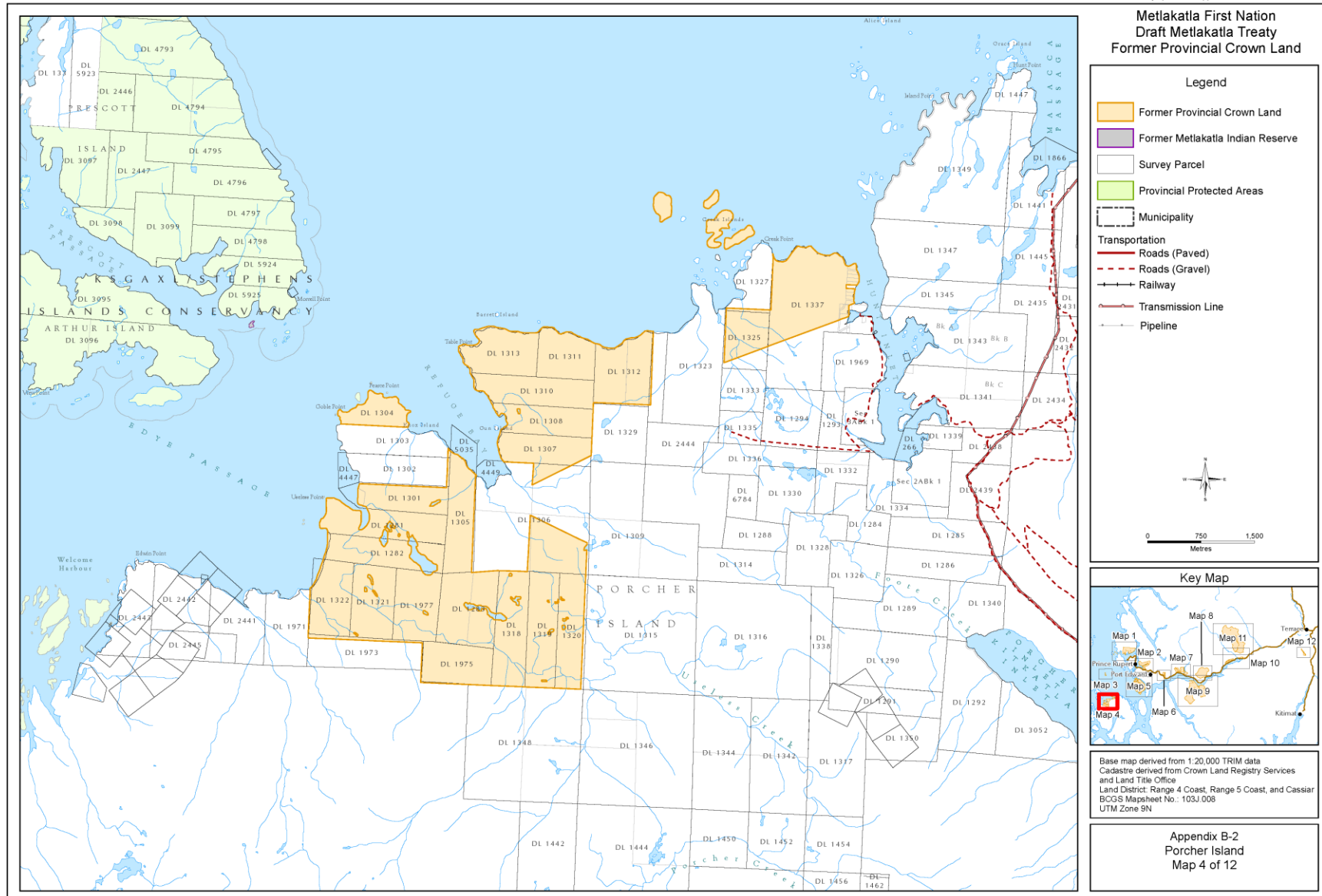
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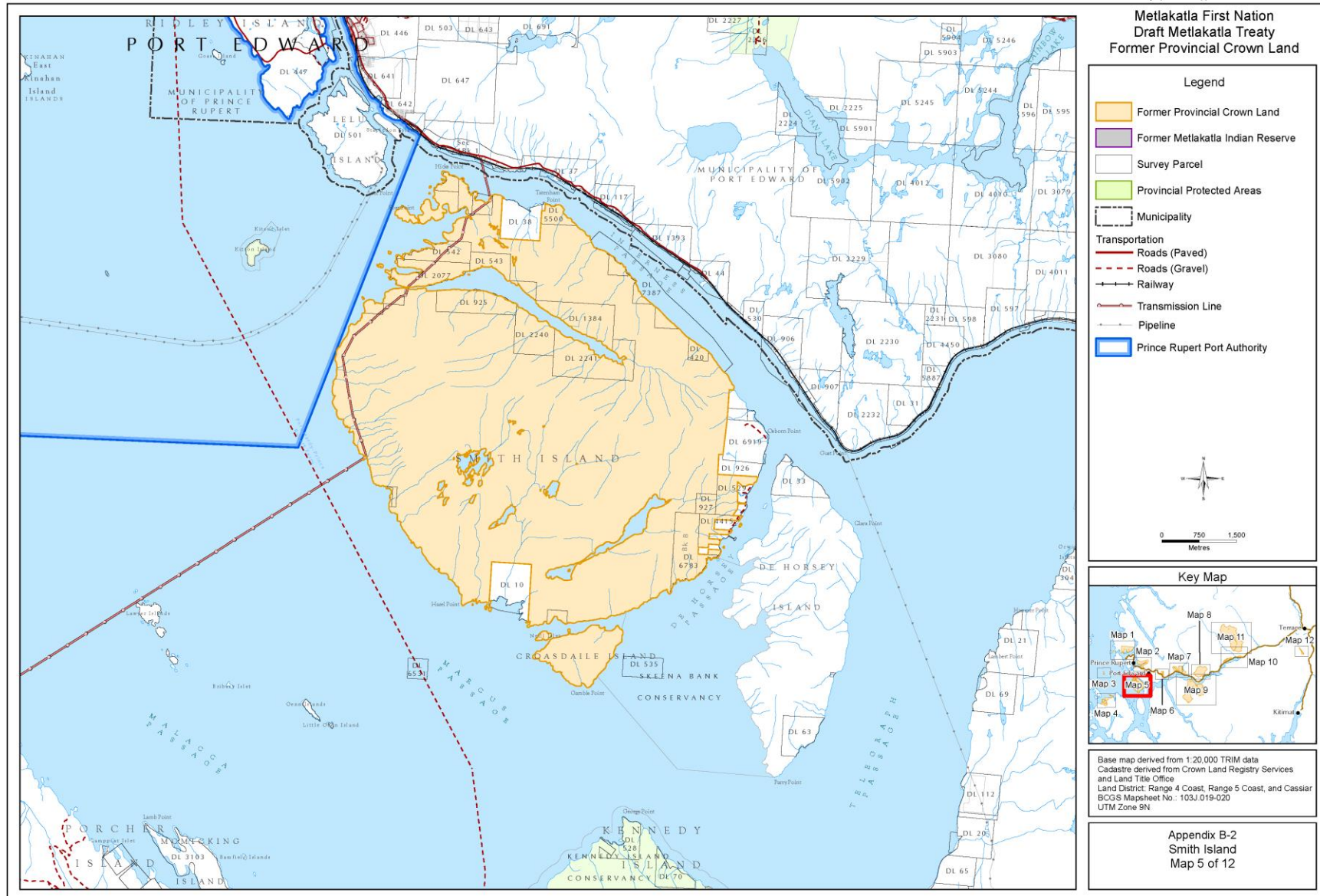
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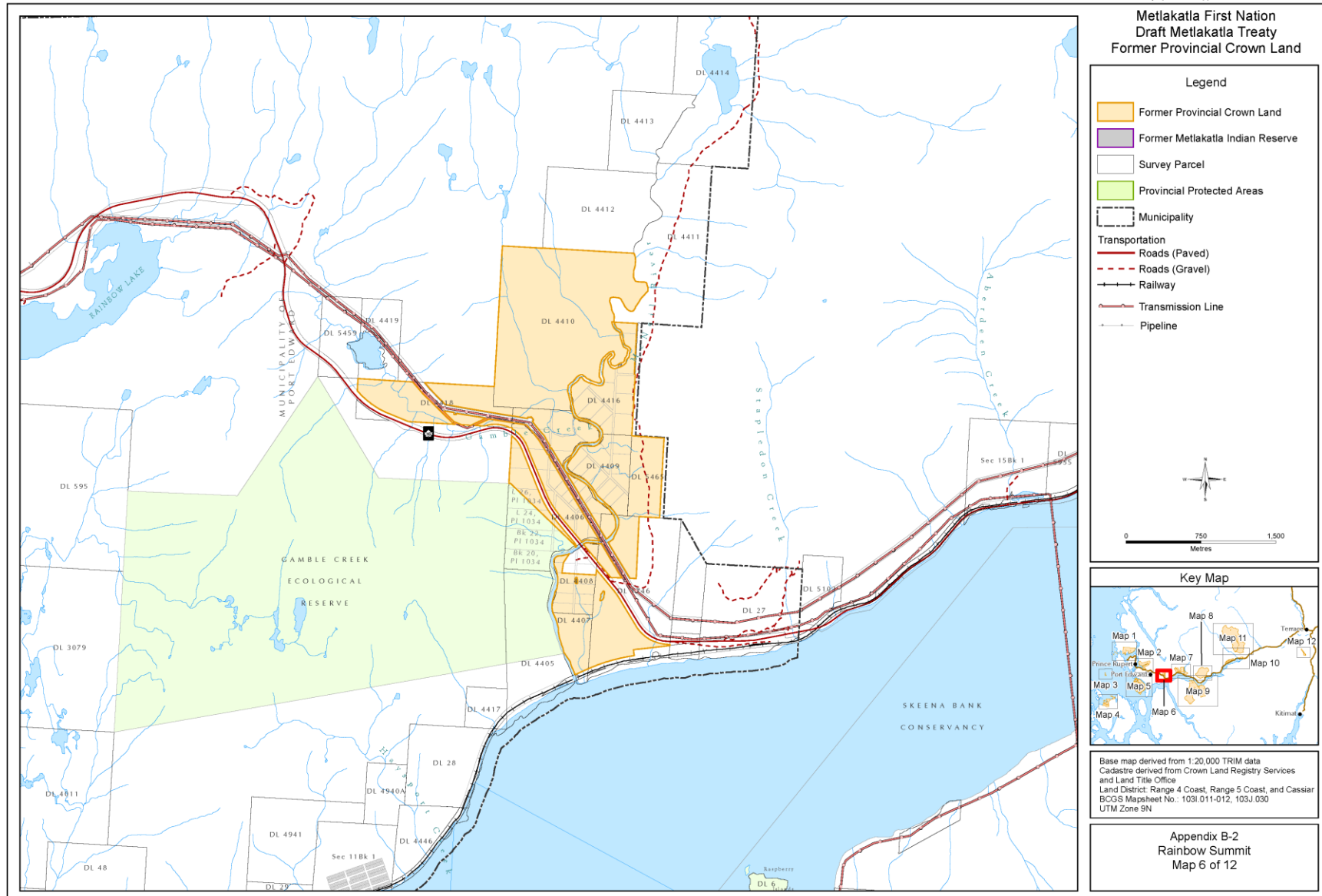
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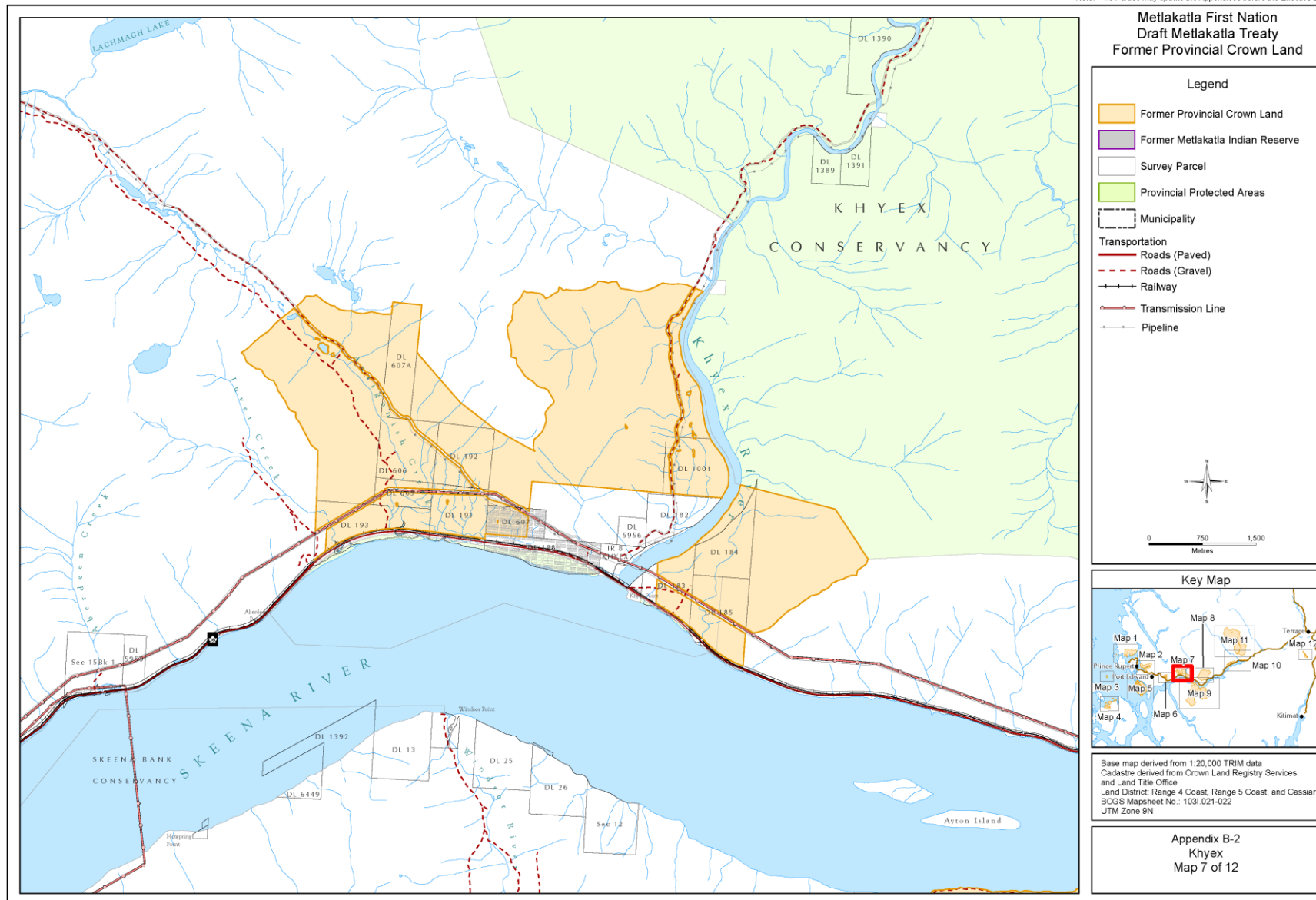
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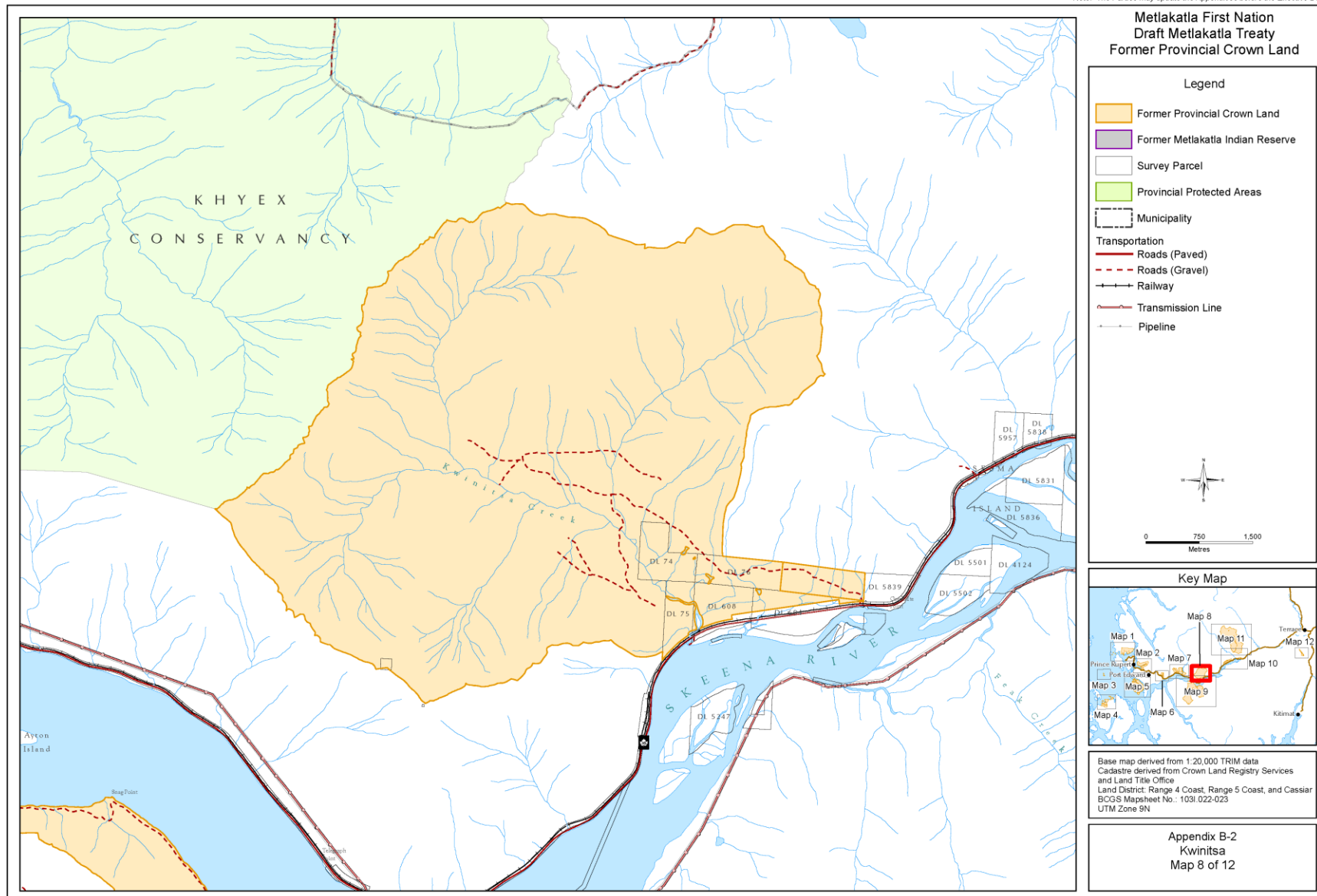
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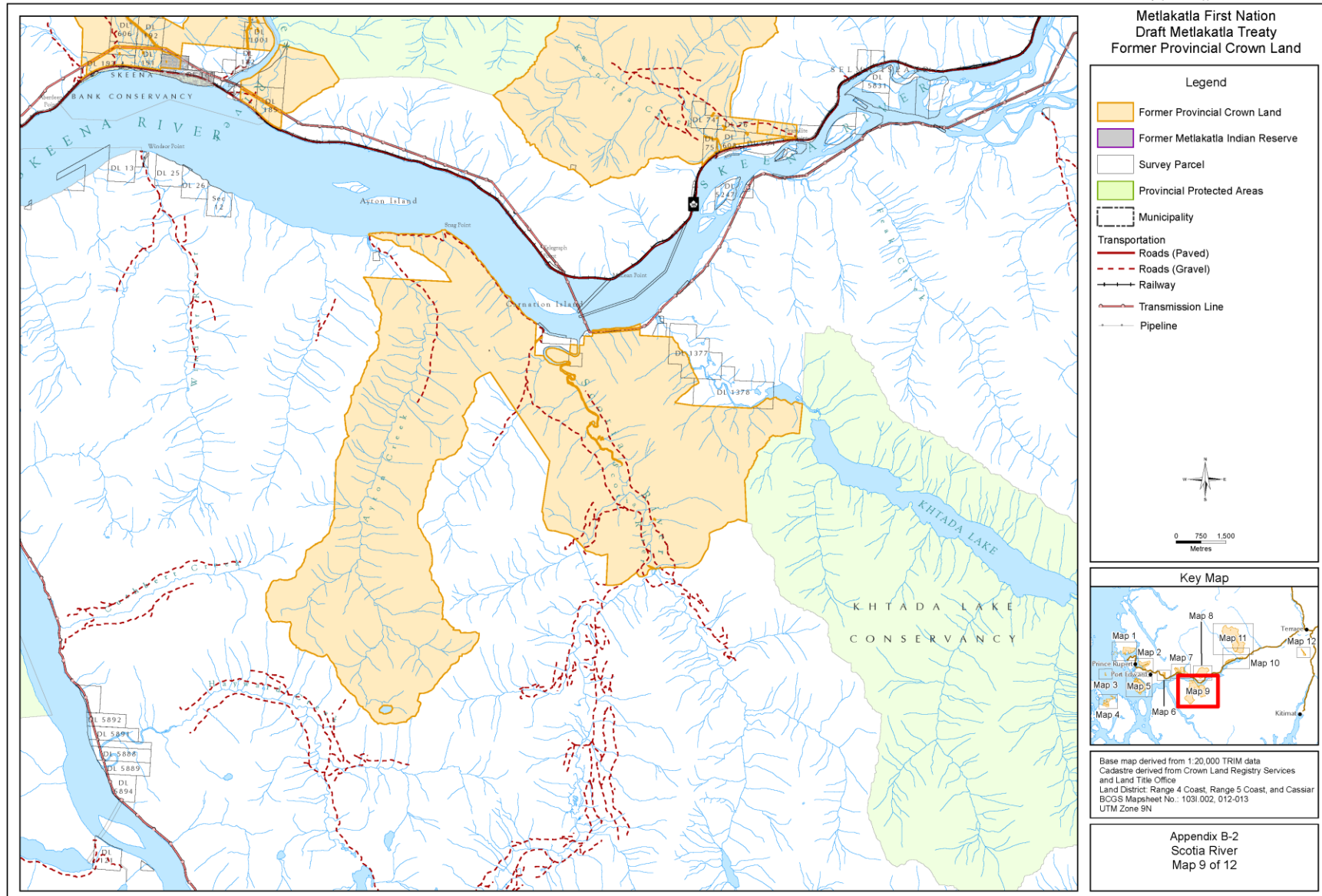
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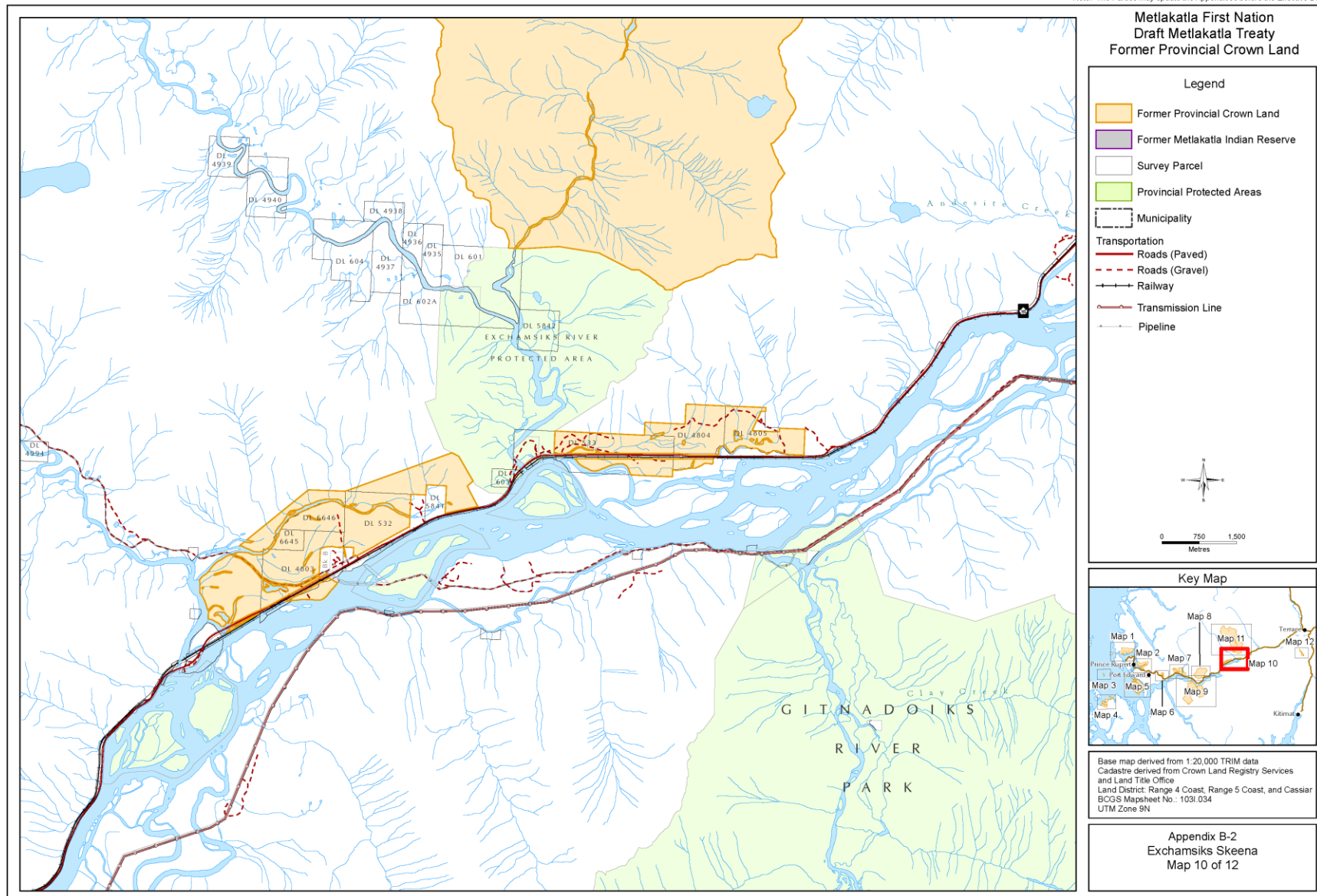
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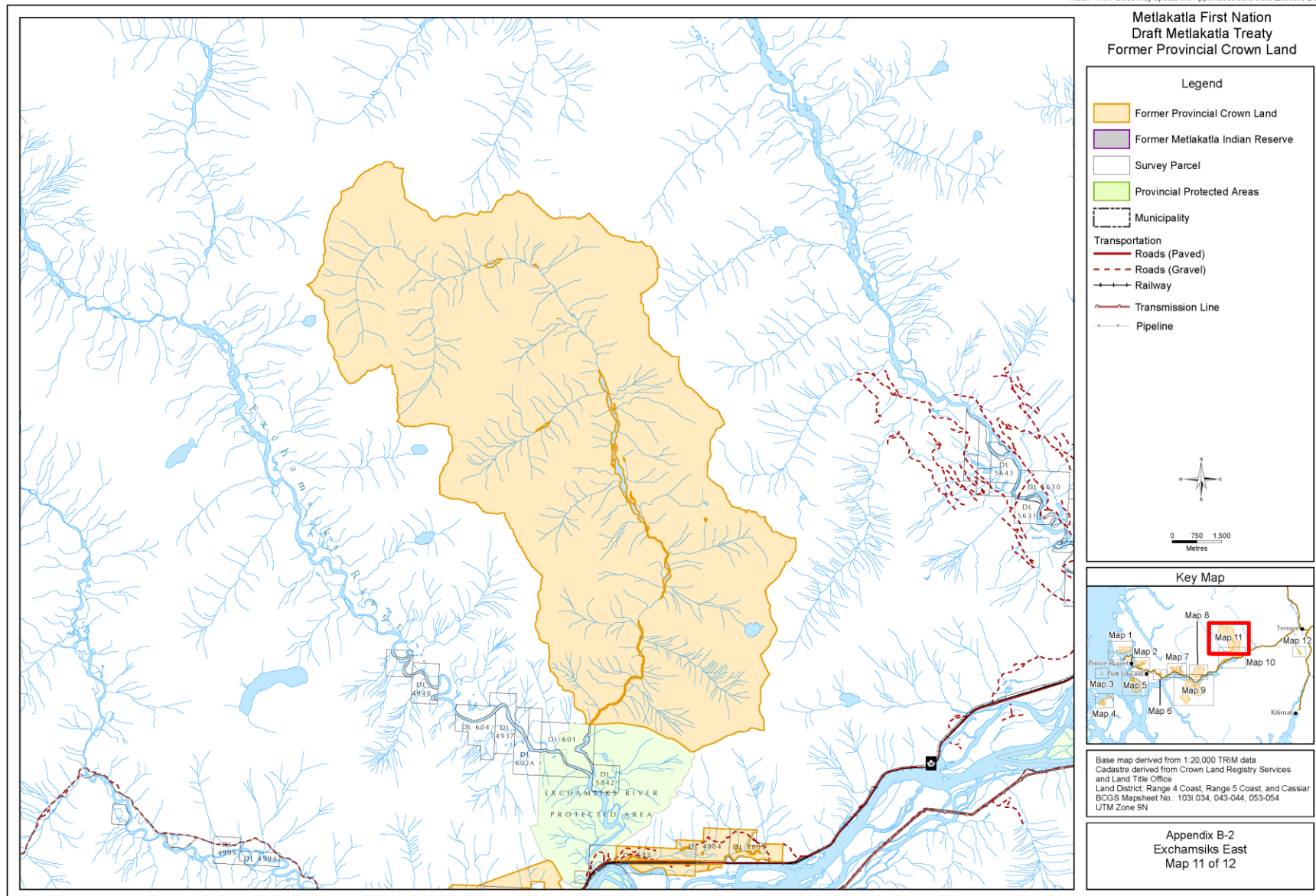
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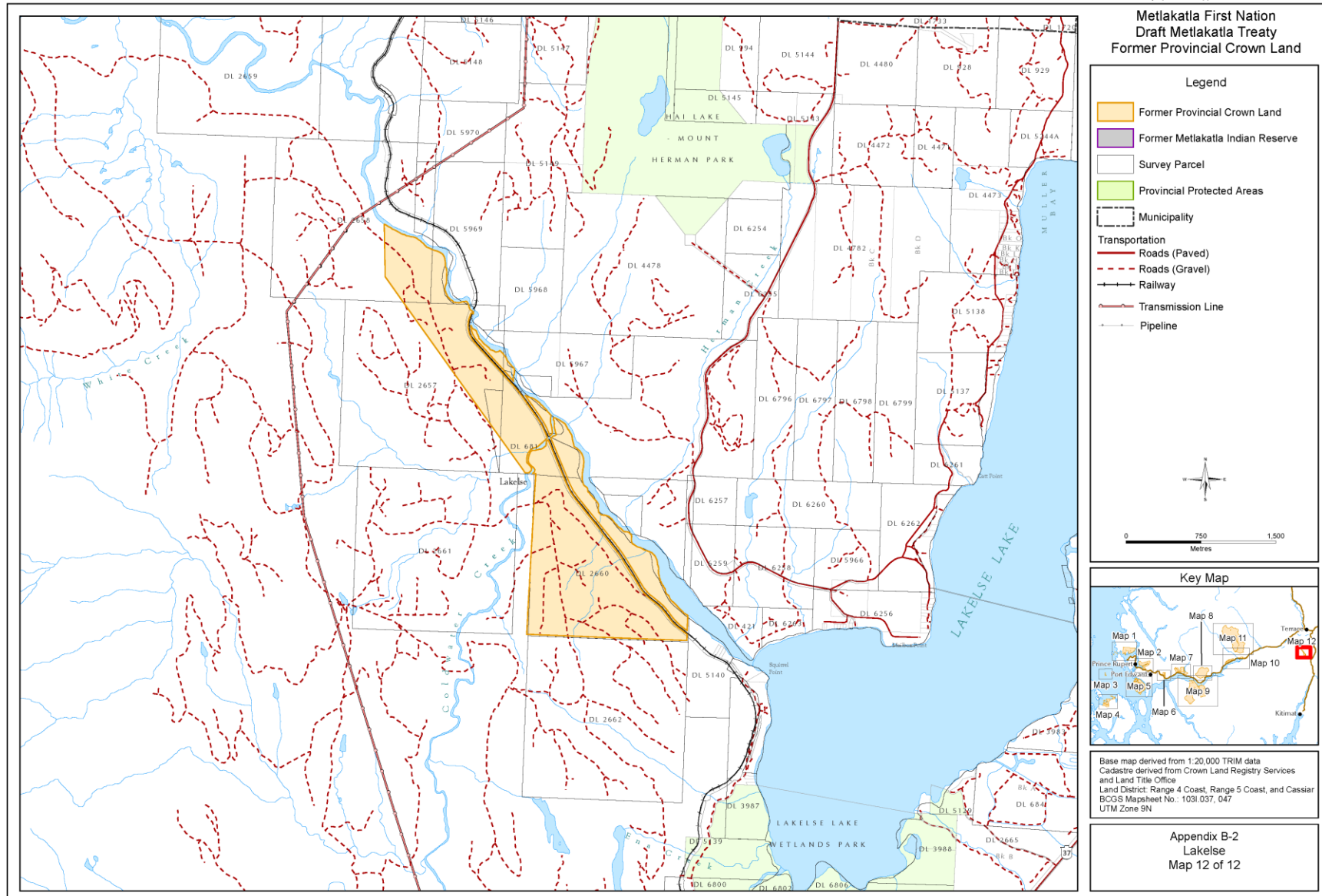
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**APPENDIX B-3: MAPS OF FORMER PRIVATE FEE SIMPLE LANDS**

*Note: The Parties will update the Appendices prior to the Effective Date.*

**APPENDIX C: SHARED METLAKATLA INDIAN RESERVES**

*Note: The Parties will update the Appendices prior to the Effective Date.*

<b>Reserve Name</b>	<b>Reserve No.</b>	<b>Area (hectares)</b>	<b>Land Description</b>
			Reserve Lands within the Province of British Columbia, Canada. In Coast District, Range 5, recorded in the Canada Lands Surveys Records (CLSR) described as:
<b>Dashken (07761)</b>	22	2.9	IR No. 22 as shown on Plan BC84 CLSR.
<b>Khtahda (07758)</b>	10	2.8	IR No. 10 as shown on Plan BC84 CLSR.
<b>Khyex (07757)</b>	8	19.1	IR No. 8 as shown on Plan 87744 CLSR and Plan BC84 CLSR and save and except Plan RD3263 and the area shown in pink on Plan RR2256 and the area within Plan RR2256 excluding the pink area.
<b>Kshaoom (07762)</b>	23	2.2	IR No. 23 as shown on Plan BC84 CLSR.
<b>Lakelse (07764)</b>	25	8.5	IR No. 25 as shown on Plan BC159 CLSR.
<b>Meanlaw (07763)</b>	24	2.7	IR No. 24 as shown on Plan BC84 CLSR save and except Plan RR2255 CLSR.
<b>Point Veitch (10025)</b>	7	6.2	IR No. 7 as shown on Plan 82704 CLSR.
<b>Red Bluff (07841)</b>	88	135.5	IR No. 88 as shown on Plan BC676 CLSR.
<b>ScuttSap (07759)</b>	11	3.6	IR No. 11 as shown on Plan BC84 CLSR.
<b>Tsimpsean (10024)</b>	2A	4114	IR No. 2A being District Lot 3975, Range 5, Coast District save and except all beds of bodies of water (See P.C. 2015-413).
<b>Willaclough (10026)</b>	6	10.2	IR No. 6 as shown on Plan 82706 CLSR.
<b>TOTAL</b>		<b>4307.7</b>	

**APPENDIX D: SITES OF CULTURAL OR HISTORICAL SIGNIFICANCE**

*Note: The Parties will update the Appendices prior to the Effective Date.*

## APPENDIX E: LIST OF CROWN CORRIDORS EXCLUDED FROM METLAKATLA FIRST NATION LANDS

*Note: The Parties will update the Appendices prior to the Effective Date.*

Excluded Crown Corridors	Map Location (Land Parcel)
Highway 16	<ul style="list-style-type: none"> <li>Appendix B-2, Map 2 (Kloiya Bay)</li> <li>Appendix B-2, Map 6 (Rainbow Summit)</li> <li>Appendix B-2, Map 7 (Khyex)</li> <li>Appendix B-2, Map 8 (Kwinitsa)</li> <li>Appendix B-2, Map 10 (Exchamsiks_Skeena)</li> </ul>
BC Hydro Right of Way	<ul style="list-style-type: none"> <li>Appendix B-2, Map 2 (Kloiya Bay)</li> <li>Appendix B-2, Map 6 (Rainbow Summit)</li> <li>Appendix B-2, Map 7 (Khyex)</li> <li>Appendix B-2, Map 9 (Scotia_River)</li> <li>Appendix B-2, Map 10 (Exchamsiks_Skeena)</li> </ul>
Pacific Northern Gas Ltd. Gas and Oil Pipeline (0348345)	<ul style="list-style-type: none"> <li>Appendix B-2, Map 2 (Kloiya Bay)</li> <li>Appendix B-2, Map 7 (Khyex)</li> <li>Appendix B-2, Map 10 (Exchamsiks_Skeena)</li> </ul>

## APPENDIX F: INTERESTS ON METLAKATLA FIRST NATION LANDS

### APPENDIX F-1: INTERESTS TO BE REPLACED ON FORMER PROVINCIAL CROWN LANDS ON THE EFFECTIVE DATE

*Note: Replacement tenure procedures to be added during Stage 5 negotiations.*

#### Appendix F-1: Part 1 - Public Utility Works

*Note: The Parties will update the Appendices prior to the Effective Date.*

File Number	Document Number	Interest Holder	Interest	Map Location (Land Parcel)
<a href="#">6403702</a>	633597	British Columbia Hydro And Power Authority	Licence Of Occupation - Utility (Electric Power Line)	Appendix B-2, Map 5 (Smith Island)
<a href="#">6401527</a>	83613	British Columbia Hydro And Power Authority	Notation Of Interest - Utility (Electric Power Line)	<ul style="list-style-type: none"> <li>Appendix B-2, Map 7 (Khyex)</li> <li>Appendix B-2, Map 9 (Scotia_River)</li> <li>Appendix B-2, Map 10 (Exchamsiks_Skeena)</li> </ul>
<a href="#">0247981</a>	SK916956	Telus Communications Inc.	Standard Lease - Communication (Communication Sites)	Appendix B-2, Map 8 (Kwinitsa)
<a href="#">6408847</a>	SK921272	British Columbia Hydro And Power Authority	Temporary Licence - Utility (Electric Power Line)	Appendix B-2, Map 12 (Lakelse)

**Appendix F-1: Part 2 - Other Replacement Interests**

*Note: The Parties will update the Appendices prior to the Effective Date.*

File Number	Document Number	Interest Holder	Interest	Map Location (Land Parcel)
<a href="#">6401182</a>	83661	Forests, Lands and Natural Resource Operations; Westcoast Energy Inc.	Notation Of Interest - Utility (Gas And Oil Pipeline)	<ul style="list-style-type: none"> <li>Appendix B-2, Map 2 (Kloiya Bay)</li> <li>Appendix B-2, Map 7 (Khyex)</li> <li>Appendix B-2, Map 10 (Exchamsiks_Skeena)</li> </ul>
<a href="#">6408180</a>	SK915401	Sequoia Energy Inc.	Investigative Licence - Waterpower (Investigative Phase)	Appendix B-2, Map 2 (Kloiya Bay)
<a href="#">6401504</a>	85736	Public Works and Government Services Canada	Sec 16 Map Reserve - Transportation (Navigation Aid)	Appendix B-2, Map 3 (Rachel Islands)
<ul style="list-style-type: none"> <li><a href="#">6408497</a></li> <li><a href="#">6408498</a></li> <li><a href="#">6408499</a></li> <li><a href="#">6408500</a></li> </ul>	<ul style="list-style-type: none"> <li>SK905911</li> <li>SK905920</li> <li>SK905922</li> <li>SK905923</li> </ul>	Porcher Island Wind Holdings Inc.	Investigative Licence - Windpower (Investigative Phase)	Appendix B-2, Map 4 (Porcher Island)
<a href="#">6408535</a>	SK906265	Porcher Island Wind Holdings Inc.	Investigative Licence - Windpower (Investigative And Monitoring Phase)	Appendix B-2, Map 4 (Porcher Island)
<a href="#">6407688</a>	636460	Invenergy Wind Canada Development ULC	Investigative Licence - Windpower (Investigative And Monitoring Phase)	Appendix B-2, Map 5 (Smith Island)
<ul style="list-style-type: none"> <li><a href="#">6407904</a></li> <li><a href="#">6407905</a></li> </ul>	<ul style="list-style-type: none"> <li>636472</li> <li>636473</li> </ul>	Synex Energy Resources Ltd.	Investigative Licence - Waterpower (Investigative Phase)	<ul style="list-style-type: none"> <li>Appendix B-2, Map 7 (Khyex)</li> <li>Appendix B-2, Map 9 (Scotia_River)</li> </ul>
<a href="#">6407511</a>	SK921906	Kori, Doll	Licence Of Occupation - Commercial Recreation (Guided Freshwater Recreation)	<ul style="list-style-type: none"> <li>Appendix B-2, Map 9 (Scotia_River)</li> <li>Appendix B-2, Map 10 (Exchamsiks_Skeena)</li> <li>Appendix B-2, Map 12 (Lakelse)</li> </ul>
<a href="#">6407510</a>	SK910871	Skeena Wilderness Fishing Charters Ltd.	Licence Of Occupation - Commercial Recreation (Guided Freshwater Recreation)	<ul style="list-style-type: none"> <li>Appendix B-2, Map 9 (Scotia_River)</li> <li>Appendix B-2, Map 10 (Exchamsiks_Skeena)</li> <li>Appendix B-2, Map 12 (Lakelse)</li> </ul>
<a href="#">6407654</a>	343081	River Wind Ventures Ltd.	Licence Of Occupation - Commercial Recreation (Trail Riding)	Appendix B-2, Map 10 (Exchamsiks_Skeena)
<a href="#">6407801</a>	635584	Skeena Valley Expeditions Inc.	Licence Of Occupation - Commercial Recreation (Guided Freshwater Recreation)	Appendix B-2, Map 10 (Exchamsiks_Skeena)
<a href="#">6407609</a>	343525	True North Heli-Skiing Ltd.	Licence Of Occupation - Commercial Recreation (Heli Ski)	<ul style="list-style-type: none"> <li>Appendix B-2, Map 10 (Exchamsiks_Skeena)</li> <li>Appendix B-2, Map 11 (Exchamsiks East)</li> </ul>



## **APPENDIX F-2: APPLICABLE FORMS OF DOCUMENTS FOR REPLACEMENT INTERESTS IN APPENDIX F-1**

### **Appendix F-2: Part 1 - Licence of Occupation**

*Note: The Parties will update the Appendices prior to the Effective Date.*

### **Appendix F-2: Part 2 - Licence of Occupation for Federal Interest**

*Note: The Parties will update the Appendices prior to the Effective Date.*

### **Appendix F-2: Part 3 - Grant of Private Road Easement**

*Note: The Parties will update the Appendices prior to the Effective Date.*

### **Appendix F-2: Part 4 - Lease Agreement for Commercial Operation**

*Note: The Parties will update the Appendices prior to the Effective Date.*

### **Appendix F-2: Part 5 - Licence of Occupation for Trapline Cabin**

*Note: The Parties will update the Appendices prior to the Effective Date.*

### **Appendix F-2: Part 6 - Commercial Recreation Temporary Use Permit**

*Note: The Parties will update the Appendices prior to the Effective Date.*

## **APPENDIX F-3: INTERESTS TO BE CREATED ON THE EFFECTIVE DATE**

### **Appendix F-3: Part 1 - Existing Tenures within Metlakatla First Nation Lands Requiring Private Road Easement**

*Note: The Parties will update the Appendices prior to the Effective Date.*

### **Appendix F-3: Part 2 - Fee Simple Properties within Metlakatla First Nation Lands Requiring Private Road Easement**

*Note: The Parties will update the Appendices prior to the Effective Date.*

### **Appendix F-3: Part 3 - Forest Research Installations and Growth and Yield Plots within Metlakatla First Nation Lands**

*Note: The Parties will update the Appendices prior to the Effective Date.*

## **APPENDIX F-4: APPLICABLE FORMS OF DOCUMENTS FOR INTERESTS IN APPENDIX F-3**

*Note: The Parties will update the Appendices prior to the Effective Date.*

## **APPENDIX F-5: INTERESTS ON FORMER INDIAN RESERVES**

### **Appendix F-5: Part 1 – Certificate of Possession**

*Note: The Parties will update the Appendices prior to the Effective Date.*

### **Appendix F-5: Part 2 - Locatee Interests**

*Note: The Parties will update the Appendices prior to the Effective Date.*

### **Appendix F-5: Part 3 - Public Utility Distribution Works and Other Interests**

*Note: The Parties will update the Appendices prior to the Effective Date.*

**Appendix F-5: Part 4 - List of Leasehold Interests**

*Note: The Parties will update the Appendices prior to the Effective Date.*

**APPENDIX F-6: APPLICABLE FORMS OF DOCUMENTS FOR INTERESTS IN APPENDIX F-5**

*Note: The Parties will update the Appendices prior to the Effective Date.*

**APPENDIX F-7: APPLICABLE FORMS OF DOCUMENTS FOR PUBLIC OR PRIVATE UTILITY TRANSMISSION, DISTRIBUTION AND WATERLINE WORKS TRAVERSING FORMER PROVINCIAL CROWN LANDS AND FORMER INDIAN RESERVES**

**Appendix F-7: Part 1 - Distribution Right of Way (BC Hydro and Telus)**

*Note: The Parties will update the Appendices prior to the Effective Date.*

**Appendix F-7: Part 2 - Right of Way for Waterline**

*Note: The Parties will update the Appendices prior to the Effective Date.*



## APPENDIX F-8: INTERESTS TO CONTINUE IN ACCORDANCE WITH PROVINCIAL LAW ON METLAKATLA FIRST NATION LANDS

### Appendix F-8: Part 1 - Traplines Issued Under the *Wildlife Act*

*Note: The Parties will update the Appendices prior to the Effective Date.*

Trapline ID Number	Map Location (Land Parcel)
TR0614T031	Appendix B-2, Map 1 (Tsimshian_Peninsula)
TR0614T021	Appendix B-2, Map 2 (Kloiya Bay)
TR0614T030	Appendix B-2, Map 2 (Kloiya Bay)
TR0611T070	Appendix B-2, Map 3 (Rachel Islands)
TR0611T067	Appendix B-2, Map 4 (Porcher Island)
TR0611T068	Appendix B-2, Map 4 (Porcher Island)
TR0611T063	Appendix B-2, Map 5 (Smith Island)
TR0611T064	Appendix B-2, Map 5 (Smith Island)
TR0614T020	Appendix B-2, Map 5 (Smith Island)
TR0614T001	<ul style="list-style-type: none"> <li>Appendix B-2, Map 6 (Rainbow Summit)</li> <li>Appendix B-2, Map 7 (Khyex)</li> </ul>
TR0615T042	Appendix B-2, Map 7 (Khyex)
TR0615T043	Appendix B-2, Map 7 (Khyex)
TR0615T040	Appendix B-2, Map 8 (Kwinitsa)
TR0615T041	Appendix B-2, Map 8 (Kwinitsa)
TR0615T043	Appendix B-2, Map 8 (Kwinitsa)
TR0610T005	Appendix B-2, Map 9 (Scotia_River)
TR0610T009	Appendix B-2, Map 9 (Scotia_River)
TR0610T011	Appendix B-2, Map 9 (Scotia_River)
TR0611T019	Appendix B-2, Map 9 (Scotia_River)
TR0611T020	Appendix B-2, Map 9 (Scotia_River)
TR0610T013	Appendix B-2, Map 10 (Exchamsiks_Skeena)
TR0615T032	Appendix B-2, Map 10 (Exchamsiks_Skeena)
TR0615T037	Appendix B-2, Map 10 (Exchamsiks_Skeena)
TR0615T040	Appendix B-2, Map 10 (Exchamsiks_Skeena)
TR0615T032	Appendix B-2, Map 11 (Exchamsiks East)
TR0615T033	Appendix B-2, Map 11 (Exchamsiks East)
TR0615T035	Appendix B-2, Map 11 (Exchamsiks East)
TR0615T036	Appendix B-2, Map 11 (Exchamsiks East)
TR0615T038	Appendix B-2, Map 11 (Exchamsiks East)
TR0610T001	Appendix B-2, Map 12 (Lakelse)

**Appendix F-8: Part 2 - Guide Outfitters Certificates Issued Under the Wildlife Act**

*Note: The Parties will update the Appendices prior to the Effective Date.*

Certificate Number	Tenure Holder	Map Location (Land Parcel)
601084	Collier Azak	<ul style="list-style-type: none"> <li>Appendix B-2, Map 9 (Scotia_River)</li> <li>Appendix B-2, Map 10 (Exchamsiks_Skeena)</li> <li>Appendix B-2, Map 11 (Exchamsiks East)</li> <li>Appendix B-2, Map 12 (Lakelse)</li> </ul>

**Appendix F-8: Part 3 - Water Rights****Licences Issued Under the Water Act**

*Note: The Parties will update the Appendices prior to the Effective Date.*

Water Licence Number	Associated Land File Number	Interest Holder	Interest Type	Location	Map Location (Land Parcel)
Z122935	6407904	SYNEX ENERGY RESOURCES LTD	Point of Diversion – Power: General	Ayton Creek	Appendix B-2, Map 9 (Scotia_River)

**Appendix F-8: Part 4 - Subsurface Tenures****Subsurface Tenures Issued Under the Mineral Tenure Act**

*Note: The Parties will update the Appendices prior to the Effective Date.*

Tenure Number	Claim Name	Interest Holder	Interest	Map Location (Land Parcel)
252112	DC	Imperial Metals Corporation 35.0% 0847420 BC Ltd. 65.0%	Mineral Claim (Four Post Claim)	Appendix B-2, Map 4 (Porcher Island)
1032307	OSBORN POINT	Neil Richard Strayer	Mineral Claim	Appendix B-2, Map 5 (Smith Island)
593613	SCOTIA	Reza Ahmed Mohammed	Mineral Claim	Appendix B-2, Map 9 (Scotia_River)
1045679	MAYNER SOUTH	Marcy Marie Kiesman	Mineral Claim	Appendix B-2, Map 12 (Lakelse)
1055409	MAIN SOUTH 1	John Thuot	Mineral Claim	Appendix B-2, Map 6 (Rainbow Summit)
1057479	CASCADIA 5	John Thuot	Mineral Claim	Appendix B-2, Map 6 (Rainbow Summit)
1063429	MAYBE?	Craig John Norman	Mineral Claim	Appendix B-2, Map 10 (Exchamsiks_Skeena)

**Appendix F-8: Part 5 - Interests to be Registered on Title**

*Note: The Parties will update the Appendices prior to the Effective Date.*

**APPENDIX F-9: EXISTING FORESHORE INTERESTS REQUIRING UPLAND OWNER CONSENT**

**Appendix F-9: Part 1 - Existing Foreshore Interests Requiring Upland Owner Consent**

*Note: The Parties will update the Appendices prior to the Effective Date.*

**Appendix F-9: Part 2 - Applicable Documents for Upland Owner Consent**

*Note: The Parties will update the Appendices prior to the Effective Date.*

**APPENDIX G: MAPS OF POTENTIAL ADDITIONS TO METLAKATLA FIRST NATION LANDS**

*Note: The Parties will update the Appendices prior to the Effective Date.*



## **APPENDIX H: EXPROPRIATION**

### **APPENDIX H-1: LIMITS ON PROVINCIAL EXPROPRIATION**

#### **PROVINCIAL EXPROPRIATION PROCEDURES**

1. Provincial law applies to the expropriation of Metlakatla First Nation Lands by a Provincial Expropriating Authority except to the extent that the Final Agreement modifies its application.
2. A Provincial Expropriating Authority may only expropriate an estate or interest in Metlakatla First Nation Lands with the consent and by the order of the Lieutenant-Governor-in-Council.
3. The Lieutenant-Governor-in-Council may only issue an order consenting to an expropriation of an estate or interest in Metlakatla First Nation Lands:
  - a) after the conclusion of the procedures described in paragraphs 4 and 5; and
  - b) where the expropriation is justifiable in accordance with paragraph 6.
4. Before the Lieutenant-Governor-in-Council makes a decision under paragraph 3, the Provincial Expropriating Authority will provide to the Metlakatla First Nation a report which states the reasons for the expropriation and addresses the factors under paragraphs 6.a) to 6.e).
5. Within 30 days of receipt of the report under paragraph 4, the Metlakatla First Nation will notify the Provincial Expropriating Authority if it objects to the expropriation of the estate or interest in Metlakatla First Nation Lands and, within 30 days of the Provincial Expropriating Authority's receipt of notice from the First Nation, the Provincial Expropriating Authority and the First Nation will make reasonable efforts to resolve the objection raised by the Metlakatla First Nation.
6. For the purposes of paragraph 3.b) an expropriation is justifiable where the Lieutenant-Governor-in-Council is satisfied that, in addition to the applicable requirements under Provincial law, the following requirements have been met:
  - a) there is no other reasonably feasible alternative to the expropriation, including the use of lands that are not Metlakatla First Nation Lands;
  - b) reasonable efforts have been made by the Provincial Expropriating Authority to acquire the estate or interest in Metlakatla First Nation Lands through agreement with the Metlakatla First Nation;
  - c) the Provincial Expropriating Authority has confirmed that the proposed expropriation is the smallest estate or interest necessary and for the shortest time required;
  - d) information relevant to the expropriation, other than documents that would be protected from disclosure under Provincial Law, has been provided to the Metlakatla First Nation, including the report referred to in paragraph 4; and
  - e) where the Metlakatla First Nation has objected to the expropriation, reasonable efforts have been made to resolve the objection.
7. The Lieutenant-Governor-in-Council will not consent to the expropriation before the end of the period provided for in paragraph 5.
8. Notwithstanding paragraphs 3 to 7, the Lieutenant-Governor-in-Council may consent to the expropriation if the Minister or Lieutenant-Governor-in-Council has declared a state of emergency.

## COMPENSATION

9. In the event an estate or interest in Metlakatla First Nation Lands is expropriated by a Provincial Expropriating Authority, the Provincial Expropriating Authority will provide compensation in accordance with the Final Agreement.
10. The total value of compensation for an expropriated interest or estate in Metlakatla First Nation Lands will be based on the criteria used in the *Expropriation Act* and will take into account the following factors:
  - a) the market value of the land based on its use at the date of expropriation plus reasonable damages;
  - b) the market value of the land based on its highest and best use at the date of expropriation;
  - c) the value of a special economic advantage to the owner arising out of his or her occupation or use of the land; and
  - d) the value of improvements made by an owner occupying a residence located on the land.
11. Where the Provincial Expropriating Authority and the Metlakatla First Nation disagree on the total value of compensation for an expropriated estate or interest held by the Metlakatla First Nation, the dispute will be finally determined by arbitration. A dispute under this section will not delay the expropriation. For the purposes of this section British Columbia will act on behalf of the Provincial Expropriating Authority on such terms as British Columbia and the Provincial Expropriating Authority may agree.

## EXPROPRIATION OF LESS THAN A FEE SIMPLE ESTATE

12. Where less than the fee simple estate in a parcel of Metlakatla First Nation Lands is expropriated by a Provincial Expropriating Authority:
  - a) the parcel of land retains its status as Metlakatla First Nation Lands;
  - b) Metlakatla First Nation Law applies to the parcel of land except to the extent that the Metlakatla First Nation Law is inconsistent with the use of land for which the expropriation took place; and
  - c) The Metlakatla First Nation may continue to use and occupy the parcel of land, except to the extent that such use or occupation interferes with the use of land for which the expropriation took place.
13. Paragraphs 14 to 19 do not apply to an expropriation by a Provincial Expropriating Authority of less than the fee simple estate in a parcel of Metlakatla First Nation Lands.

## EXPROPRIATION OF A FEE SIMPLE ESTATE

14. Where a fee simple estate in Metlakatla First Nation Lands is expropriated by a Provincial Expropriating Authority:
  - a) unless British Columbia and the Metlakatla First Nation agree otherwise, the expropriation will include the fee simple estate to Subsurface Resources which will revert to British Columbia at the time of the expropriation;
  - b) unless the Provincial Expropriating Authority and the Metlakatla First Nation agree otherwise, the expropriation will include all other interests in the land; andthose lands will no longer be Metlakatla First Nation Lands and Appendix B will be amended in accordance with the process set out in paragraph 9 of the Amendment Chapter.

15. For the purposes of paragraph 14:
- a) the Provincial Expropriating Authority will be responsible for the transaction costs including the cost of surveying, registering and transferring the land; and
  - b) where the land is registered in the Land Title Office, British Columbia will file such certificates or other documents in the Land Title Office as may be required under the *Land Title Act*.

#### **PROVINCIAL CROWN LAND AS REPLACEMENT LAND**

16. Where British Columbia expropriates a fee simple estate in Metlakatla First Nation Lands held by the Metlakatla First Nation, British Columbia will make reasonable efforts to identify and offer provincial Crown land of comparable value within the Metlakatla First Nation Area to Metlakatla First Nation as compensation.
17. Where the replacement land provided under paragraph 16 is of less than comparable value, British Columbia will provide additional compensation in accordance with paragraph 10.
18. Where the Metlakatla First Nation accepts Crown land as replacement land, British Columbia will provide the Metlakatla First Nation with a certificate transferring the indefeasible title or, where applicable, the registered title to the parcel of land to the Metlakatla First Nation.
19. At the request of the Metlakatla First Nation, British Columbia will consent to the replacement land being added to Metlakatla First Nation Lands and, where Canada consents to such replacement lands becoming Metlakatla First Nation Lands in accordance with a request under paragraph 37 of the Lands Chapter, upon receipt by the Metlakatla First Nation of notice of the consent of each of British Columbia and Canada Appendix B will be amended in accordance with the process set out in paragraph 9 of the Amendment Chapter.
20. Where there is no agreement between British Columbia and the Metlakatla First Nation on the provision of land as compensation under paragraph 16, British Columbia will provide Metlakatla First Nation with monetary compensation equal to the amount agreed to between Metlakatla First Nation and British Columbia under paragraph 10 or the amount determined by arbitration under paragraph 11.

#### **RETURN OF AN EXPROPRIATED ESTATE OR INTEREST**

21. Where an expropriated estate or interest in Metlakatla First Nation Lands is no longer required by the Provincial Expropriating Authority, the expropriated estate or interest will be returned to the Metlakatla First Nation subject to terms to be negotiated at the time of the return of the expropriated estate or interest.
22. Where the fee simple estate to a parcel of land under paragraph 21 is transferred by the Provincial Expropriating Authority to the Metlakatla First Nation, the Metlakatla First Nation may add the parcel to Metlakatla First Nation Lands upon notice to Canada and British Columbia.
23. Upon receipt by Canada and British Columbia of a notice under paragraph 22, the parcel will become Metlakatla First Nation Lands and Appendix B will be amended in accordance with the process set out in paragraph 9 of the Amendment Chapter.

#### **INTERESTS ON REPLACEMENT OR RETURNED LANDS**

24. Replacement land accepted by the Metlakatla First Nation under paragraph 19 or land returned to the Metlakatla First Nation under paragraph 21 will be subject to:
- a) where the parcel is not registered in the Land Title Office any interest granted by British Columbia that is not discharged at the time of transfer unless the Metlakatla First Nation and the interest holder agree to a replacement interest, including any modifications agreed to in writing by the Metlakatla First Nation and the interest holder; and



- b) where the parcel is registered in the Land Title Office, any registered charge or registered encumbrance subject to their discharge under the *Land Title Act*.
25. The Metlakatla First Nation will own the Subsurface Resources on lands that are added to Metlakatla First Nation Lands under paragraph 19 or 23 where:
- a) The fee simple title includes ownership of the Subsurface Resources; or
  - b) British Columbia owns the Subsurface Resources at the time of the transfer to the Metlakatla First Nation.
26. For purposes of subparagraph 25.b), unless otherwise agreed by the Metlakatla First Nation and British Columbia, any Subsurface Resource Tenures and the Subsurface Resources associated with those tenures will be administered by British Columbia in accordance with paragraphs 6 to 15 of the Subsurface Resources Chapter.

#### **REGISTRATION OF REPLACED OR RETURNED LAND**

27. Where the Metlakatla First Nation wishes to register land which is replaced under paragraph 17 or returned under paragraph 21, the Metlakatla First Nation and British Columbia will, as appropriate, file such plans, certificates, instruments and other documents in the Land Title Office as may be required under the *Land Title Act*.

#### **TOTAL AMOUNT OF LAND SUBJECT TO EXPROPRIATION**

28. Prior to the Final Agreement, British Columbia and Metlakatla First Nation will negotiate the limit on the amount of Metlakatla First Nation Land that may be expropriated in fee simple by Provincial Expropriating Authorities.
29. Where replacement land is provided under paragraph 16, or a fee simple estate which is returned to the Metlakatla First Nation in accordance with paragraph 21, the amount of Metlakatla First Nation Lands that may be expropriated in fee simple under paragraph 28 will be increased by the amount of the fee simple estate, replaced or returned to the Metlakatla First Nation.

## **APPENDIX H-2: LIMITS ON FEDERAL EXPROPRIATION**

### **FEDERAL EXPROPRIATION PROCEDURES**

1. The Governor-in-Council may only consent to an expropriation of an interest in Metlakatla First Nation Lands if the expropriation is justifiable in accordance with paragraph 4 and necessary for a public purpose.
2. For greater certainty, for the purposes of paragraph 1, an expropriation is necessary for a public purpose if it is authorized by Federal Law.
3. Despite paragraph 49 of the Lands Chapter, where a fee simple interest in a parcel of Metlakatla First Nation Lands is held by an individual other than the Metlakatla First Nation, a Metlakatla First Nation Member, a Metlakatla First Nation Corporation, or a Metlakatla First Nation Institution, this chapter does not apply to the expropriation of any interest in that parcel and, for greater certainty, any such interest may be expropriated under Federal Law.
4. For the purposes of paragraph 1, an expropriation is justifiable where the Governor-in-Council is satisfied that the following requirements have been met:
  - a) there is no other reasonably feasible alternative land to acquire that is not Metlakatla First Nation Lands;
  - b) the Federal Expropriating Authority has made reasonable efforts to acquire the interest in Metlakatla First Nation Lands through agreement with the Metlakatla First Nation;
  - c) the most limited interest in Metlakatla First Nation Lands for the shortest period of time necessary for the purpose for which the interest in land is sought is expropriated; and
  - d) information relevant to the expropriation, other than documents that would be protected from disclosure pursuant to Federal Law, has been provided to the Metlakatla First Nation.
5. Before the Governor-in-Council issues an order consenting to the expropriation of an interest in Metlakatla First Nation Lands, the Federal Expropriating Authority will provide to the Metlakatla First Nation, and make available to the public, a report stating the justification for the expropriation and describing the steps taken to satisfy the requirements set out in paragraph 4.
6. If the Metlakatla First Nation objects to a proposed expropriation of an interest in Metlakatla First Nation Lands, it may, within 60 days after the report has been provided to the Metlakatla First Nation in accordance with paragraph 5, provide notice in writing to the Federal Expropriating Authority and refer the matter for review of the steps taken to satisfy the requirements set out in paragraph 4 directly to neutral evaluation under Stage Two of the Dispute Resolution Chapter.
7. The Federal Expropriating Authority may not seek Governor-in-Council consent to the expropriation of an interest in Metlakatla First Nation Lands before the expiration of the period referred to in paragraph 6 or, if the Metlakatla First Nation has referred the matter to a neutral evaluator in accordance with paragraph 6, before the neutral evaluator has delivered an opinion on the matter, such opinion to be rendered within 60 days of the referral being made or within such additional time as the Parties may agree.
8. Without limiting the generality of the Dispute Resolution Chapter, the opinion of the neutral evaluator under paragraph 7:
  - a) is without prejudice to the legal positions that may be taken by a Federal Expropriating Authority and the Metlakatla First Nation in court or in any other forum;
  - b) will not be admissible in any legal proceedings, unless otherwise required by law; and
  - c) is not binding on the Governor-in-Council under paragraphs 1 and 4.

9. Where a fee simple interest in a parcel of Metlakatla First Nation Lands is expropriated by a Federal Expropriating Authority, the Federal Expropriating Authority will make reasonable efforts to identify replacement land within the Metlakatla First Nation Area, being either Crown land or private land available on a willing-seller willing-buyer basis of equivalent or greater size and comparable value and, if acceptable to the Metlakatla First Nation, to acquire and offer the replacement land to the Metlakatla First Nation as partial or full compensation for the expropriation. If the Federal Expropriating Authority and the Metlakatla First Nation are unable to agree on the provision of replacement land as compensation, the Federal Expropriating Authority will provide the Metlakatla First Nation with other compensation in accordance with this Agreement.
10. Subject to paragraph 13, if the replacement land identified by the Federal Expropriating Authority would result in the total size of Metlakatla First Nation Lands being less than at the Effective Date and the Metlakatla First Nation does not agree that the replacement land is of comparable value to the interest in Metlakatla First Nation Lands being expropriated, the Metlakatla First Nation may refer the issue of whether the replacement land is of comparable value to the interest in Metlakatla First Nation Lands being expropriated to be finally determined by arbitration under the Dispute Resolution Chapter.
11. The total value of compensation for an interest in Metlakatla First Nation Lands expropriated by a Federal Expropriating Authority pursuant to this Chapter will be determined by taking into account the following factors:
  - a) the market value of the expropriated interest or of Metlakatla First Nation Lands in which an interest has been expropriated;
  - b) the replacement value of any improvement to Metlakatla First Nation Lands in which an interest has been expropriated;
  - c) any expenses or losses resulting from the disturbance directly attributable to the expropriation;
  - d) any reduction in the value of any interest in Metlakatla First Nation Lands that is not expropriated which directly relates to the expropriation;
  - e) any adverse effect on any cultural or other special value of Metlakatla First Nation Lands in which an interest has been expropriated provided that the cultural or other special value is only applied to an interest in Metlakatla First Nation Lands recognized in law and held by the Metlakatla First Nation, and provided that there will be no increase in the total value of compensation on account of any Aboriginal rights, title or interest; and
  - f) the value of any special economic advantage arising out of or incidental to the occupation or use of Metlakatla First Nation Lands by the Metlakatla First Nation to the extent that the value is not otherwise compensated.
12. Subject to paragraph 13, if the Federal Expropriating Authority and the Metlakatla First Nation cannot agree on the total value of compensation, or where there is disagreement on whether the combination of replacement land and cash is equal to the total value of compensation, either Canada, acting on behalf of the Federal Expropriating Authority or the Metlakatla First Nation may refer the issue of the total value of compensation to be finally determined by arbitration under the Dispute Resolution Chapter.
13. A dispute on the valuation of replacement land under paragraph 10, or on the total value of compensation under paragraph 12, or on the terms and conditions of the return of land under paragraphs 23 and 24, will not delay the expropriation.
14. Interest is payable on compensation from the Effective Date of an expropriation at the interest rate payable in accordance with Federal Law.
15. Where a Federal Expropriating Authority expropriates or otherwise acquires a fee simple interest in a parcel of Metlakatla First Nation Lands, the land will no longer be Metlakatla First Nation Lands.
16. Where a Federal Expropriating Authority expropriates less than a fee simple interest in a parcel of Metlakatla First Nation Lands:

- a) the parcel of land retains its status as Metlakatla First Nation Lands;
  - b) the parcel of land remains subject to Metlakatla First Nation Law, except to the extent that such laws interfere with the use of the parcel of land for which the expropriation took place; and
  - c) the Metlakatla First Nation may continue to use and occupy the parcel of land, except to the extent that, in the view of the Federal Expropriating Authority, the use or occupation is inconsistent with the use of the parcel for which the expropriation took place.
17. The Metlakatla First Nation may request that Canada and British Columbia consent to a parcel of replacement land transferred to the Metlakatla First Nation under paragraph 9 being added to Metlakatla First Nation Lands.
  18. During Stage 5 Treaty Negotiations, the Parties will address their interests in Canada's obligations with respect to replacement land.
  19. Where an expropriated interest in a parcel of Metlakatla First Nation Lands is no longer required for the purpose for which it was expropriated, the federal department, agency, or other entity, or its successors or assigns, who holds the expropriated interest, will ensure that the interest in land is returned to the Metlakatla First Nation, on the terms and conditions negotiated in accordance with paragraph 23.
  20. Where a fee simple interest in a parcel of land is returned to the Metlakatla First Nation in accordance with paragraph 19, the parcel of land will become Metlakatla First Nation Lands on the date of the transfer of the fee simple interest in the parcel of land to the Metlakatla First Nation.
  21. If a parcel of Metlakatla First Nation Lands is no longer Metlakatla First Nation Lands under paragraph 15, or where replacement lands are added to Metlakatla First Nation Lands under paragraph 17, or where land is returned to the Metlakatla First Nation under paragraph 19, Appendix B will be amended in accordance with the process set out in paragraph 9 of the Amendment Chapter.
  22. The consent of the Governor-in-Council is not required to give effect to a return of land under paragraph 19, and the federal department, agency or other entity who holds the expropriated interest will determine the disposition of any improvements made to the land in a manner consistent with the agreement reached pursuant to paragraph 23 or the outcome of an arbitration under paragraph 24.
  23. At the time of the expropriation, the Metlakatla First Nation and the Federal Expropriating Authority will negotiate the terms and conditions of the return of an expropriated interest in Metlakatla First Nation Lands, including:
    - a) requirements relating to financial considerations based on market value principles;
    - b) the condition of the land to be returned; and
    - c) the process for resolving any disputes around the implementation of these terms and conditions.
  24. Where the Federal Expropriating Authority and the Metlakatla First Nation cannot agree on the terms and conditions of the return of an expropriated interest in Metlakatla First Nation Lands at the time of the expropriation, either the Metlakatla First Nation or Canada, acting on behalf of the Federal Expropriating Authority, may refer the issue to be finally determined by arbitration under the Dispute Resolution Chapter.
  25. Except as otherwise provided in this Appendix, no conflict or dispute between the Parties respecting the interpretation, application or implementation of this Appendix will go to dispute resolution under the Dispute Resolution Chapter.
  26. For greater certainty, and subject to paragraph 27, except to the extent that the provisions of this Appendix modify the application of Federal Law relating to an expropriation of Metlakatla First Nation Lands, all Federal Law relating to expropriation applies to an expropriation of Metlakatla First Nation Lands under the Lands Chapter and this Appendix.
  27. Without limiting the generality of paragraph 19 of the General Provisions Chapter, in the event of a conflict between the Final Agreement and the federal *Expropriation Act* or other Federal Law relating to

the expropriation, the provisions of the Final Agreement will prevail to the extent of the conflict.

28. Where the fee simple interest in a parcel of Metlakatla First Nation Lands is held by a Metlakatla First Nation Member, a Metlakatla First Nation Corporation or a Metlakatla First Nation Public Institution, any interest in that parcel may be expropriated pursuant to Federal Law by a Federal Expropriating Authority:

- a) only with the consent of the Governor-in-Council; and
- b) in accordance with paragraphs 1,2,4,5,6,7,8,14,15,16, and 19 through 29 of this appendix,

and for greater certainty, any return of land under paragraphs 19 through 26 will be to the Metlakatla First Nation.

**APPENDIX I: METLAKATLA FIRST NATION PRIVATE LANDS**

*Note: The Parties will update the Appendices prior to the Effective Date.*

**APPENDIX J: ESTATES IN FEE SIMPLE GRANTED REASONABLE ACCESS  
ACROSS METLAKATLA FIRST NATION LANDS**

*Note: The Parties will update the Appendices prior to the Effective Date.*

## **APPENDIX K: METLAKATLA FISHERIES**

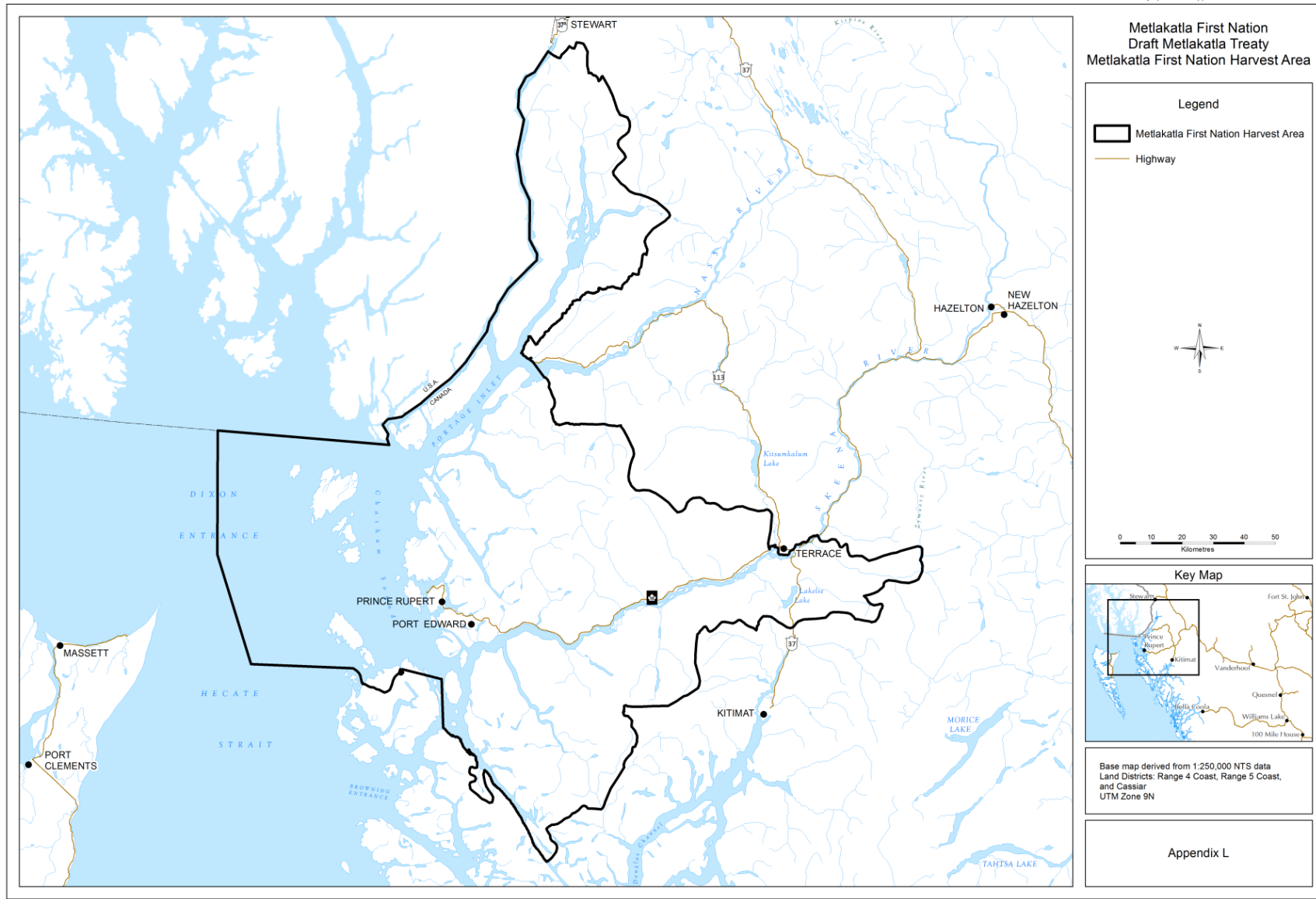
*Note: The Parties will update the Appendices prior to the Effective Date.*



## APPENDIX L: METLAKATLA HARVEST AREA

CONFIDENTIAL  
Do not distribute  
January 10, 2019

*Note: The Parties may update the Appendices before the Effective Date.*





## **APPENDIX M: METLAKATLA FIRST NATIONS LANDS WITHIN COMMUNITY WATERSHEDS**

*Note: The Parties will update the Appendices prior to the Effective Date.*

## **APPENDIX N: PROVINCIAL PARKS AND CONSERVANCIES**

*Note: The Parties will update the Appendices prior to the Effective Date.*

## **APPENDIX O: DISPUTE RESOLUTION**

*Note: The Parties will update the Appendices prior to the Effective Date.*