

Snuneymuxw First Nation
and
British Columbia
Reconciliation Implementation
Framework Agreement



**Snuneymuxw – British Columbia Reconciliation Implementation
Framework Agreement**

This Framework Agreement is dated for reference September 19, 2020.

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:

Snuneymuxw First Nation, on behalf of itself and its Members, as
represented by the Chief and Council

("Snuneymuxw")

(collectively referred to as the "Parties" and individually referred to as a
"Party")

WHEREAS:

- A. On December 23, 1854, the Crown and the Snuneymuxw people entered into the Treaty of 1854, which is a treaty within the meaning of section 35 of the *Constitution Act, 1982*;
- B. On March 27, 2013, the Province and Snuneymuxw entered into a Reconciliation Agreement which provided for land transfers to Snuneymuxw as well as other measures and processes between the Parties, including related to future discussions and negotiations to advance reconciliation (the "Reconciliation Agreement");
- C. The Province and Snuneymuxw are committed to advancing reconciliation based on the recognition and implementation of Snuneymuxw Section 35 Rights, and upholding the minimum standards for the survival, dignity, and well-being of Indigenous peoples in accordance with the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP");

- D. The Province has adopted the *Draft Principles Guiding the Province of British Columbia's Relationship with Indigenous Peoples* to help inform the development of relationships based on the recognition and implementation of Indigenous rights, including Indigenous self-determination and Indigenous self-government as recognized and affirmed under section 35 of the *Constitution Act, 1982* (the "Draft Principles");
- E. The Province has passed the *Declaration on the Rights of Indigenous Peoples Act* ("DRIPA") the purposes of which are to affirm the application of UNDRIP to the laws of British Columbia, contribute to the implementation of UNDRIP, and to support the affirmation of and develop relationships with Indigenous governing bodies; and
- F. The Province and Snuneymuxw through this Framework Agreement are building upon the Reconciliation Agreement and taking a next step in reconciliation in a manner consistent with the Draft Principles and DRIPA, including by: confirming a shared vision for the future; establishing a framework and process for completing additional agreements and understandings; and agreeing to a number of immediate benefits and measures including the Mid-Island Forestry Initiative, as hereinafter defined, which will significantly advance reconciliation with regard to forestry resources in Snuneymuxw Territory through collaboration with industry.

NOW THEREFORE the Parties agree as follows:

1. Purpose

- a. **Purpose.** The purpose of this Framework Agreement is to advance reconciliation between BC and Snuneymuxw through:
 - i. Establishing a shared vision and framework for deepening a relationship between the Parties that reflects the recognition and implementation of Snuneymuxw Section 35 Rights, the Draft Principles, and UNDRIP in a manner consistent with DRIPA, and advances clarity and predictability for all governments and people within Snuneymuxw Territory; and
 - ii. Agreeing to, and implementing, immediate measures and benefits including agreed to elements of the Mid-Island Forestry Initiative as a next step in reconciliation between the Parties, including effecting identified land transfers to Snuneymuxw.

2. **Interpretation**

a. **Definitions.** In this Agreement:

“BC Fiscal Year” means a period beginning on April 1st of a calendar year and ending on March 31st of the next calendar year;

“Effective Date” means the date on which this Framework Agreement has been signed by both Parties;

“Estuary Litigation” means BC Supreme Court Action No. 033135 filed on October 30, 2003 between the Snuneymuxw First Nation and Chief John Wesley et al. suing on their own behalf and on behalf of all members of the Snuneymuxw First Nation (Plaintiffs) and Her Majesty the Queen in right of the Province of British Columbia, Land and Water British Columbia Inc.; the Attorney General of Canada; and the Nanaimo Port Authority (Defendants);

“Existing Head Lease and Subtenures” means lease no.111325 issued under the *Land Act* of the Nanaimo River estuary lands and submerged lands entered into between Her Majesty the Queen in right of the Province of British Columbia, as represented by the Minister responsible for the *Land Act*, and the Nanaimo Port Authority dated for reference November 1, 2002 that expires on October 31, 2022 and all Subtenures, as defined in that instrument, issued by the Nanaimo Port Authority thereunder, including those tenures identified in Part 4 of Schedule “4”;

“Framework Agreement” means this Snuneymuxw – British Columbia Reconciliation Implementation Framework Agreement;

“Future Agreements Working Group” means the working group established under section 5. b. of this Framework Agreement;

“Gabriola Lands” means those lands depicted on the map attached to this Framework Agreement as Schedule “6”;

“Group “1” Log Handling Tenures” means those tenures listed in Part 1 of Schedule “4” to this Framework Agreement;

“Group “2” Log Handling Tenures” means those tenures listed in Part 2 of Schedule “4” to this Framework Agreement;

“Group “3” Log Handling Tenures” means those tenures listed in Part 3 of Schedule “4” to this Framework Agreement;

“Interim Injunction” means the interim injunction order issued by the Honourable Mr. Justice Groberman of the Supreme Court of British Columbia on February 4, 2004 in the Estuary Litigation;

“Issue” means a disagreement over the interpretation or implementation of this Framework Agreement;

“Lands” means the Mount McKay Parcel and the Mount Benson Parcel, or either of them;

“Land Transfer Agreement” means the agreement entered into by the Parties concurrently with this Framework Agreement dealing with the transfer of the Lands;

“Members” means any individual who is a “member of the band” as that phrase is defined in the *Indian Act*, of the Snuneymuxw First Nation;

“Mid-Island Forestry Initiative” means the initiative described by Snuneymuxw in correspondence to the Province dated September 5, 2017 attached to this Framework Agreement as Schedule “2”;

“Mid-Island Forestry Initiative Working Group” means the working group established under section 5. a. of this Framework Agreement;

“Mount Benson Parcel” means the lands shown for illustrative purposes on the maps in Part 1 of Schedule “3” to this Framework Agreement;

“Mount McKay Parcel” means the lands shown for illustrative purposes on the map in Part 2 of Schedule “3” to this Framework Agreement;

“Nanaimo River Estuary” means the area depicted on the map attached to this Framework Agreement as Schedule “5”;

“Reconciliation Agreement” means the agreement between the Parties dated March 27, 2013 referred to in paragraph B of the preamble to this Framework Agreement;

“Representative” means the individual appointed by a Party as its representative on the Solutions Forum in accordance with section 7 of this Framework Agreement;

“Subsequent Estuary Tenures” means any agreement to be entered into by Her Majesty the Queen in right of the Province of British Columbia or, if applicable, the Nanaimo Port Authority, following engagement with Snuneymuxw regarding potential impacts to Snuneymuxw Section 35 Rights in accordance with this Framework Agreement, to issue a new tenure in relation to the lands covered by the Existing Head Lease and Subtenures by or through which a person derives any right to enter on, use or occupy the Nanaimo River Estuary, or any part thereof;

“Subsequent Log Handling Tenures” means any agreement to be entered into by Her Majesty the Queen in right of the Province of British Columbia, following engagement with Snuneymuxw regarding potential impacts to Snuneymuxw Section 35 Rights in accordance with this Framework Agreement, to issue a tenure in relation to a Group “2” Log Handling Tenure, or any portion thereof;

“Snuneymuxw Section 35 Rights” means Snuneymuxw rights under the Treaty of 1854 and any Aboriginal rights, including title, recognized and affirmed under section 35 of the *Constitution Act, 1982*;

“Snuneymuxw Territory” means the area shown as the “Snuneymuxw Territory” on the map attached to this Framework Agreement as Schedule “1”;

“Solutions Forum” means the forum established under section 7 of this Framework Agreement;

“Ungulate Winter Range Areas” means those lands comprising approximately 300 hectares within the Mount McKay Parcel to be identified and agreed to by the Parties in accordance with section 4.b. vi. and the Ungulate Winter Range Side Letter where no logging will be permitted in order to protect ungulate winter range;

“Ungulate Winter Range Side Letter” means the letter exchanged by the Parties on the Effective Date confirming certain understandings of the Parties related to the identification of the Ungulate Winter Range Areas; and

“Working Groups” means the Mid-Island Forestry Initiative Working Group and the Future Agreements Working Group or either of them;

- b. **Schedules.** The following are the Schedules to this Agreement:
- Schedule “1” – Snuneymuxw Territory
 - Schedule “2” – Mid-Island Forestry Initiative

- Schedule “3” – Maps of the Lands for Illustrative Purposes
 - Part 1 – Maps of Mount Benson Parcel
 - Part 2 – Map of Mount McKay Parcel
- Schedule “4” – Log Handling Tenures
 - Part 1 – Group “1” Log Handling Tenures
 - Part 2 – Group “2” Log Handling Tenures
 - Part 3 – Group “3” Log Handling Tenures
 - Part 4 –Nanaimo Port Authority Subtenure Summary
- Schedule “5” – Nanaimo River Estuary
- Schedule “6” – Gabriola Lands

3. **Shared Vision**

- a. **Vision.** The Province and Snuneymuxw have adopted the following shared vision to guide long-term efforts to implement reconciliation:

We affirm the Treaty of 1854 as a framework for living together that must guide a relationship based on recognition and respect into the future. Our treaty relationship is a foundation for ongoing cooperation and partnership. The spirit and intent of the Treaty of 1854, as reflected in oral and written histories, will inform constructive partnership between us, based on the recognition of Snuneymuxw Section 35 Rights, that support full and timely treaty implementation.

Through implementation of our treaty relationship, we will create a future of shared prosperity and well-being throughout Snuneymuxw Territory, in which Snuneymuxw people are socially, culturally, economically, and spiritually thriving. This includes ensuring the ongoing vitality of the Hul’q’umi’num’ language.

Snuneymuxw self-determination and self-government are central to building our shared future. In partnership, we will build intergovernmental structures and processes between Snuneymuxw and the Province that affirms the roles for Snuneymuxw laws and jurisdiction.

We acknowledge that moving from the current status quo to a relationship that fully respects Snuneymuxw Section 35 Rights will take innovation, dedication, and hard work, and that everyone has adjustments and changes to make. Through collaboration, we will work to advance a relationship based on recognition and implementation of Snuneymuxw Section 35 Rights in a staged approach.

- b. **Principles.** The Province and Snuneymuxw agree that the following will guide all our officials, representatives, and teams:
 - i. Acting in an open, good faith, and transparent manner toward one another;
 - ii. Adopting a “solutions-oriented” approach in all work together;
 - iii. Meeting the minimum standards of the UNDRIP;
 - iv. Acting consistent with the Draft Principles;
 - v. Advancing collaboration, trust, and understanding, including through achieving a deeper understanding of Snuneymuxw Section 35 Rights and the needs, challenges, and opportunities throughout Snuneymuxw Territory; and
 - vi. Deepen learning and respect for Snuneymuxw culture and way of life and understanding of the Snuneymuxw people.

4. Framework for Reconciliation

- a. **Framework.** The Province and Snuneymuxw agree to the framework for implementing long-term reconciliation outlined in section 4 of this Framework Agreement.
- b. **Mid-Island Forestry Initiative.** The Province and Snuneymuxw agree to work diligently and in good faith in respect of the following matters associated with implementation of the Mid-Island Forestry Initiative:
 - i. finalize engagement on Subsequent Estuary Tenure applications in advance of the expiration of the Head Lease and Subtenures that is consistent with the recognition of Snuneymuxw Section 35 Rights, and meets the requirements of the Parties, informed by industry and other stakeholders;
 - ii. finalize engagement on Subsequent Log Handling Tenures in a manner that is consistent with a reconciliation approach and the recognition of Snuneymuxw Section 35 Rights;

- iii. establish new arrangements and processes for engagement on applications to renew or replace the Group “3” Log Handling Tenures consistent with a reconciliation approach and the recognition of Snuneymuxw Section 35 Rights;
 - iv. discuss arrangements regarding forest data sharing on the Mount McKay Parcel after the date the Mount McKay Parcel is transferred to Snuneymuxw under the Land Transfer Agreement;
 - v. discuss and attempt to reach an agreement on provincial matters that require resolution or reconciliation and that is consistent with the recognition of Snuneymuxw Section 35 Rights in order to take steps to discontinue the Estuary Litigation and the Interim Injunction as against the Province, its licensees, permittees, contractors, agents and assigns;
 - vi. negotiate and agree in accordance with the Ungulate Winter Range Side Letter upon an area of approximately 300 hectares within the Mount McKay Parcel where no logging would occur after the transfer of that parcel to Snuneymuxw under the Land Transfer Agreement in order to protect ungulate winter range and related measures to address that shared interest;
 - vii. establish collaborative arrangements that incorporate scientific evidence and Snuneymuxw knowledge in relation to wildlife and wildlife habitat management within the Snuneymuxw Territory;
 - viii. complete the transfer of the Lands in accordance with and subject to the terms and conditions of the Land Transfer Agreement.
- c. **Newcastle Island.** The Province and Snuneymuxw agree to work diligently and in good faith to:
- i. identify requirements to support improved access to Newcastle Island;
 - ii. identify requirements, including the discussion and sharing of information regarding Snuneymuxw’s land and heritage interests, to enhance cultural learning, awareness, and understanding at Newcastle Island Marine Provincial Park to better reflect the history and continued significance of the site for Snuneymuxw Members; and
 - iii. rename Newcastle Island Marine Provincial Park to “Saysutshun”.

- d. **Future Negotiations.** The Province and Snuneymuxw will negotiate and attempt to reach an agreement or agreements in respect of the following matters, to advance long term reconciliation between them:
- i. Mechanisms for the cooperative implementation of Snuneymuxw Section 35 Rights;
 - ii. Decision-making processes that provide clarity and predictability for Snuneymuxw, the Province and third parties regarding the process, expectations, roles and responsibilities, modes of communication, and range of potential outcomes, including strategic processes to deal with the issuance of water licences and coastal log storage and handling tenures;
 - iii. Structures, mechanisms, and arrangements that clarify the relationship between Snuneymuxw and Provincial laws, jurisdictions, and authorities;
 - iv. Processes to resolve matters that significantly reduce the likelihood of recourse to the courts;
 - v. Clarifying the relationship of Snuneymuxw to neighbouring First Nations, including territorial boundaries;
 - vi. Measures to advance Snuneymuxw's inherent right of self-government as recognized and affirmed under s. 35 of the *Constitution Act, 1982*;
 - vii. Cooperative measures for the shared management of the Nanaimo River Estuary;
 - viii. Cooperative measures, including possible land transfers, that facilitate further recognition and reconciliation in relation to Saysutshun while maintaining, protecting and conserving the area in a manner consistent with a coastal marine park;
 - ix. Additional transfers of provincial Crown land for the purposes of social and economic development and cultural stewardship, including transfer of the Gabriola Lands;
 - x. Subject to Canada's agreement, the transfer to Snuneymuxw of some or all of the parcels of land jointly acquired by Canada and the Province under the BC Treaty Commission process for Snuneymuxw treaty settlement purposes;
 - xi. Status of lands held by Snuneymuxw;

- xii. Economic development measures, including opportunities for revenue sharing;
 - xiii. Measures, including jurisdictional recognition and capacity support, to advance social and cultural well-being of Snuneymuxw Members related to children and families, housing, health, and education; and
 - xiv. Measures to ensure protection of Snuneymuxw heritage and culture, including archeological resources.
- e. **Shared Decision-Making.** The Province and Snuneymuxw agree for the purposes of reconciliation to explore negotiating and agreeing on agreements that would establish joint or consent based decision-making in accordance with section 7 of the *Declaration on the Rights of Indigenous Peoples Act*.
- f. **Future Agreements.** The Province and Snuneymuxw agree that an agreement, or agreements, intended to implement long term reconciliation contemplated under section 4. d. will have the following features:
- i. A long-term pathway for reconciliation between the Parties;
 - ii. Immediate benefits in the first five years of the agreement that will substantially advance reconciliation between the Parties;
 - iii. Milestones and targets which the Parties intend to meet over time;
 - iv. Provisions regarding the inclusion of Canada in the reconciliation efforts of the Parties;
 - v. Provisions confirming the Parties rights to terminate the agreement should the path of reconciliation become seriously impaired or adversarial;
 - vi. Government-to-Government structures and mechanisms to clarify the relationship between Provincial and Snuneymuxw laws and jurisdictions;
 - vii. Provisions regarding the geographic scope or application of the agreement or agreements within the Snuneymuxw Territory as applicable; and
 - viii. Confirmation of how the agreement relates to obligations and responsibilities in the Treaty of 1854 and section 35 of the *Constitution Act, 1982*.

- g. **Relationship to Reconciliation Agreement.** The Province and Snuneymuxw acknowledge and agree that:
- i. the obligations of each Party under Article 15 - Future Discussions/Negotiations of the Reconciliation Agreement have been fulfilled and are superseded and replaced by the commitments to negotiate future agreement under this Framework Agreement; and
 - ii. the Engagement Protocol set out as Schedule 7 of the Reconciliation Agreement is no longer of force or effect and has been superseded and replaced by the commitments to negotiate applicable future agreements under this Framework Agreement and that, prior to the conclusion of applicable future agreements, consultation on provincial decisions or actions that may adversely affect Snuneymuxw Section 35 Rights that not expressly addressed under this Framework Agreement will occur in accordance with the common law and applicable Provincial policies and procedures.
- h. **Role of Canada.** The Province and Snuneymuxw agree that there are aspects of this Framework Agreement on which the participation of Canada will be necessary for them to be comprehensively achieved. As such, the Parties will work together to engage Canada in the aspects of the implementation of this Framework Agreement.
- i. **Mandates and Approvals.** The Parties acknowledge that further decisions, mandates and approvals will be required in respect of the future agreement or agreements contemplated under sections 4.d. and e. of this Framework Agreement and that negotiating and attempting to reach agreements on those matters is subject to each Party making required policy decisions and obtaining all required mandates and approvals, including, in the case of the Province, required Treasury Board and Cabinet approvals and that neither Party is providing any assurance that those mandates and approvals will be provided.
5. **Working Groups**
- a. **Mid-Island Forestry Initiative Working Group.** The Province and Snuneymuxw agree to create a Mid-Island Forestry Initiative Working Group to undertake the work contemplated under section 4. b. of this Framework Agreement to implement the Mid-Island Forestry Initiative, including:

- i. resolving outstanding issues and conflicts in the Nanaimo River Estuary, including the terms and conditions applicable to the issuance of the Subsequent Estuary Tenures, the Group “2” Log Handling Tenures, and the Group “3” Log Handling Tenures;
 - ii. overseeing the transfer of the Lands in accordance with the Land Transfer Agreement, including finalization of all permitted encumbrances, including measures regarding no logging in respect of the Ungulate Winter Range Areas to preserve and protect ungulate habitat on the Mount McKay Parcel, and the identification of applicable Crown corridors;
 - iii. discussing and attempting to reach an agreement in respect of the forest data sharing with British Columbia Timber Sales on the Mount McKay Parcel during the period after the transfer of the Mount McKay Parcel; and
 - iv. reaching an agreement to discontinue the Estuary Litigation and the Interim Injunction as they relate to the Province and its licensees, permittees, contractors, agents and assigns.
- b. **Future Agreements Working Group.** The Province and Snuneymuxw agree to create a Future Agreements Working Group to negotiate and attempt to reach agreement on the future reconciliation agreements contemplated under sections 4. c., d., and e. of this Framework Agreement.
 - c. **Structure of Working Groups.** The Mid-Island Forestry Initiative Working Group and the Future Agreements Working Group will each be comprised of at least two and no more than three members appointed by Snuneymuxw and at least two and no more than three members appointed by the Province.
 - d. **Procedures.** The Working Groups will strive to operate by consensus and may develop meeting rules and procedures to guide their respective operations. Either Party may bring additional representatives to Working Group meetings as they determine are reasonably required. The Working Groups will each develop annual work plans identifying applicable implementation priorities under this Framework Agreement and the Land Transfer Agreement for that BC Fiscal Year.
 - e. **Administrative Officials.** The Province and Snuneymuxw agree to each appoint one representative to provide oversight and support for the Working Groups, and address operational issues arising between the Parties in the implementation of this Agreement.

- f. **Costs.** Each Party will be responsible for the costs of its representatives on the Working Groups.

6. Implementation Funding

- a. To assist in the implementation of this Framework Agreement, including the Future Negotiations under section 4 d., the Province will provide implementation funding to Snuneymuxw as follows:
 - i. \$250,000 in BC Fiscal Year 2020/21, paid as follows:
 - a. \$125,000 as soon as practicable after the Effective Date;
 - b. \$125,000 on or before March 31, 2021; and
 - ii. \$250,000 in each of BC Fiscal Years 2021/22 to 2025/26, paid as follows:
 - a. \$125,000 as soon as practicable after April 1st of the applicable BC Fiscal Year, and
 - b. \$125,000 on or before March 31st of the applicable BC Fiscal Year.
- b. Notwithstanding any other provision of this Framework Agreement, the payments to be provided to Snuneymuxw under section 6 a. ii. are subject to the submission by Snuneymuxw, on or after April 1st of each BC Fiscal Year that the payments are payable, of a written statement identifying the implementation priorities of Snuneymuxw under this Framework Agreement for that BC Fiscal Year to enable the development of an annual work plan between the Parties.

7. Solutions Forum

- a. **Establishment.** The Province and Snuneymuxw agree to create a Solutions Forum to address disputes that may arise between the Parties with respect to the interpretation or implementation of this Framework Agreement.
- b. **Membership.** Each Party will appoint a Representative to the Solutions Forum. In the case of the Province that Representative will be the Deputy Minister of the Ministry of Indigenous Relations and Reconciliation. In the case Snuneymuxw it will be the lead official assigned by the Chief in collaboration with Snuneymuxw Council.

- c. **Scope.** The Solutions Forum will act as a forum through which Representatives will seek to work collaboratively, dialogue and seek to resolve Issues. For greater certainty, the Solutions Forum will not replace, duplicate, fetter or, unless we agree otherwise, delay the consultation and accommodation processes between the Parties.
- d. **Principles.** The Parties agree to the following principles to guide the work of the Solutions Forum:
 - i. communications and documents are without prejudice but may be identified in advance in writing by one of us as with prejudice and “on the record”;
 - ii. sharing of information is confidential and will not be disclosed except as required by law;
 - iii. early identification of issues of concern, so that early intervention and conflict management can take place; and
 - iv. striving to work by consensus on resolving issues, identifying solutions and implementing those solutions.
- e. **Process.** The Parties agree to the following processes to guide the work of the Solutions Forum:
 - i. either Party may bring an Issue to the Solutions Forum;
 - ii. each Party will provide early notice to the other Party of Issues and endeavour to resolve such issues through the mechanisms set out in this Framework Agreement, prior to pursuing other paths, such as legal action, or termination of agreements;
 - iii. the Representatives will meet as soon as practicable to discuss the Strategic Issue, unless both Representatives otherwise agree;
 - iv. the Solutions Forum will set its own meeting schedule as appropriate in the circumstances to address the issues identified;
 - v. the Representatives may set time limits for addressing Issues;
 - vi. meetings of the Solutions Forum may take place by teleconference or in person;
 - vii. the Representatives may ask technicians, advisors, or other individuals to attend the Solutions Forum meetings; and,

- viii. where the Solutions Forum is unable to resolve an Issue, the Parties may agree to use other dispute resolution mechanisms to resolve the Issue, including recommending that the Issue be referred to the Snuneymuxw Chief and the Minister of Indigenous Relations and Reconciliation.

8. Group 1 Log Handling Tenures

- a. Snuneymuxw acknowledges and agrees that the Province has fulfilled all obligations that it may have to consult and accommodate Snuneymuxw regarding the renewal or replacement of the Group 1 Log Handling Tenures and releases and discharges the Province from all claims with respect to the Province's obligation to consult and, if appropriate, accommodate in respect of the renewal or replacement of the Group 1 Log Handling Tenures and all claims of infringement of Snuneymuxw Section 35 Rights in respect of the Group 1 Log Handling Tenures and any renewal or replacement of those tenures.

9. Term and Termination

- a. **Coming into Effect.** This Framework Agreement comes into effect on the Effective Date.
- b. **Termination.** Either Party may terminate this Framework Agreement upon 90 days written notice to the other Party with a detailed explanation of the reason for termination.
- c. **Meeting.** If notice of termination is given the Parties will meet within 30 days to understand the reasons for termination and whether any opportunity, including through use of the Solutions Forum, to avoid termination is possible.

10. Representations and Warranties

- a. **Snuneymuxw Representations.** Snuneymuxw represents and warrants to BC, with the intent and understanding that they will be relied on by BC in entering into this Framework Agreement, that:
 - i. it enters into this Framework Agreement for, and on behalf of, its Members; and
 - ii. it, as represented by its Chief and Council, has the legal power, capacity and authority to enter into and to carry out its obligations under this Framework Agreement on behalf of Snuneymuxw and its Members.

- b. **Provincial Representations.** The Province represents and warrants to Snuneymuxw, with the intent and understanding that they will be relied on by Snuneymuxw in entering into this Framework Agreement, that it has the legal power, capacity and authority to enter into this Framework Agreement.

11. **General**

- a. **Treasury Board and Cabinet Approval.** Notwithstanding any other provision of this Framework Agreement, the obligations of the Province under this Framework Agreement are subject to:
 - i. the Province obtaining required Treasury Board and Cabinet approval to enter into this Framework Agreement and the Land Transfer Agreement;
 - ii. there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province in any provincial fiscal year when any expenditure in respect of an obligation may be required, to make that expenditure; and
 - iii. Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited expenditure under any appropriation necessary in order to make such payment.
- b. **Legal Advice.** Both Parties confirm that each have had the full opportunity to review the terms and conditions of this Framework Agreement and each have sought independent legal advice with respect to their terms and conditions.
- c. **No Implied Waiver.** Any waiver of:
 - i. a provision of this Framework Agreement;
 - ii. the performance by a Party of an obligation under this Framework Agreement; or
 - iii. a default by a Party of an obligation under this Framework Agreement;will 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.
- d. **Successors.** This Framework Agreement will enure to the benefit of and be binding on the Parties and its successors and the Province.

- e. **No Admissions.** Nothing in this Framework Agreement will be construed:
 - i. as an admission by either Party of the validity or invalidity of any claim by Snuneymuxw to a Snuneymuxw Section 35 Right, including aboriginal title, within the meaning of section 35 of the *Constitution Act, 1982*;
 - ii. as establishing, limiting or abrogating any Snuneymuxw Section 35 Right;
 - iii. as an acknowledgment or admission by the Province that it has an obligation to provide financial or economic accommodation or compensation to Snuneymuxw; or
 - iv. as in any way limiting the position either Party may take in any negotiations or in any proceeding including the negotiation of additional agreements.
- f. **Not a Treaty.** The Parties agree this Framework Agreement does not:
 - i. constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982 (Canada)*; or
 - ii. establish, recognize, affirm, define, deny, limit or amend any Snuneymuxw Section 35 Right; or
 - iii. preclude the right of either Party to engage in further processes to establish the scope or the geographic extent of any Snuneymuxw Section 35 Right.
- g. **No Fettering.** This Framework Agreement, including the implementation of the Solutions Forum, does not affect the jurisdiction or fetter the discretion of any decision-making authority. For greater certainty, this Framework Agreement does not fetter or limit the discretion of any Provincial statutory decision maker to make any decision in accordance with applicable law prior to the establishment of any engagement or decision-making process contemplated under this Framework Agreement.
- h. **Time.** Time will be of the essence.

- i. **Notice.** 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 Snuneymuxw :

Chief Councillor
668 Centre Street
Nanaimo, B.C. V9R 4Z4

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.

- j. **Amendment.** This Framework Agreement may be amended from time to time by the Parties writing. The Parties acknowledge that as of the Effective Date they were reviewing the mapping of the Snuneymuxw Territory boundaries as shown on Schedule "1" and that they will work together to continue that review and will amend Schedule 1 of this Framework Agreement to reflect any agreement that may be reached on revisions to those boundaries.
- k. **Governing Law.** This Framework Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.
- l. **Validity of Agreement.** If any part of this Framework Agreement is void or unenforceable at law:

- i. 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 Framework Agreement had been executed without the invalid part; and
 - ii. the Parties will negotiate and attempt to reach agreement on a replacement for the part declared or held invalid with a view to achieving the intent of the Parties as expressed in this Framework Agreement.
- m. **Interpretation.** For purposes of this Framework Agreement:
 - i. “including” means “including, but not limited to” and “includes” means “includes, but not limited to”;
 - ii. the recitals and headings are for convenience only, do not form a part of this Framework Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Framework Agreement;
 - iii. a reference to a statute includes every amendment to it, every regulation made under it, every amendment made to a regulation made under it and any law enacted in substitution for, or in replacement of, it;
 - iv. words in the singular include the plural, and words in the plural include the singular unless the context or any specific definition requires;
 - v. in the calculation of time under this Framework Agreement, all references to “days” are to business days from Monday to Friday (except statutory holidays in British Columbia), except that 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;
 - vi. any reference to a corporate entity includes any predecessor or successor to such entity; and
 - vii. there will be no presumption that doubtful expressions, terms or provisions in this Framework Agreement are to be resolved in favour of any Party.

- n. **Execution in Counterparts.** This Framework Agreement may be entered into by each Party signing a separate copy of this Framework Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile transmission. All executed counterparts taken together will constitute one agreement.

IN WITNESS WHEREOF the Parties have executed this Framework Agreement as set out below

**Signed on behalf of the
Snuneymuxw First Nation by**



Chief Michael Wyse


September 19, 2020

Date



Witness

**Signed on behalf of Her Majesty the
Queen In Right of the Province of
British Columbia by**



Honourable Scott Fraser
Minister of Indigenous Relations and
Reconciliation

September 19, 2020

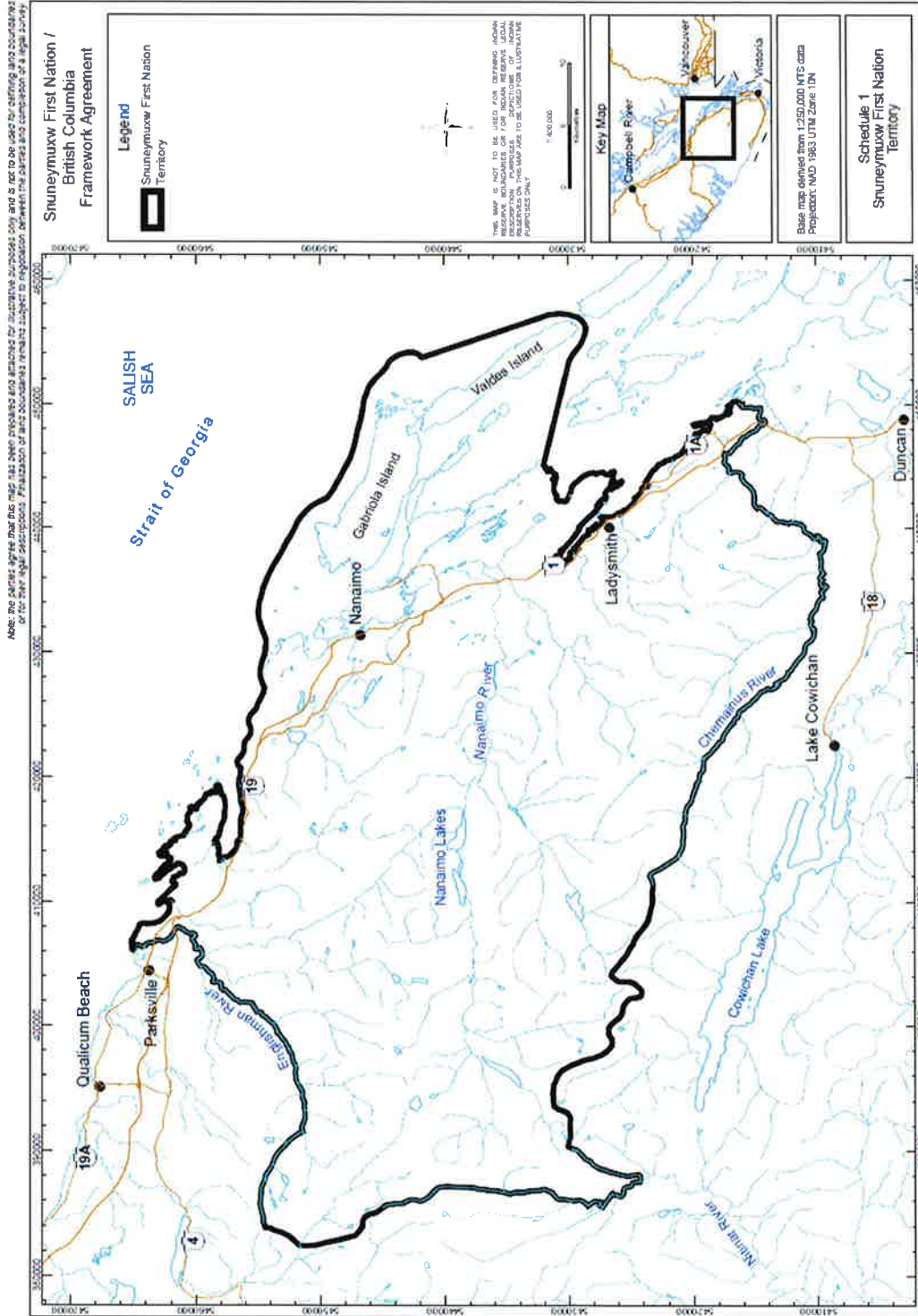
Date



Witness

Schedule "1" – Snuneymuxw Territory

British Columbia and Snuneymuxw are engaged in a process to prepare a more accurate map reflecting the traditional territories and waters of the Snuneymuxw peoples



Schedule “2” – Mid-Island Forestry Initiative
MID-ISLAND REGIONAL FORESTRY INITIATIVE

**Unlocking the forestry economy in the Nanaimo Region through a new model of
partnership between Snuneymuxw, BC, and Industry**

5 September 2017

A Vision for Stimulating the Regional Forest Economy Around Nanaimo

The Snuneymuxw First Nation has worked for many years to spur economic growth in the Nanaimo region. This has involved creating new partnerships with other governments and key industry actors. In recent years, a focus has been on the forest industry, where collaborative efforts and planning are required to maximize the forestry economic potential of the region.

Unlike much the rest of the Province, the forestry economy on southeastern Vancouver Island is distorted by the fact that almost all land is privately held. This limits opportunities for required reconciliation and partnership, and removes the range of flexibility for how to move forward. In the Nanaimo area, some of the last remaining Crown land blocks with forestry potential are on Mt. Benson and Mt. McKay. These lands have been in a holding pattern for decades, frozen out of the regional economy, because of the complexities of reconciliation. At the same time, the entire industry relies on log booming in the Nanaimo estuary which is facilitated by arrangements involving BC and the Nanaimo Port Authority – but the future of log booming is uncertain and complex because it has displaced the Snuneymuxw shellfishery (approximately 1 million pounds of clams/acre).

This proposal manages these complex factors by bringing Snuneymuxw, BC, the NPA and Industry into a common partnership to spur the next generation of forestry in the greater Nanaimo region. BC’s role is critical – but is an extension of commitments already made in the *Reconciliation Agreement* signed with Snuneymuxw in 2013.

The Challenging Mid-Island Forestry Economy

The regional forest economy centred upon Nanaimo has been relatively stagnant over the past number of decades.

The BC forest sector continues to recover from 2009, the sector’s worst year of the recent recession and one of the worst years for BC forestry in recent history. Although we are seeing some stability in the past five years we are still well below where we were a decade ago.

From 2005 – 2014:

- BC Timber harvest volume is down 20%, well below the Provincial Annual Allowable Cut
- BC manufactured forest products sales down 25%
- Direct Employment down 23%
- BC Softwood Lumber production down 25%
- Capital and Repair expenditures down 53%

Over the ten-year period ending 2011, 33,000 direct forest sector jobs in BC were lost and more than 70 mills closed.

Nanaimo has been particularly impacted by these developments. Jobs have been lost, major mills shut down, equipment manufacturers closed. At least four major mills and manufacturers have closed since 2002 (CIPA, Island Phoenix, WFP Nanaimo, and Madill Equipment).

The effect of this is that one of the regions of the Province with historically high unemployment has lost out on potentially hundreds of jobs. Currently, 3200 hectares of Crown land near the City of Nanaimo remain unharvested and of no economic benefit to Snuneymuxw, the Province, Industry or the region.

One of the central reasons for the relative stagnation of the forestry economy in the region has been the slow pace of forming proper relationships regarding Snuneymuxw's Aboriginal and Treaty Rights. A new and collaborative approach is needed to accelerate the pace of positive relations between BC and Snuneymuxw that can also unlock the economic potential of the region.

Innovative Partnership as the Path Forward

In recent years, Snuneymuxw and the Province have taken concrete steps forward, including through the 2013 *Reconciliation Agreement*. That Agreement provided a small boost to the local forestry economy through the transfer of Douglas District blocks 18, 202, and 271 which are now being harvested. Approximately 24 direct jobs have been created, and the forestry work on the blocks moves forward in an economically sustainable manner through business relationships with TimberWest, Coastland Wood Industries, A&K Logging and Snuneymuxw.

The transfer of these lands through the 2013 *Reconciliation Agreement* was explicitly acknowledged as only a first step – it contemplated an additional phase of land transfers to be negotiated. Snuneymuxw is proposing that this new round of land transfers be part of innovative partnership between Snuneymuxw, the Province, and Industry that unlocks the

forest economy in the region, creates jobs, makes Snuneymuxw a meaningful economic participant, and advances reconciliation.

The goal would be to design, confirm, and announce this innovative partnership – the *Mid-Island Forest Economy Growth Strategy* - by December 15, 2017, so that the entire region can plan for, organize around, and be prepared to implement this new engine for economic growth in the region.

The Elements of the Mid-Island Forest Economy Growth Strategy

The Growth Strategy would have the following partners: Snuneymuxw First Nation, Province of British Columbia, Nanaimo Port Authority, Timberwest, and the Nanaimo River Estuary Log Storage Association through its members Coastland Wood Industries, Nanaimo Forest Products and Western Forest Products.

The *Growth Strategy* would facilitate the following outcomes:

- Unlocking 3,200 ha of timber for harvest on an economically sustainable basis. Effectively this would provide an additional 32,000 cubic metres of cut annually in the mid-Island area in perpetuity;
- Creating 160 direct and indirect forestry jobs in the region;
- Contributing to long-term reconciliation between Snuneymuxw and the Province through the transfer of the remaining Mount Benson blocks (17, 243, 258 and 282 Douglas District) and the South Nanaimo River Blocks (14, 19-22, 87, 172, 181, 194, 224, and 777 Douglas and Bright District) to Snuneymuxw as part of fulfilling phase 2 negotiations under the *Reconciliation Agreement*;
- Increasing flow of timber to Coastland for its mill operations for years to come that improves their business certainty;
- Resolving outstanding issues and conflicts related to log storage in the Nanaimo Estuary. Specifically:
 - TimberWest, and others, would gain access to log storage in the Estuary which would economically benefit their operations;

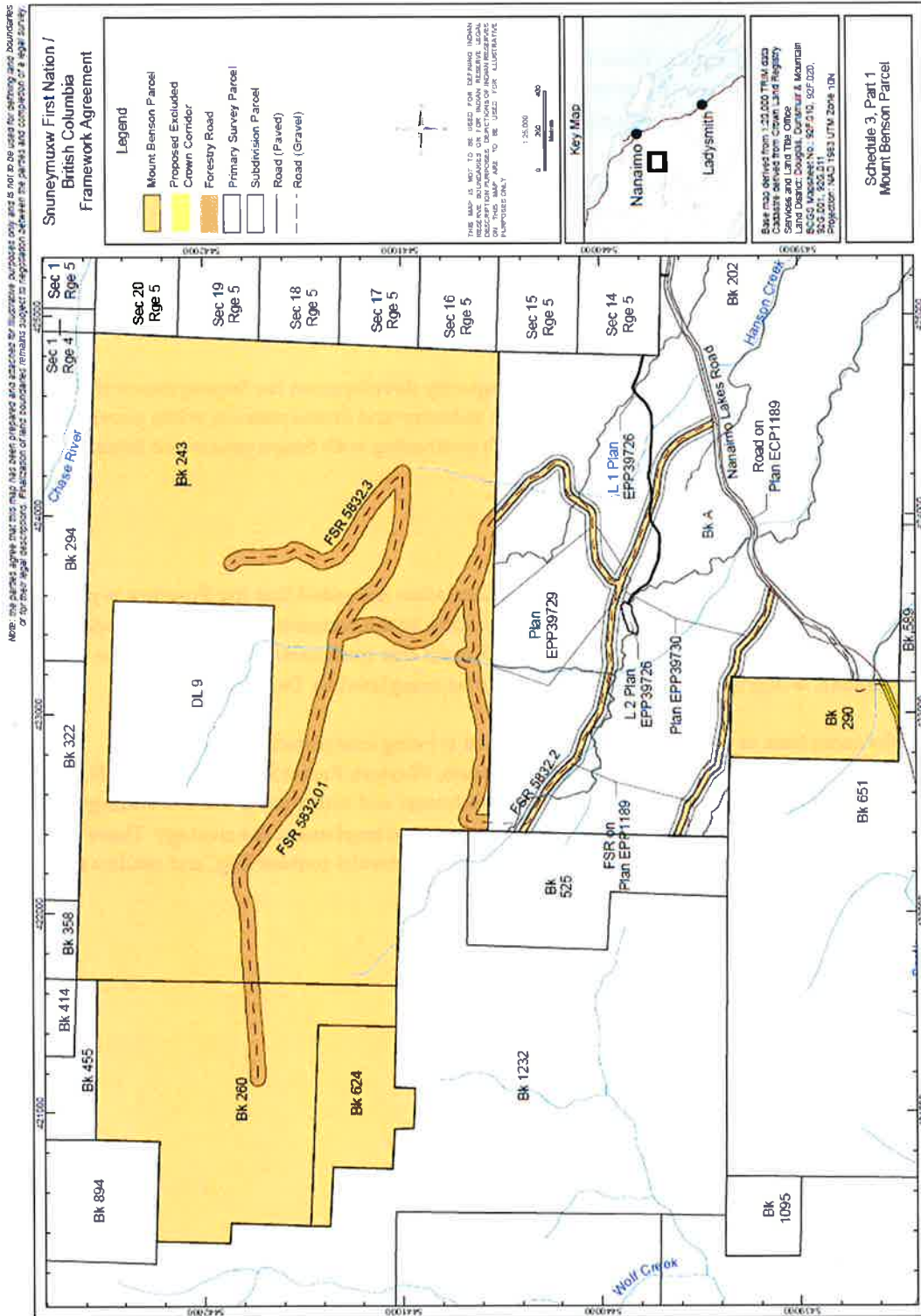
- An overall reduction in the log storage area in the Nanaimo River Estuary from 140 hectares to 100 hectares through reduction of lease areas near Snuneymuxw IR #1, therefore reducing environmental impact;
 - The Nanaimo River Estuary Log Storage Association would be granted permission to rent or sublease space for third parties, therefore enabling more efficient use of the remaining storage areas;
 - Investment in a log term estuary restoration and enhancement program that meets environmental interests; and,
 - Predictability for the NPA in the management and revenue stream from log storage operations, and an increase in the amount of timber flowing through the NPA.
- Establishing jobs, revenue streams, and capacity development for Snuneymuxw through a business to business partnership between industry and Snuneymuxw, while providing them with business opportunities through partnering with Snuneymuxw on forestry operations and management.

Moving the Strategy Forward

For the *Growth Strategy* to move forward, confirmation is needed that the Province is prepared – in an expedited manner – to negotiate the transfer of the remaining Mt. Benson blocks and the South Nanaimo Blocks to Snuneymuxw. Should this confirmation be received, the expectation is that a transfer agreement would be completed by December 15, 2017.

At the same time as the land transfer agreement is being completed, Snuneymuxw, Timberwest, Coastland, Nanaimo Forest Products, Western Forest Products and the Nanaimo Port Authority would complete the necessary bilateral and multi-party understandings and agreements necessary (reflecting the elements above) to implement the strategy. These partners have expressed their commitment to this innovative partnership, and readiness to complete the arrangements in an expedited manner.

Schedule "3" – Maps of the Lands for Illustrative Purposes Part 1 – Map of Mount Benson Parcel



Schedule "4" – Log Handling Tenures

Part 1 – Group "1" Log Handling Tenures

Log Handling/Storage in Snuneymuxw First Nation Territory				
File Number	Activity	Company	Type	Expiry
1405601	Log Handling/Storage	LeHigh Hanson Materials Limited	Lease	2018-02-15
1400767	Log Handling/Storage	Western Forest Products	Lease	2017-11-03
175306	Log Handling/Storage	Island Timberlands	Lease	2017-06-30
348957	Log Handling/Storage	Wardill Marine Holdings	Lease	2020-01-19
175350	Log Handling/Storage	Nanaimo Forest Products	Lease	2020-08-01

Part 2 – Group "2" Log Handling Tenures

Log Handling/Storage in Snuneymuxw First Nation Territory				
File Number	Activity	Company	Type	Expiry
175753	Log Handling/Storage	Island Timberlands	Lease	2022-04-01
356413	Log Handling/Storage	Jones Marine Group	Lease	2022-04-01

Part 3 – Group "3" Log Handling Tenures

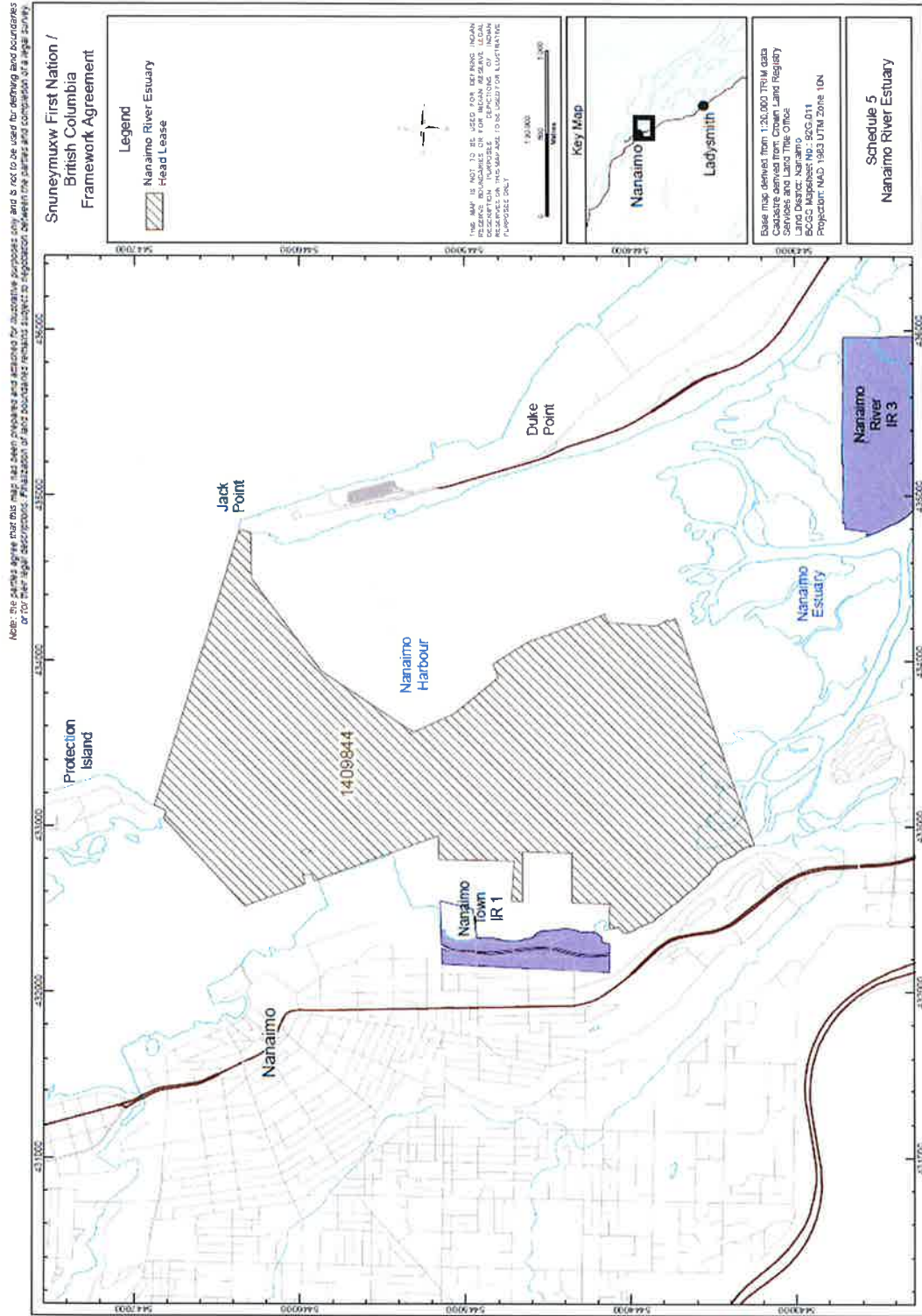
Log Handling/Storage in Snuneymuxw First Nation Territory				
File Number	Activity	Company	Type	Expiry
1412516	Log Handling/Storage	Teal Cedar Products	Licence	2024-11-30
175297	Log Handling/Storage	Timberwest Forest Corp	Lease	2026-12-03
286558	Log Handling/Storage	Island Timberlands	Lease	2027-06-30
1408363	Log Handling/Storage	John Guthrie	Licence	2025-01-15
314351	Log Handling/Storage	Mark Coats	Lease	2043-05-31
175352	Log Handling/Storage	Island Timberlands	Lease	2027-06-30
1401661	Log Handling/Storage	John Guthrie	Licence	2024-08-01
1408504	Log Handling/Storage	Island Timberlands	Licence	2026-06-01

Part 4 – Nanaimo Port Authority Subtenure Summary

This table is included here for reference purposes only, the authoritative list of all Subtenures is held by the Nanaimo Port Authority.

Log Handling/Storage in Snuneymuxw First Nation Territory				
File Number	Activity	Company	Type	Expiry
PL 301	Log Handling/Storage	Coastland Wood Industries Limited	Sublease	2022-10-30
PL 302	Log Handling/Storage	Coastland Wood Industries Limited	Sublease	2022-10-30
PL 304D	Log Handling/Storage	Coastland Wood Industries Limited	Sublease	2022-10-30
PL 303	Log Handling/Storage	Western Forest Products Inc.	Sublease	2022-10-30
PL 304B	Log Handling/Storage	Western Forest Products Inc.	Sublease	2022-10-30
PL 304A	Log Handling/Storage	Western Forest Products Inc.	Sublease	2022-10-30
PL304C	Log Handling/Storage	Nanaimo Forest Products Inc.	Sublease	2022-10-30

Schedule "5" – Nanaimo River Estuary



Schedule "6" – Gabriola Lands

