

SECOND AMENDMENT OF SHISHALH RECONCILIATION AGREEMENT

THIS AGREEMENT is dated as of the 31st day of August, 2021

BETWEEN:

Her Majesty the Queen in Right of the Province of British Columbia,
as represented by the Minister of Indigenous Relations and Reconciliation

(the "Province")

AND

Sechelt Indian Band, established under the *Sechelt Indian Band Self-Government Act*, on behalf of itself and its Members, as represented by the Chief and Council

(the "shíshálh Nation")

WHEREAS:

- A. The parties entered into the Shishalh Reconciliation Agreement dated April 1, 2016, as amended by the Amendment of Shishalh Reconciliation Agreement dated November 10, 2017 (the "SRA"); and
- B. The parties wish to further amend the SRA in accordance with the terms of this Agreement.

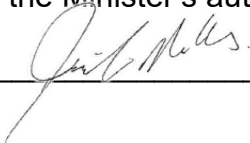
The parties therefore agree as follows:

- 1. Except as otherwise defined in this Agreement, capitalized terms have the meanings set out in the SRA.
- 2. The SRA is amended as follows:
 - (a) All references to "Salmon Inlet" in the SRA are replaced with "kwentan makw'ali";
 - (b) Schedule 1 of the SRA is replaced with Schedule A attached to this Agreement

- (c) Part 2 of Schedule 2 of the SRA is replaced with Schedule B attached to this Agreement;
3. The parties confirm the Offer in all other respects.
4. This amendment may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, email or other electronic means is as effective as a manually executed counterpart of this amending agreement.

As evidence of their agreement the parties have executed this Agreement as of the date and year first above written.

SIGNED on behalf of **HER MAJESTY THE
QUEEN IN RIGHT OF THE PROVINCE
OF BRITISH COLUMBIA** by the Minister of
Indigenous Relations and Reconciliation or
the Minister's authorized representative



SIGNED on behalf of **SECHELT INDIAN
BAND** by

- (c) Part 2 of Schedule 2 of the SRA is replaced with Schedule B attached to this Agreement;
- 3. The parties confirm the SRA in all other respects.
- 4. This amendment may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, email or other electronic means is as effective as a manually executed counterpart of this amending agreement.

As evidence of their agreement the parties have executed this Agreement as of the date and year first above written.

SIGNED on behalf of **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA** by the Minister of Indigenous Relations and Reconciliation or the Minister's authorized representative

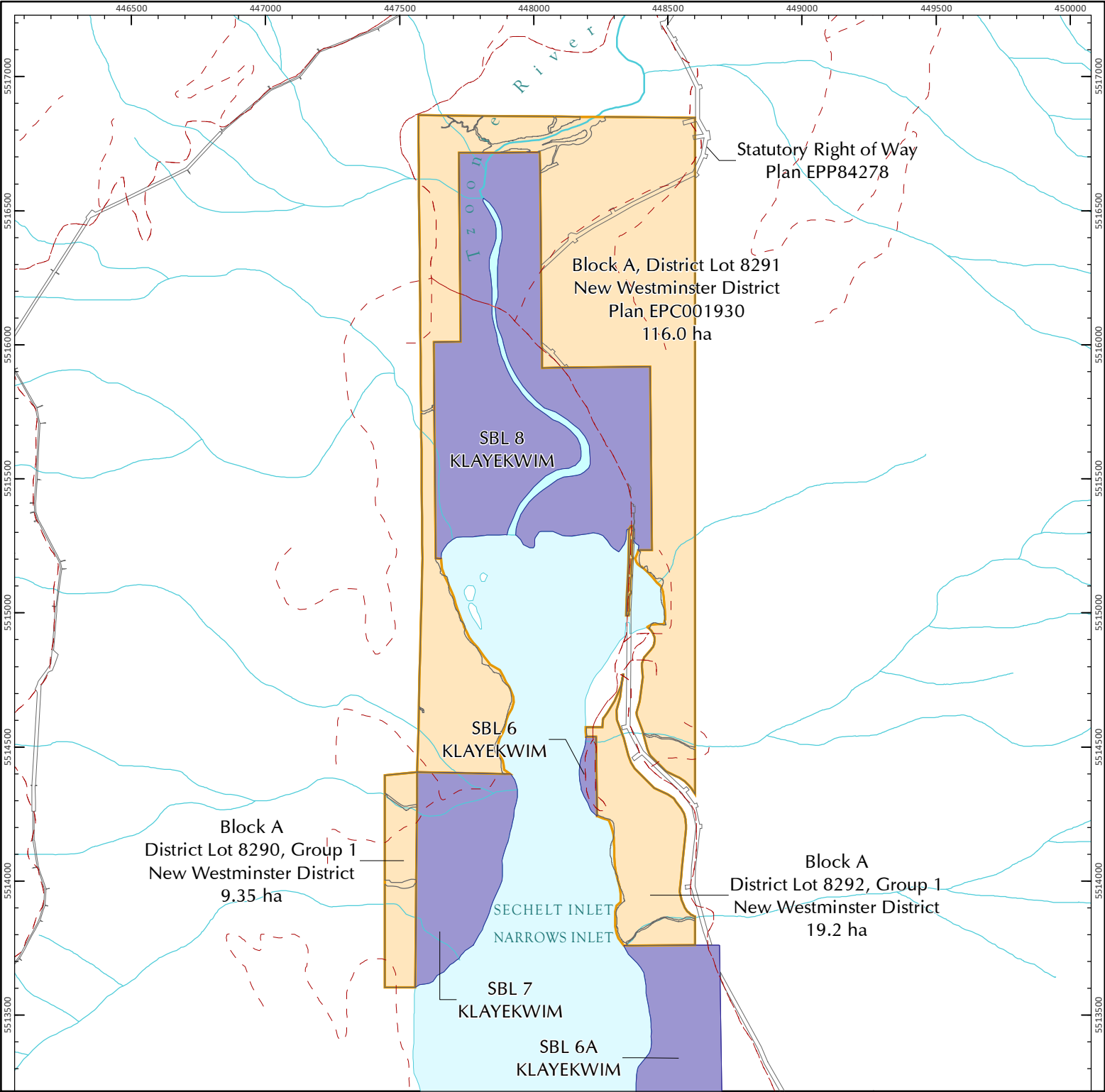
SIGNED on behalf of **SECHELT INDIAN BAND** by

A handwritten signature in black ink, appearing to read "H. Warren Paul", is written over a horizontal line.

SCHEDULE A
-see attached-

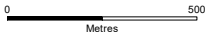
Schedule “1” Map of Lands

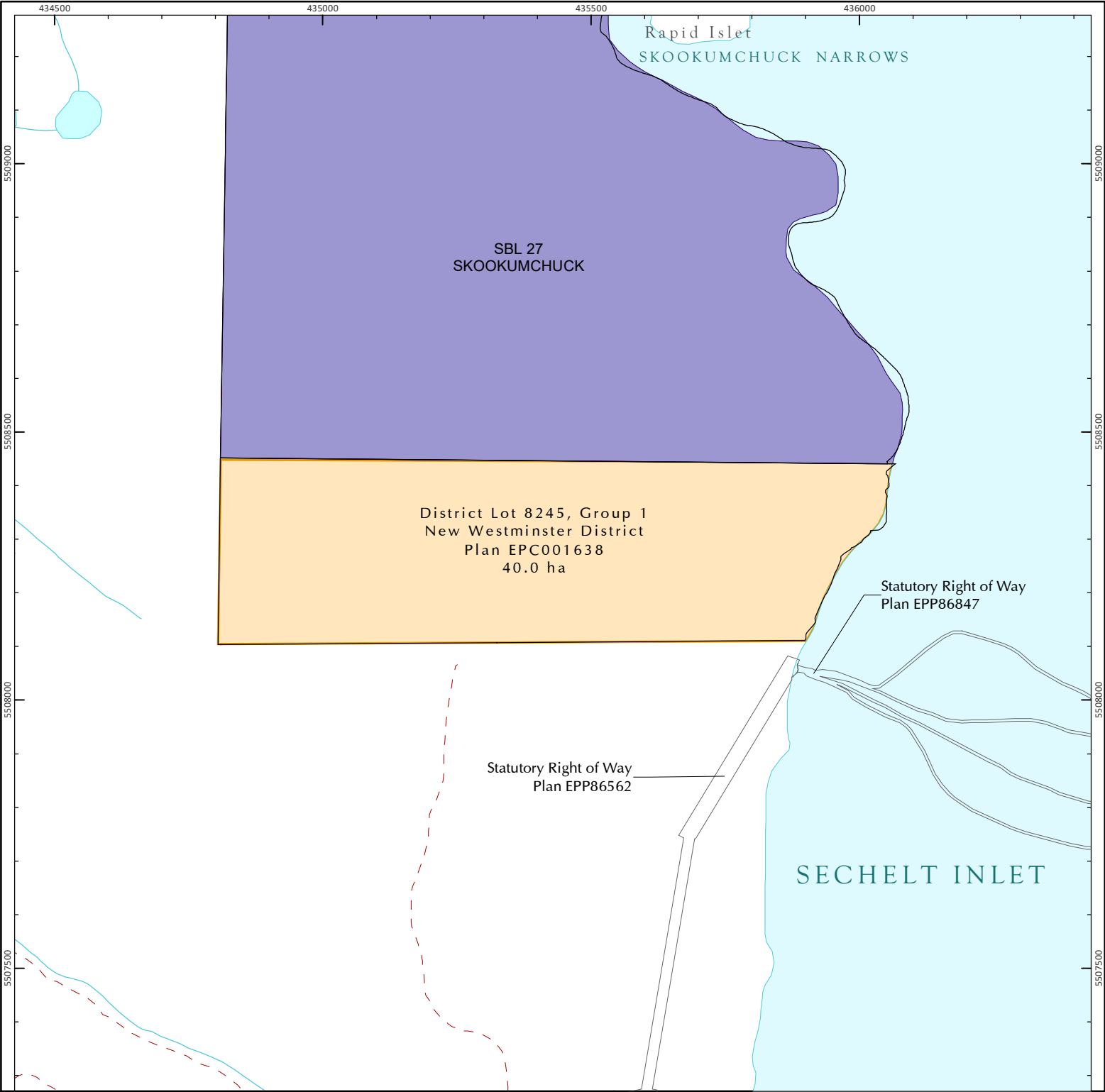
-see attached-



<div><div></div>shíshálh Reconciliation Agreement</div> <div><div></div>shíshálh Band Lands</div> <div><div></div>Primary Survey Parcel</div> <div><div></div>Road (Paved)</div> <div><div></div>Road (Gravel)</div>	May 12, 2021	<p>Sechelt</p>	<div>Ministry of Indigenous Relations and Reconciliation</div>
			Point of Commencement Not Required
	<div>Cadastre derived from Crown Land Registry Services and Land Title Office Land District: BCGS Mapsheet No.: Projection: NAD 1983 UTM Zone 10N</div>		Schedule 1 Map 1

THIS MAP IS NOT TO BE USED FOR DEFINING INDIAN RESERVE BOUNDARIES OR FOR INDIAN RESERVE LEGAL DESCRIPTION PURPOSES. DEPICTIONS OF INDIAN RESERVES ON THIS MAP ARE TO BE USED FOR ILLUSTRATIVE PURPOSES ONLY.





shíshálh Reconciliation Agreement

shíshálh Band Lands

Primary Survey Parcel

Road (Paved)

Road (Gravel)

May 12, 2021

0

200

Metres

N

BRITISH COLUMBIA

Ministry of Indigenous Relations and Reconciliation

Point of Commencement

Not Required

Cadastre derived from Crown Land Registry Services and Land Title Office

Land District: BCGS Mapsheet No.:

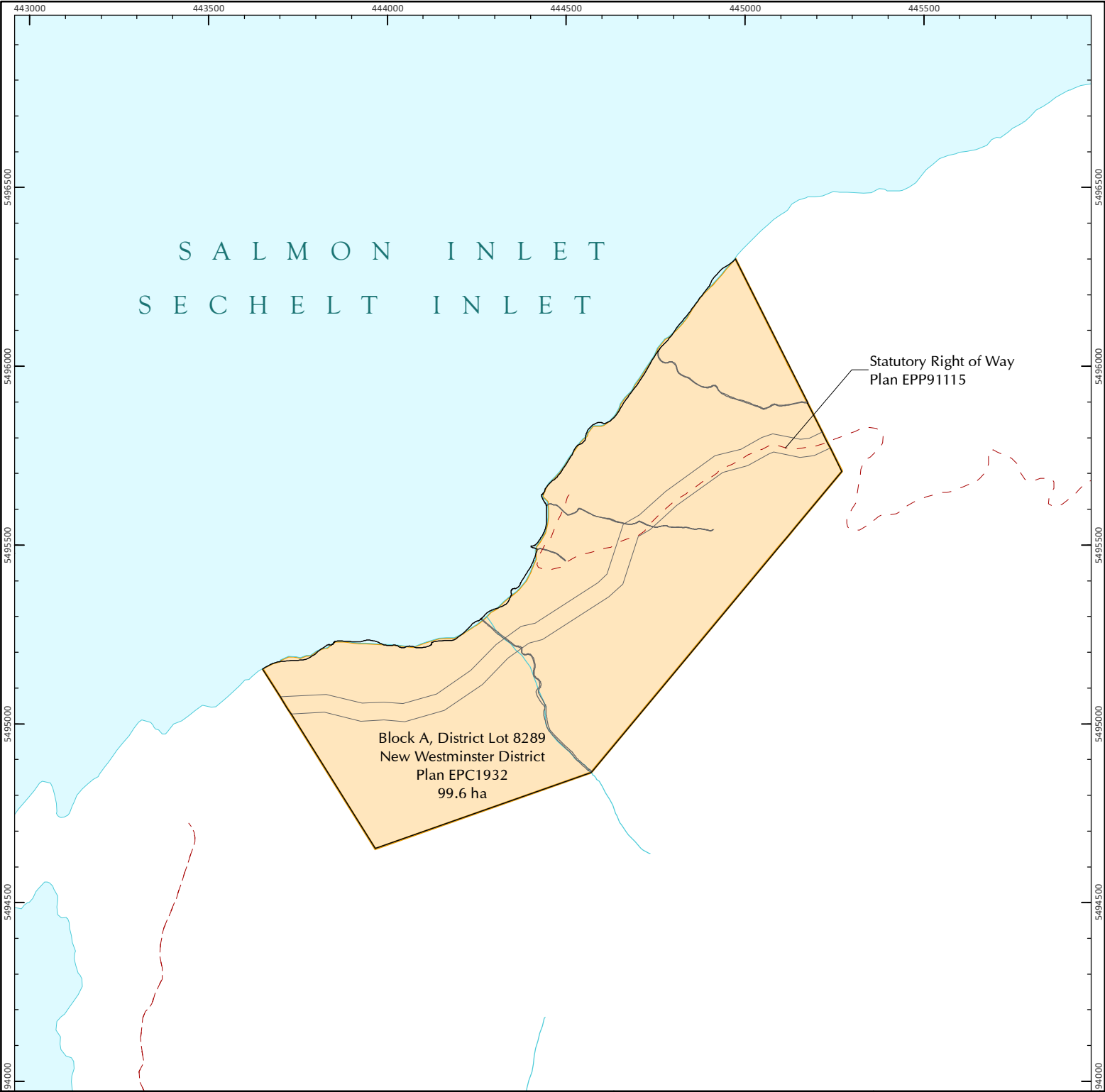
Projection: NAD 1983 UTM Zone 10N

Schedule 1

Map 3

THIS MAP IS NOT TO BE USED FOR DEFINING INDIAN RESERVE BOUNDARIES OR FOR INDIAN RESERVE LEGAL DESCRIPTION PURPOSES. DEPICTIONS OF INDIAN RESERVES ON THIS MAP ARE TO BE USED FOR ILLUSTRATIVE PURPOSES ONLY.

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shíshálh Reconciliation Agreement

Primary Survey Parcel

Road (Paved)

Road (Gravel)

May 12, 2021

N

0

400

Metres

BRITISH COLUMBIA

Ministry of Indigenous Relations and Reconciliation

Point of Commencement

Not Required

Cadastre derived from Crown Land Registry Services and Land Title Office

Land District: BCGS Mapsheet No.:

Projection: NAD 1983 UTM Zone 10N

Schedule 1

Map 3

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SCHEDULE B

-see attached-

Part 2 – Permitted Encumbrances

Narrow inlet Parcel:

Egmont Parcel:

- Waugh Lake Community Watershed (Document No. PD45278)

Salmon Inlet Parcel:

- Statutory Right of Way in favour of Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Forests, Lands, Natural Resource Operations and Rural Development for the continued operation and maintenance of R01686 NMML road permit road on the terms set out in Appendix 1 to this Part 2 of Schedule 2 and to be registered on closing.
- Road Permit R01686 NMML held by Interfor Corporation
- Mineral Reserve No Registration Reserve #332568 OIC #0309-67
- Mineral Reserve No Registration Reserve #1006664 OIC #0144/17
- Archaeology interest DjRw-25
- Archaeology interest DjRw-24
- Archaeology interest DjRw-14

Appendix 1 – Statutory Right of Way Terms

-see attached-

STATUTORY RIGHT OF WAY AGREEMENT

This Agreement is dated for reference _____, 2019.

BETWEEN

SECHELT INDIAN BAND, established under the *Sechelt Indian Band Act*, also known as shíshálh Nation, on behalf of itself and its Members, as represented by the Chief and Council

(the “Grantor”)

AND: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Forests, Lands, Natural Resource Operations and Rural Development

(the “Province”)

WHEREAS:

- A. The Lands were transferred to the Grantor pursuant to the terms of the Reconciliation Agreement
- B. There is an existing road permit road on the Lands which the Province would like to continue to maintain and operate as such road. To that end, as part of the terms of the transfer of the Lands to the Grantor the Grantor has agreed to grant to the Province the Right of Way over an area not intended to extend more than 50 metres from either side of the centre line of the traveled surface of the existing road on the terms and conditions set out in this Agreement.
- C. The Right of Way is necessary for the operation and maintenance of an undertaking of the Province.
- D. As the Lands have significant cultural and archeological importance, FNLRO and the Grantor agree to work together to mitigate any negative potential adverse cultural heritage impacts of the Right of Way.

The Parties agree as follows:

1. Definitions and Interpretation

1.1 In this Agreement:

- (a) “Agreement” means this Right of Way Agreement and the General Instrument, and all schedules attached to either of them;
- (b) “Artifact or Feature” means any archeological artifact or archeological feature, including human remains or burials;
- (c) “Lands” means the Salmon Inlet Parcel as defined in the Reconciliation Agreement
- (d) “Parties” means the Grantor and the Province;
- (e) "Plan" means Statutory Right of Way Plan [Insert Plan reference], a reduced copy of which is attached hereto as Schedule "A";
- (f) “Reconciliation Agreement” means the shishalh Reconciliation Agreement among the Grantor and Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Indigenous Relations and Reconciliation;
- (g) “Right of Way” means the rights granted to the Province in paragraph 2.1 of this Agreement
- (h) “Right of Way Area” means that portion of the Lands outlined in heavy black on the Plan and includes the Road;
- (i) “Road” means a 20-metre wide corridor, measured 10 metres from either side of the centre line of the traveled surface of the existing road, from time to time;
- (j) “Senior Representatives” means, for the Grantor, the Chief of shíshálh Nation, and for the Province, <the Minister of Forests, Lands, Natural Resource Operations and Rural Development > and such other Minister as may be required to address the matter at issue;
- (k) “Solutions Forum” has the same meaning as in the Government-to-Government Agreement dated June 21, 2016 between shíshálh Nation and the Province or as reconstituted under any subsequent agreement entered into by shíshálh Nation and the Province.

1.2 In this Agreement:

- (a) all attached schedules form an integral part of this Agreement;
- (b) unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender, body politic and a corporation;
- (c) the headings are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of the Agreement;
- (d) a reference to an enactment of British Columbia or of Canada will be deemed to include a reference to any subsequent amendments or replacements; and
- (e) if any provision is determined by a court or arbitrator of competent jurisdiction to be illegal or unenforceable, that provision will be considered separate and severable, and the legality or enforceability of the remaining provisions will not be affected by that determination.

1.3 Each party will, upon the reasonable request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.

1.4 Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then the Grantor or the Province, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that the Grantor or the Province have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.

2. Grant of Right-of-Way

2.1 In consideration of the sum of \$1.00 (One Dollar) paid by the Province to the Grantor, and subject to the terms of this Agreement, including Section 5, the Grantor hereby grants to the Province and to the Province's employees, agents, invitees, licensees, permittees and contractors the full, free and uninterrupted right, liberty, licence, privilege and easement by way of statutory right of way at all times hereafter by night and by day over the Right of Way Area:

- (a) to enter on and use the Right of Way Area for the purpose of using the Road pursuant to and in accordance with the rights, requirements, limitations and obligations outlined in the *Forest Act*, the *Forest and Range Practices Act*, the Forest Service Road Use Regulation, the *Land Act* and any other related laws, regulations, bylaws, standards, policies, directions, permits or orders as may be amended, supplemented or replaced from time to time;
- (b) to enter on and use the Right of Way Area for the purposes of investigating, monitoring and assessing the condition of the Road and Right of Way Area;
- (c) to enter on and use the Right of Way Area for the purposes of undertaking works or carrying out steps, which, in the reasonable opinion of the Province, are required to:
 - (i) maintain the Road;
 - (ii) reduce any risk to the integrity of the bed of the Road;
 - (iii) address a potential hazard to the safe operation of the Road; or
 - (iv) protect persons or property that may be at risk including, without limitation, constructing drainage works or taking steps to maintain slope stability;

and if entering the Right of Way Area outside of the Road, prior to entering the Right of Way Area the Province will provide at least <30> days' notice in writing to the Grantor, seek information regarding cultural heritage aspects of the area in question from the Grantor and the Parties will work together collaboratively to address any concerns raised by the Grantor, including by implementing measures required by the Grantor to avoid potential adverse cultural heritage impacts. The costs of implementing such measures will be borne by the Province.

- (d) upon at least 90 days written notice to the Grantor, and after the Parties have worked together collaboratively to address any concerns raised by the Grantor, including by implementing any measures required by the Grantor to avoid potential adverse cultural heritage impacts, enter on and use the Right of Way Area for the purpose of relocating all or a portion of the Road provided that:
 - (i) such relocation is required to address safety or access issues with the Road, as determined by the Province acting reasonably,

- (ii) the costs of such relocation, including measures to avoid potential adverse cultural heritage impacts, shall be borne by the Province; and
 - (iii) the relocated Road remains within the Right of Way Area.
 - (e) In an emergency or reasonably apprehended emergency, the Province may without notice or without seeking information from the Grantor, undertake any of the activities under subsection 2.1(c) that are reasonably necessary in the circumstance. In that event, the Province will, as soon as reasonably possible, notify the Grantor of such emergency activities and the Parties will work together collaboratively to address any concerns raised by the Grantor.
- 2.2 The Province will keep cultural heritage information provided by the Grantor under this Agreement strictly confidential except insofar as the publication, release or disclosure of that information is required by law or by a court or tribunal with competent jurisdiction.
- 2.3 If any Artifact or Feature is unearthed or discovered on the Right of Way Area by the Province, the Province will:
- (a) immediately notify the Grantor;
 - (b) cease any further activity that could affect the Artifact or Feature;
 - (c) comply with the direction the Grantor, provided such direction is not inconsistent with the requirements of the *Heritage Conservation Act*.
- 2.4 The Right of Way shall be non-exclusive and perpetual, provided that the Province may bring this Agreement to an end at any time on written notice to the Grantor. If the Province brings this Agreement to an end it shall provide to the Grantor a registrable release of this Agreement.
- 2.5 If the Province, acting reasonably, determines that the Road is no longer required, the Province will provide written notice to the Grantor and provide the Grantor with a registerable release of this Agreement upon request. The Grantor may request the Province to make a determination of whether the Road is required. If the Province declines to make a determination or makes a determination that Grantor feels is unreasonable, then the dispute may be submitted by any Party to dispute resolution pursuant to section 11.
- 2.6 This Right of Way is granted pursuant to Section 218 of the *Land Title Act* and is necessary for the operation and maintenance of the Province's undertaking.

- 2.7 The Parties intend that this Agreement shall constitute a charge running with the Lands and will be registered in the Land Title Office.

3. Road Expenditures

- 3.1 All improvements made to the Road by the Province, its employees, agents, invitees, licensees, permittees or contractors, shall for all purposes be deemed to be the property of the Province, notwithstanding any presumption of law to the contrary.

4. Promises

- 4.1 The Province will:

- a) use, and permit the use of, the Right of Way Area only for the purposes set out in paragraph 2.1 and for no other purpose without the express written consent of the Grantor, which consent shall not be unreasonably withheld;
- b) except in accordance with the terms of this Agreement, use, and permit the use of, the Right of Way Area so as not to cause any damage or disturbance to the Right of Way Area or the Lands;
- c) indemnify and save harmless the Grantor from and against any and all losses, claims, damages, actions, causes of actions, costs and expenses that the Grantor may sustain, incur, suffer or be put to arising out of the use of the Right of Way Area by the Province, its employees, agents, invitees, licensees, permittees or contractors, excepting always liability arising out of the acts or omissions of the Grantor, its employees, agents, invitees, licensees, permittees or contractors;
- d) comply with any laws, regulations, bylaws, standards, policies, directions, permits or orders of British Columbia;
- e) except as expressly permitted in this Agreement, not do or knowingly permit to be done any act or thing which will materially interfere with the rights of the Grantor to use the Right of Way Area or which would materially interfere with the Grantor's rights of ownership in the Lands; and
- f) ensure that the Right of Way Area remains in an environmentally sound, clean, safe and orderly condition, and free from all waste, including, without limitation, wood waste relating to the use of the Right of Way Area by the Province, its employees, agents, invitees, licensees, permittees or contractors.

4.2 The Grantor will:

- (a) not use the Road for industrial purposes or conduct maintenance on the Road without the prior consent of the Province, which consent may not be unreasonably withheld;
- (b) subject to section 5, not do or knowingly permit to be done any act or thing which will interfere with or injure the use, construction, upgrading or maintenance of the Right of Way Area by the Province or its employees, agents, invitees, licensees, permittees or contractors; and
- (c) subject to section 5, indemnify and save harmless the Province from and against any and all losses, claims, damages, actions, causes of actions, costs and expenses that the Province may sustain, incur, suffer or be put to arising out of the use of the Right of Way Area by the Grantor, its employees, agents, invitees, licensees, permittees or contractors, excepting always liability arising out of the acts or omissions of the Province, its employees, agents, invitees, licensees, permittees or contractors.

5. Potential Adverse Impacts

- 5.1 The Province acknowledges the importance of avoiding adverse cultural heritage impacts, including damages caused by public access, and mitigating any that may occur as a result of its activities in the Right of Way Area. The Province and the Grantor agree to work together collaboratively to monitor Road use, and to avoid and to mitigate any negative potential adverse cultural heritage impacts on the Lands that may result from the use of the Right of Way Area under this Agreement. Without limiting the foregoing, the Parties agree that at such times when the Road is not being used for forestry purposes, the Province will take steps to prevent members of the public from using the Road. The protection and mitigation measures required to be implemented under this section 5.1 will be at no cost to the Grantor. The Parties will work together collaboratively to ensure adequate funding for such measures.

6. Notice

- 6.1 Any notice, document or communication required or permitted to be given under this agreement must be in writing and will be deemed to have been given if delivered by email (provided that receipt is acknowledged by return email), hand, courier, or double-registered mail to the party to whom it is to be given as follows:

To the Province:

_____ British Columbia V _____

To the Grantor:

_____ British Columbia V _____

or at such other addresses as the parties hereto may from time to time designate in writing.

7. Status of Agreement

7.1 This Agreement constitutes a charge running with the Lands.

8. Entire Agreement

8.1 This Agreement constitutes the entire agreement between the Grantor and the Province regarding the Right of Way Area and supersedes all prior agreements and understandings between them. There are no representations, promises, agreements or understandings between the Grantor and the Province concerning the Right of Way Area that are not expressly set out in this Agreement.

9. Enurement

9.1 This Agreement will enure to the benefit of and be binding upon the Grantor and the Province and their respective successors and permitted assigns.

10. Governing Law

10.1 This Agreement will be governed by and construed in accordance with the laws in force from time to time in British Columbia.

11. Dispute Resolution

11.1 If the Parties are unable to resolve a dispute that arises regarding this Agreement, either Party may refer the dispute to the Solutions Forum, provided that a senior official from the Ministry of Forests, Lands, Natural Resource

Operations and Rural Development is in attendance. In the event the Solutions Forum is unable to resolve a dispute that is referred to it within 30 days or such other time frame as may be agreed to by the Parties, the dispute will be referred to the Senior Representatives for resolution. .

12. Assignment

- 12.1 Neither party may, without the written consent of the other, assign or transfer any of its interest in the Right of Way Area.

13. General

- 13.1 Any party to this Agreement may register this Agreement in any land registry system established or used by the Grantor for lands within its jurisdiction. At the request of any party to this Agreement, all parties will cooperate in executing any documents or plans required to accomplish the registration of this Agreement and to preserve the substance and priority of this Agreement in relation to those portions of the Lands affected by this Agreement
- 13.2 This Agreement may not be amended except by written agreement signed by both parties to this Agreement.

SIGNED on behalf of.)	
by its authorized representative)	
in the presence of)	by its Authorized Representative
)	
_____)	_____
)	
_____)	_____
)	Name/Title

SIGNED on behalf of Her Majesty the)	
Queen in right of the Province of)	
British Columbia by a duly authorized)	
representative of the Minister of Forests,)	
Lands, Natural Resource Operations and)	
Rural Development in the presence of)	
)	
)	
_____)	_____
(Witness)		For the Minister of Forests, Lands, Natural Resource Operations and Rural Development