

**K'ómoks First Nation
Cultural Heritage Policy**

October 2nd, 2020

Approved by Chief and Council on October 2nd, 2020

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1. Vision Statement

We, the K'ómoks First Nation (KFN) are descendants of the K'ómoks and Pentlatch tribes. We inherited our territory (*ʔəms naʔ giʔe*) from our First Ancestors at the beginning of time. Our K'ómoks and Pentlatch First Ancestors – Ciā'tlk·am, Tē'sitla, SE'ntlaē, Aiē'len, Kōā'·min and Hē'k·'ten – were gifted these territories by the Creator. Since the time the First Ancestors of our K'ómoks and Pentlatch tribes, our people lived and flourished on the lands and waters of our territory. Our territories are marked by the places used by our *hehew'* (ancestors) – their settlements, harvesting places, spiritual places, and burial places. These cultural heritage sites are an important record of our history, and a link to our ancestors.

As descendants of the K'ómoks and Pentlatch tribes, we have inherited rights and title to all our territory. With our inheritance comes the responsibility to care for the lands and waters of our territory, including our cultural heritage sites and artifacts. The teachings of our ancestors (or *ʔəms taʔaw*) define our responsibilities to past, present, and future generations of K'ómoks and Pentlatch people. The guidance provided by *ʔəms taʔaw* includes protecting the cultural heritage sites created by our ancestors, the burial places of our ancestors, seeking the return of KFN cultural objects or artifacts that have been taken from KFN territory without permission, and learning from our cultural heritage to provide guidance for future generations of our people.

Since the arrival of the newcomers in our territory, our cultural heritage sites have been damaged and destroyed through development, and our ancestral burial places and artifacts have been looted, and sold. It is our goal that in enacting this KFN Cultural Heritage Policy, we can work with the newcomers to our territory, to educate them in the ways of our *ʔəms taʔaw* (teachings of our ancestors), and to respect and learn from our cultural heritage.

In the spirit of reconciliation, we the KFN enact the KFN Cultural Heritage Policy and commit to working with the newcomers in the appropriate management of our cultural heritage. By enacting the KFN Cultural Heritage Policy, we are reconciling our Aboriginal rights and title to our territory, with the newcomers' desire to live in and modify our territory.

2. Authority and Jurisdiction

KFN's authority over KFN's cultural heritage arises from KFN's unique relationship with our territory as inherited from the First People to inhabit these lands, our direct *hehew'* (ancestors). Our K'ómoks and Pentlatch *hehew'* – Ciā'tlk'am, Tē'sitla, SE'ntlaē, Aiē'len, Kōā'min, and Hē'k'ten – were the First People of these territories, and were gifted these lands and waters by the Creator. As the Indigenous people of and traditional title holders of our territory, KFN's authority over KFN cultural heritage and artifacts is derived from multiple levels of legal authority:

- 1) Indigenous law,
- 2) United Nations Declarations of the Rights of Indigenous People (UNDRIP) Article 31 and Article 32,
- 3) Bill 41, British Columbia)
- 4) Section 35 of the Canadian *Constitution Act*, 1982, and,
- 5) K'ómoks First Nation Land Code (2016).

Our Indigenous law, based on K'ómoks and Pentlatch *taḡaw* (teachings), define KFN title over our K'ómoks and Pentlatch territories as a gift from the Creator, and our ancestral birthright from the First People of these lands. Decision making authority over KFN cultural heritage stems from our unextinguished Indigenous title to our territory. The lands, waters and resources of these territories is something that we hold in trust from our *hehew'* (ancestors) and for future generations. Our Indigenous law also specifies our stewardship responsibility to the lands, waters and resources of our environment. Protection of our cultural heritage in respect of our *hehew'* and for the benefit of future generations is required by our Indigenous law.

Second, KFN's authority over KFN cultural heritage is founded in international law. The United Nations Declarations of the Rights of Indigenous People (UNDRIP) specifies that Indigenous people have the right to protect and manage their cultural heritage (Article 31) and need to be consulted with regarding the development of their territories (Article 32). The government of Canada has endorsed the UNDRIP (2016) and has committed to implementing it in accordance with the Canadian Constitution. Further, the government of British Columbia (2019) has committed to legally implementing UNDRIP by enacting Bill 41.

As set out in the UNDRIP, Article 31 unambiguously recognizes the right of Indigenous people to protect and manage their cultural heritage:

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games, and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

KFN Cultural Heritage Policy

The KFN Cultural Heritage Policy identifies KFN's protective measures for all KFN cultural heritage. All impacts to KFN cultural heritage will require KFN consent. As per Article 32.2 of UNDRIP (now part of Bill 41- 2019: Declaration on the Rights of Indigenous Peoples Act), "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."

Application for a KFN Cultural Heritage Investigation Permit is one mechanism of obtaining KFN consent for a project. Initiating consultation with KFN as early as possible is always advisable. To KFN, "free, prior and informed consent" means that the proponent has:

1. provided KFN with all relevant available information regarding the project,
2. provided KFN with the appropriate time and means to review the project information and identify potential concerns,
3. provided KFN opportunity to discuss aspects of the project with the proponent,
4. addressed all and any potential concerns identified by KFN regarding the project,
5. obtained confirmation from KFN in writing, or in the form of the KFN Cultural Heritage Investigation Permit, that any potential KFN concerns with the project have will be mitigated to the satisfaction of KFN.

Third, KFN's authority over KFN cultural heritage is founded in the Canadian Constitution. The Canadian *Constitution Act* (1982) recognizes Aboriginal rights, including the right to Aboriginal title. The nature of Aboriginal title was further clarified in the Williams (2014) decision, specifying that the consent of the Aboriginal title holders must be obtained for developments affecting their lands and resources. KFN asserts unextinguished Aboriginal rights, including Aboriginal title over the entirety of KFN territory, and stemming from that title, KFN asserts that our consent must be obtained for all projects affecting the lands and resources of our territory, including KFN cultural heritage.

Finally, KFN's authority over KFN cultural heritage is defined in the *K'ómoks First Nation Land Code* (2016). The *KFN Land Code* enables KFN to develop laws governing activities on KFN lands (reserve lands, treaty settlement lands, and fee-simple lands). The *KFN Land Code* specifies that KFN may develop laws regarding:

"12 (k) setting aside, protection and regulation of heritage sites, cultural sites, traditional sites, spiritual sites and wildlife areas;"

And

"12 (s) archaeological assessment and protection of archaeological and cultural resources;"

The KFN Cultural Heritage Policy has been enacted as law within the *KFN Land Code* and enables KFN the ability to enforce the KFN Cultural Heritage Policy as the KFN Cultural Heritage Law on KFN lands.

The KFN Cultural Heritage Policy applies to all of KFN territory as described by the KFN Statement of Intent (*Figure 1*). This includes all private lands, crown lands, KFN lands, intertidal areas and submerged lands. As described above, KFN has inherited this territory, and the stewardship responsibility to it, from our First Ancestors who were gifted these lands by the Creator. If situations arise wherein multiple First Nations express overlapping interest in KFN cultural heritage, KFN will consult directly with those First Nations to resolve issues of overlapping interest.

3. Purpose

The purpose of the KFN Cultural Heritage Policy is to guide the appropriate protection, management, and study of our cultural heritage in accordance with our ancestral teachings or *ʔams taʔaw* as handed down to us from our ancestors. Our inheritance of our ancestral territory comes with the responsibility to care for the lands and waters of our territory, including our cultural heritage sites and artifacts, and especially the resting places of our ancestors.

Two of the core principles underlying our ancestral teachings or *ʔams taʔaw* regarding cultural heritage include:

- Our ancestors or *ʔams hehew'* have to be cared for, including maintaining the integrity of their burial places, and the remains of their past actions.
- The ancestors will look out for you or *he sam t kʷə ms hehew'kənese*; this includes ensuring the personal health of individuals, and enhancing our knowledge of how our ancestors or *ʔams hehew'* took care of the lands and waters of our territory.

These two core principles – taking care of the ancestors and the ancestors looking out for you – guide KFN's management of cultural heritage. Hundreds of generations of our ancestors have lived and died across our territory. The traces of their past lives are all around us, and their spirits are still among us. The artifacts and other material remains left by our ancestors provide unique teachings (or *ʔams hehew'*) about their past lives, and guide us in our modern cultural journey.

We, as K'ómoks and Pentlatch people, know that we must take care of our ancestors (*ʔams hehew'*) and that in doing so our ancestors will look out for us (*he sam t kʷə ms hehew'kənese*). By applying these teachings (*taʔaw*) to our cultural heritage, we can work with the newcomers to ensure that cultural heritage sites and objects are treated respectfully, that investigation of KFN cultural heritage advances the knowledge of our history, and that advance of knowledge supports revival of KFN culture.

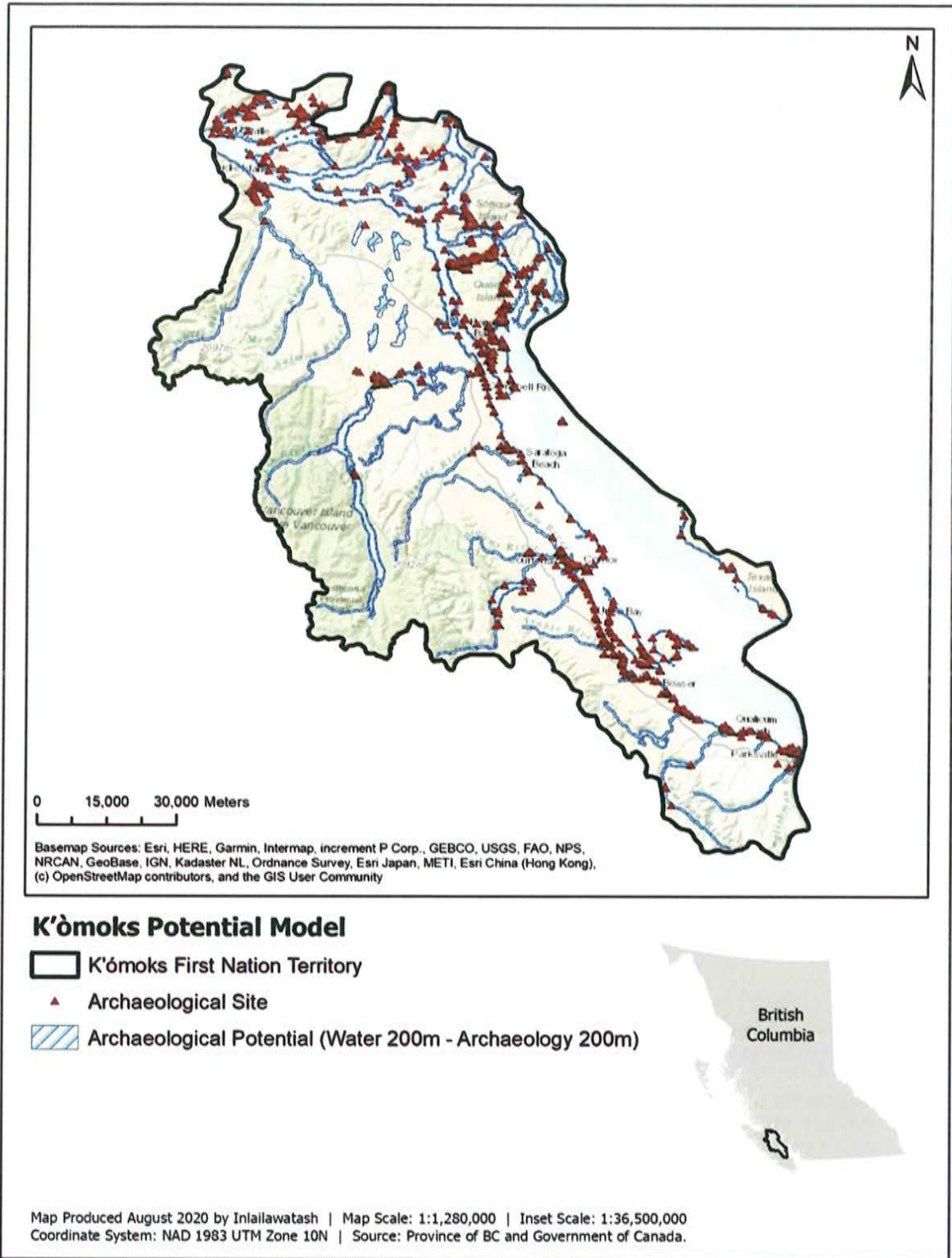


Figure 1. K'ómoks territory and archaeological potential model.

4. Definition of the archaeology / cultural heritage sites and artifacts / cultural heritage objects covered by KFN Cultural Heritage Policy.

The following types of archaeological / cultural heritage sites and artifacts / cultural heritage objects are recognized and automatically protected under the KFN Cultural Heritage Policy. All KFN cultural remains pre-dating AD 1900 are automatically protected. All KFN ancestral remains dating to all periods of time are automatically protected.

Shell Midden

A shell midden is an anthropogenic deposit of the remains of shellfish, fire-cracked rock (FCR), and other remains, including fauna and artifacts. They were slowly built up over time as a result of people repeatedly occupying a given area, and processing shellfish there. Shell middens often contain burials and other features related to domestic activities (e.g., house depressions, post holes, hearths). Small shell middens are the remains of small temporary camps and large shell middens are the remains of large semi-permanent settlements. Because of the alkaline nature of shell middens, bones from food remains, and human remains are often preserved within them. For all these reasons, shell midden sites contain an important record of ancestral KFN lifeways.

House Site

House sites consist of a number of features, almost always in shell middens, that represent the remains of past plank houses that were excavated into the underlying sediments, or built up around the house out of shell midden. A house depression is typically a rectangular area excavated into the soil or shell midden below. House mounds consist of two types: a rectangular mound or platform consisting of shell midden to raise the level of a past house, or a rectangular or U-shaped shell midden berm built up around the margins of a past house. House sites are the manifestation of past KFN extended families or numayma, and contain an important record of ancestral KFN social relations.

Fire-Cracked Rock Midden

A fire-cracked rock midden is an anthropogenic deposit of large quantities of fire-cracked rock (FCR), charcoal stained sediments, and other remains such as artifacts and less commonly, fauna. Fire-cracked rock middens often contain other features associated with domestic or food processing activities such as post holes, hearths, or earth ovens. Fire-cracked rock middens are the remains of intensive food processing areas or semi-permanent settlements where shellfish was not commonly processed. These sites or features provide insight into the history and practice of ancestral KFN plant use.

Burial Sites / Cemeteries

Burial sites are the locations where ancestral remains are recovered including: caves, rock shelters, shell middens, and less often, FCR middens. Ancestral remains are often recovered in mixed or disturbed deposits within shell middens; such remains are also considered burials. Cairns, consisting of one or more piles or mounds of rocks, usually on top of a burial are a special type of petroform. Cemeteries are discrete areas that were used repeatedly in the past as burial locations. Cemeteries are defined as discrete locations wherein three or more burials are identified within 10 m of one another. Cemeteries may also include areas that were historically known as places for interring ancestral remains, such tree burial areas, but presently do not contain material evidence of ancestral remains.

Examples of cemetery sites include but are not limited to:

- the KFN cemetery on Bayside Drive, IR No.1 (within DkSf 19),
- the Comox Bay west site, near 155 Willow Way (DkSf 10),
- the Comox Bay east site, Mack Laing property, (DkSf 4),
- IR No.3 at Goose Spit (no recorded site),
- the Comox Hill Fort site (DkSf 6),
- The stand of spruce trees behind left bank of the Courtenay River near the CVRD pump station (no Borden number),
- Dyke Road site (DkSf 24), near Scott Road
- an area near DkSf 29 at Point Holmes,
- the pump station area in the shell midden at Millard Creek (DkSf 2),
- the Sandwick Midden site (DkSg 12), near Maple Pool campground, Courtenay,
- Chrome Island (DiSe 9),
- Komas Ranch on Denman Island (DjSf 1),
- part of the two sites spanning Hart Creek at Union Bay (DkSf 25 and DkSf 26),
- a part of the shell midden at Buckley Bay (DjSf 13) (southeast of ferry terminal and parking lot),
- a part of the shell midden immediately south of the Tsable River bridge (DjSf 14), located on both sides of Highway 19a,
- Qualicum Golf Course site (DiSc 26) adjacent to the golf course clubhouse,
- DhSb 3, (near 310 Dogwood Street) in Parksville,
- the Craig Bay site (DhSb 8) (the entire site, especially Seawall Drive) in Parksville,
- a part of the shell midden near the government dock at Deep Bay (DiSe 7),
- the Willow Point site (DiSh 8), just west of Highway 19a,
- Cape Mudge (Yuculta IR No.10), near pier (EaSh 3),
- the Orchard Site (EbSh 13) in Kanish Bay,
- the cemetery at Graveyard Point, Kelsey Bay (EcSl 31, EcSl 32),
- Knox Bay, West Thurlow Island,
- EaSh 17 burial caves (just north of Gowlland Harbour),
- Burial islands at entrance to Topaz Harbour, immediately west of EcSk 11,

- EcSI 22 burial cave on Helmken Island,
- EcSg 12 burial cave at Little Gillard Island,
- EcSI 11 burial cave on Helmken Island,
- EcSI 12 burial cave on Helmken Island,
- EaSh 31 burial cave at Gowland Harbour.

New cemeteries areas will continue to be identified when multiple, closely spaced burials are identified in the course of archaeological investigations. Additionally, KFN continues to develop new cemetery sites for reburial of ancient KFN ancestral remains that were excavated from nearby areas. Any projects with the potential to impact a cemetery site will require deep consultation with KFN and extraordinary justification.

Individual burial sites and cemetery sites are exceedingly spiritually important as they link the living KFN community to the spirits of their ancestors.

Lithic Sites

Lithic sites are composed of stone tools (i.e., artifacts), the debris associated with the production of stone tools (i.e., debitage), or the locations where lithic raw material was extracted or collected (i.e., quarries). Lithic sites may represent a wide range of past activities that included many actions beyond stone tool production, but other materials are much less likely to have been preserved than the lithics. Lithic sites are important because they provide information about ancestral KFN land use, trade, cultural traditions, and activities.

Rock Art

Rock art sites are locations where people have decorated or marked rock surfaces and consist of two types: petroglyphs and pictographs. Petroglyph sites are places where images, patterns, symbols etc. have been placed on rock surfaces through pecking or engraving the rock surface. Pictographs sites are places where images have been painted onto rock surfaces, almost always using red ochre as pigment with a lipid-based binding agent. Rock art sites are generally viewed as profoundly spiritual places, places that were selected to commemorate a significant group or individual encounter with the supernatural. Rock art sites are important because they identify the spiritually significant places of KFN ancestors.

Fortifications

Fortifications are a particular type of archaeological site that include constructed features such as trenches, embankments or rock walls that were built to increase the defensibility of a location. Such sites are often called trench embankments, but may have also included wooden palisades. Other fortifications are places lacking obvious remains of constructed features, but are located on

relatively inaccessible landforms surrounded by steep cliffs etc. Such sites are often referred to as refuges. In addition to the attributes described above, fortifications usually also include thin shell midden deposits. Fortification sites are important because they document the historic efforts of KFN ancestors to repel outsiders from their ancestral territories.

Fish Traps

Fish traps are intertidal or riverine features that were constructed to impede or impound fish and consist of two main types: wooden fish traps, and rock walled fish traps. Wooden fish traps consist of upright wooden stakes driven into the substrate of intertidal or riverine areas (i.e., fish weirs) to which panels or other fence-like materials were attached to impede and entrap fish. Rock walled fish traps consist of linear or curvilinear rock berms constructed in intertidal areas to entrap fish. In some cases a fish trap may consist of wooden and rock features. Fish trap sites are important because they document the sustainable fish harvests obtained by KFN ancestors for millennia.

Clam Gardens

Clam gardens are archaeological sites consisting of rock berms located relatively deep in the intertidal area (typically near the 0' tide line) which act to retain upslope sediments and decrease the slope angle of the beach. These attributes function to increase butter clam habitat and clam productivity. Clam garden sites are important because they document KFN ancestors' purposeful resource management and long-term investment and tenure in the landscape.

Earth Ovens

Earth ovens are an archaeological feature consisting of black, charcoal-stained sediments and abundant fire-cracked rock. These features may be relatively discrete semi-circular basins, or larger more amorphous deposits. These sites are interpreted to have been used for the cooking of large quantities of plant foods, such as camas or bracken fern root. The larger more amorphous deposits of charcoal-stained sediments and fire-cracked rock likely represent areas that were intensively used as earth ovens for long periods of time. Earth oven sites are important because they provide a historical record of ancestral KFN plant harvesting and management.

Culturally Modified Trees

Culturally modified trees are living trees, fallen trees, or stumps that display evidence of being impacted by past Aboriginal harvesting activities, such as bark stripping, plank harvesting, or canoe production, or past Aboriginal communication or signalling such as trail markers, boundary markers, or arborglyphs (carved or decorated surfaces on a tree). The vast majority of

culturally modified trees in KFN territory occur on western red cedar trees, but can also occur on other species. CMT sites are important because they document the history and extent of ancestral KFN forestry practices. To ensure protection of CMT sites, KFN insists that a 50 m cutting buffer is used around each CMT site.

Wet Sites

Wet sites are archaeological sites consisting of culturally modified organic materials (mainly wood, bark or fibre) or artifacts constructed of organic materials such as baskets, nets, mats, hats located underwater or in intertidal areas. Such organic materials and artifacts are only preserved because of their deposition in anaerobic conditions under water. Wet sites are usually located at the mouths of rivers or streams. Wooden fish traps can also be considered as a special type of wet site, but here are described separately due to their distinct function. Wet sites are uniquely significant because they provide detailed examples of ancestral KFN technology.

Cultural Depression

A cultural depression is a feature, other than a house, that has been excavated into underlying sediments. Cultural depressions can include storage pits, pit fall traps, cooking features, and features of unknown function.

Canoe Runs

A canoe run is a path or lane in the intertidal area running perpendicular to the shore that has been cleared of boulders so that a canoe could be pulled on shore. Canoe runs are then a particular type of petroform, consisting parallel linear boulder arrangements in the intertidal area. Canoe runs are most often associated with large shell midden sites.

Trails

A trail is linear wherein the ground surface has been worn through the surface vegetation, and perhaps into the soil as the result of past travel. Pre-contact aboriginal trails can be distinguished from game trails through their association with other archaeological site types, such as rock shelters and lithic sites.

Rock Shelters

Rock shelters are locations along cliffs or very large boulders that are somewhat protected from the elements by overhanging rock faces. The areas within these rock shelter locations were used by past people as temporary camp sites, and may contain small hearths and lithics.

Petroforms

Petroform sites consist of arrangements of rocks (usually boulders and cobbles) resulting from intentional past human activity. Petroform types include canoe runs, cairns, and rock walled fish traps. Other petroforms with less obvious functions are simply classified as petroforms.

Artifacts / Cultural Heritage Objects

Artifacts or cultural heritage objects are all items of material culture (i.e., objects that have been modified by human action) that have been modified by KFN ancestors prior to AD 1900. Such artifacts / cultural heritage objects include: tools, implements, containers, clothing, objects of personal adornment, decorative objects, objects associated with travel and transport, objects that are components of domestic architecture, and symbolic / ritual objects. In some cases, cultural heritage objects may belong to specific KFN tribal families rather than to KFN more broadly.

Table 1. Cultural Heritage Site Types and Required Mitigation Measures.

Site Type	KFN Required Mitigation Measures
Shell Middens	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
House Site	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Fire-Cracked-Rock middens	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Cemeteries / Burials	No impacts; if cannot be avoided, impacts will require KFN consent and will maximize data recovery
Lithic Sites	Maximize data recovery
Rock Art	No impacts
Fortifications	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Fish Traps	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Clam Gardens	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Earth Ovens	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Culturally Modified Trees (CMTs)	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology, 50 m cutting buffer around sites
Wet Sites	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Cultural Depression	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Canoe Runs	Avoid; if cannot be avoided, maximize data recovery
Trails	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Rock Shelters	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology
Petroforms	Avoid impacts; if cannot be avoided, maximize data recovery, compensatory archaeology

5. Protection of KFN Cultural Heritage

All KFN cultural heritage (as described above) belongs to KFN, and where applicable, specific KFN tribal families. The only exceptions to the above statements include KFN cultural heritage that was made for or commissioned by an individual, or heritage objects in peoples' possession that were obtained by legal means prior to introduction of the KFN Cultural Heritage Policy.

No party or individual is to damage, disturb, collect or otherwise impact KFN cultural heritage in any form without explicit permission from KFN as defined in a KFN Cultural Heritage Permit. This includes all developments and all investigations within KFN territory.

KFN ancestral remains are not to be removed from their place of discovery without written permission from KFN.

KFN cultural heritage and heritage objects cannot be bought, sold, traded, or bartered by any party.

KFN cultural heritage is not to be removed from KFN territory without explicit permission from KFN.

KFN will pursue the repatriation of all KFN cultural heritage held outside of KFN territory.

KFN will develop site specific management plans for significant archaeological sites that are continuously threatened by development (see *Site Specific Management Plans*).

6. Cultural Heritage Investigations

Many projects or developments within an area considered to have high archaeological potential (*Figure 2*) will require a KFN Cultural Heritage Investigation prior to development or harvesting. The goal of the KFN Cultural Heritage Investigation is to avoid unnecessary impacts to KFN cultural heritage by proceeding cautiously with development in areas with high archaeological potential. KFN will not accept Archaeological Overview Assessments (AOAs) of such areas recommending no further investigation, without some form of in-field assessment by a qualified archaeologist.

Developments or projects in areas considered by KFN to have high archaeological potential that involve subsurface construction/landscaping in excess of 10 m² will require a KFN Cultural Heritage Investigation consisting of preliminary field reconnaissance (PFR) by an archaeologist and a KFN Guardian Watchman, KFN Archaeological Monitor or other individual designated by KFN. The goal of the PFR is to assess whether or not further investigation, in the form of an

Archaeological Impact Assessment (AIA), is required prior to the proposed development / project.

In certain situations wherein a PFR has not identified surficial archaeological remains, but the landform has high archaeological potential for buried cultural heritage, KFN may still request subsurface testing in the form of an AIA to determine the presence or absence of buried cultural heritage.

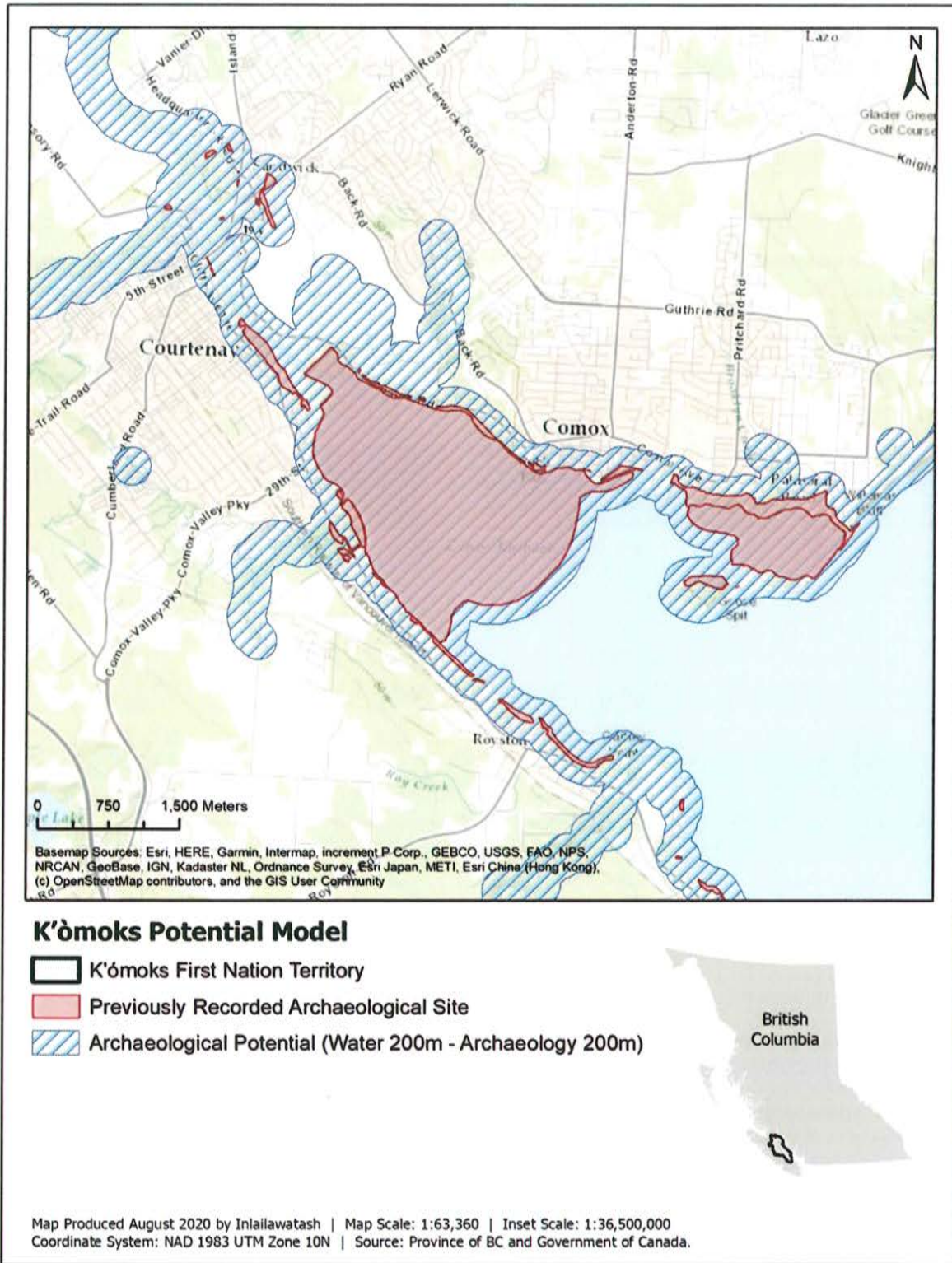


Figure 2. KFN archaeological potential model, Comox Valley area.

7. KFN Cultural Heritage Investigation Permit

A KFN Cultural Heritage Investigation Permit (CHIP) is required for all projects and developments with an area determined to have high archaeological potential (*Figure 2*). This area of high archaeological potential includes all projects within recorded archaeological sites, within 200 m of the boundaries of registered archaeological sites, areas within 200 m of the ocean, river or lake shore, and in areas considered by KFN to have high archaeological potential based on the distribution of known archaeological sites, major landforms, and other KFN ethnohistoric information. This area of high archaeological potential is a living document, and is modified and updated in light of new information. The guiding purpose of the KFN Cultural Heritage Investigation Permit is to ensure that all developments proceed in accordance with KFN's preferred mitigation measures (see *Table 1: Cultural Heritage Sites and Required Mitigation Measures* above).

The types of projects requiring a KFN Cultural Heritage Investigation Permit include civil, residential, agricultural, commercial and industrial developments involving subsurface work in areas of high archaeological potential, forestry projects involving the construction of roads, bridges, and sorting areas, timber harvesting on old growth areas, and archaeological research of KFN cultural heritage sites involving excavation or testing.

The fee for a KFN Cultural Heritage Investigation Permit is \$400 (+ GST) for a small project, and \$600 (+ GST) for a large project¹. A small project is defined as less than a hectare in size or 100 meters in maximum dimension. A large project is defined as larger than a hectare in size or 100 meters in maximum dimension. Large and / or complex projects may require an additional project management fee. Project management fees cover the costs of meetings and liaising with KFN staff and Chief and Council.

It is assumed that archaeologists contracted by project proponents will apply for the KFN Cultural Heritage Investigation Permit. KFN maintains a list of preferred archaeologists with considerable experience in KFN territory; please contact the KFN Band Administrator, Jenny Millar (250 339 4545 ext 105).

The KFN Cultural Heritage Investigation Permit application will request details regarding the proposed development or project and the proposed mitigations for any potential impact to KFN cultural heritage. KFN Cultural Heritage Investigation Permit applications for developments or projects that do not propose mitigations in accordance with KFN's required mitigation strategies (see *Table 1: Cultural Heritage Sites and Required Mitigation Measures* above) will not be issued. Such applications will be rejected until they are modified in accordance with KFN's required mitigation strategies.

Many of the preferred mitigation measures for cultural heritage / archaeological sites require maximization of data recovery where impacts cannot be avoided (see *Table 1: Cultural Heritage Sites and Required Mitigation Measures* above). Generally speaking, such data recovery

¹ KFN will not charge KFN members a fee for a Cultural Heritage Investigation Permit for on-reserve or off reserve developments of residential properties.

methods will require far more effort than is typically prescribed under provincial Heritage Conservation Act permits. Applications for KFN Cultural Heritage Investigation Permits should:

- Plan for systematic data recovery of about 50% of intact cultural sediments (i.e., parts of archaeological sites that have not been moved, modified or disturbed through historic or recent land use activities);
- Plan for some level of inspection (such as raking) of 100% of disturbed cultural sediments;
- Plan for appropriate collection and analysis of faunal remains from every site where they are present. This includes column sampling from all stratified shell midden deposits;
- Plan for appropriate collection and analysis of lithic artifacts from every site where they are present. Where appropriate, this includes geochemical characterization;
- Allocate funds for radiocarbon dating for every project that impacts intact cultural sediments or wet sites.

The terms and conditions of the KFN Cultural Heritage Investigation Permit are to be followed by all permit holders and employees or contractors of the permit holder.

KFN Cultural Heritage Investigation Permit applications can be obtained from KFN Band Administrator, Jenny Millar (250 339 4545 ext 105).

8. Specific Requirements regarding Ancestral Remains

When ancestral remains are encountered:

- All work within 10 m will cease, and KFN will be contacted immediately. Appropriate KFN contacts for this situation are provided below.
- KFN will make a determination if the remains are to be excavated or remain in place. KFN ancestral remains cannot be moved without written permission from KFN. If the remains are to be excavated, they will be temporarily stored in a cedar or cardboard box with cedar boughs and a red wool blanket. KFN will determine the temporary storage of the remains and whether they will be reburied on site or relocated to the KFN mortuary house.
- When archaeologists are working with ancestral remains or in cemeteries, all work is expected to be completed by 2 pm, unless mitigating factors prevent this.
- KFN will determine the level of analysis of the ancestral remains (see below – Analyses of Ancestral Remains).
- KFN will determine the cultural work associated with the excavation and relocation of the ancestral remains.
- The proponent of the project will cover all costs associated with the excavation, storage, analyses, reburial of the ancestral remains and appropriate ceremony or work as defined by KFN.
-

Analyses of Ancestral Remains

- When ancestral remains are encountered and excavated, KFN requires that comprehensive osteological analyses are undertaken by a qualified individual to maximize the knowledge gained about the individual's life history.
- These osteological analyses include: non-destructive analyses by a qualified physical anthropologist / biological anthropologist to determine, sex, age, pathologies and other life-history indicators.
- At the discretion of KFN, additional isotopic analyses of ancestral remains may be required.
- These isotopic analyses include radiocarbon dating and stable isotope analysis.

Contacts:

KFN Band Administrator, Jenny Millar (250 339 4545 ext 105),

KFN Reception (250 339 4545)

9. Site Specific Management Plans

Several significant cultural heritage / archaeological sites in KFN territory are located in areas that have undergone and continue to undergo considerable development. Impacts to these sites have been particularly severe, and responsible stewardship of the remaining portions of these sites requires consideration of specific local conditions. For this reason, KFN will develop several site specific management plans that will describe the parameters by which local development can proceed. Such sites include but are not limited to:

- Qualicum Beach, DiSc 26
- Deep Bay, DiSe 7
- Comox Bay, DkSf 4
- Comox Bay, DkSf 10
- Comox IR No.1, DkSf 19
- Courtenay River, DkSf 1
- Campbell River, EaSh 1
- Heriot Bay, EaSh 4
- Hotel Block CMTs

Any proposed impacts to KFN cultural heritage within these sites will require direct consultation with KFN Chief and Council.

10. Glossary of Terms

Archaeological Terms

Archaeological Impact Assessment (AIA)

An Archaeological Impact Assessment (AIA) is a field-based study of a known archaeological site or of an area where archaeological sites are anticipated, that involves mapping and some form of sub-surface testing or excavation to identify the extent and significance of archaeological materials. The purpose of the AIA is to inform management decisions regarding planned impacts to that site or area.

Archaeological Overview Assessment (AOA)

An Archaeological Overview Assessment (AOA) is a desktop based study that typically involves a review of local archaeological and ethnohistoric information regarding an area considered to have high potential to contain unknown archaeological sites. An AOA may also include a limited amount of field work, similar to a preliminary field reconnaissance (PFR), to assess the archaeological potential of the local landforms, and to inspect the surface for signs of archaeological materials. The purpose of the AOA is to inform the need for future, more detailed archaeological investigations of an area prior to development.

Archaeological Potential

The term archaeological potential refers to the suitability of a given area or landform to contain unrecorded archaeological sites. The archaeological potential of a given area is assessed through consideration of landform attributes, such as proximity to the shoreline, proximity to fresh water, slope, exposure, etc. that would have made the landform attractive for past settlement or use, and conducive for the preservation of archaeological materials. Consideration of archaeological potential is important for assessing the need for further archaeological investigation of an area prior to development.

Artifacts

Artifacts are objects or materials that have been modified by past human activities. Local examples of artifacts include flaked or ground stone tools (i.e., lithics), worked bone tools, or wooden / fibre objects such as fish trap stakes.

Culturally Modified Trees

Culturally modified trees are living trees, fallen trees, or stumps that display evidence of being impacted by past Aboriginal harvesting activities, such as bark stripping, plank harvesting, or canoe production, or past Aboriginal communication or signalling such as trail markers, boundary markers, or arborglyphs (carved or decorated surfaces on a tree). The vast majority of culturally modified trees in KFN territory occur on western red cedar trees, but can also occur on other species.

Disturbed

In archaeology, disturbed archaeological materials or deposits refers to archaeological materials that have been substantially moved, dug through or otherwise modified through modern development so that materials are no longer in a stratified (or layered) sequence. Compare to intact archaeological deposits described below. While disturbed archaeological materials have lost some of their scientific value, often contain ancestral remains and are still considered significant by KFN.

Faunal Remains

Faunal remains, fauna, or zooarchaeological remains, are the remains (almost always bones) of animals, birds, fish, shellfish etc. that are recovered from excavation of archaeological sites. In almost all cases, such faunal remains are the preserved parts of animals that were harvested by the past inhabitants of archaeological sites. Faunal remains are typically well-preserved in shell middens, and rarely occur in other contexts. A faunal assemblage consists of all the faunal remains recovered from a particular archaeological site.

Feature

Archaeological features represent the remains of past human activity and are not portable. Examples of archaeological features include hearths, storage pits, post holes, cairns, and ditches.

Fire-Cracked Rock

Fire-cracked rock (FCR) or fire-modified rock (FMR) are angular or discoloured rocks that have been fractured or undergone color change (usually shifting to shades of red and black) as the result of being heated in a fire. Archaeological FCR was produced through cooking / boiling activities and is typically very concentrated in shell middens, FCR middens, and earth ovens. Natural fire-cracked rock can also be created in forest fires.

Fire-Cracked Rock Midden

A fire-cracked rock midden is a large accumulation of fire-cracked rock (FCR) with black, charcoal rich sediment. An FCR midden likely represents the repeated use of an area for plant cooking activities. An FCR midden differs from a shell midden in that there are no shellfish remains in an FCR midden.

Geochemical Characterization

Geochemical characterization refers to the use of one or more analytical techniques used to determine the type of rock that a stone tool was made of, and, where possible, to use that information to match the stone tool to a known source or outcrop. Analytical techniques used for geochemical characterization include x-ray fluorescence (XRF), x-ray diffraction (XRD), near-infrared spectrometry (NIR), and electron microprobe analysis on a scanning electron microscope (SEM). Most of these methods collect readings of the major element chemistry of sample rocks to identify what type of rock they belong to, and rare element chemistry of particular rocks to attempt to match such a rock to a known source. Obsidian is the most common archaeological toolstone that is submitted for geochemical analysis and sourcing, but other materials such as dacite and nephrite can also be sourced.

Intact

In archaeology, an intact archaeological deposit refers to materials that have not been modified or disturbed by modern processes such as landscaping. Compare to disturbed archaeological deposits as described above.

Lithics

Lithics are stone tools (i.e., objects flaked or ground from stone by past people) and their waste debris or debitage. Flaked stone tools are objects that have been struck in a controlled way to remove sharp flakes and to shape the tool. Ground stone tools are objects that have been abraded or ground into specific shapes. A lithic assemblage consists of all the stone tools and debitage from a particular archaeological site.

Preliminary Field Reconnaissance (PFR)

A preliminary field reconnaissance (PFR) is a basic survey of a project area by a qualified archaeologist to determine the archaeological potential of a given project area and to inspect the surface of that area for archaeological remains. A PFR does not include any excavation or

subsurface testing. A PFR is typically undertaken in conjunction with a desk-top review of available archaeological or ethnohistoric information of a particular area.

Radiocarbon Dating

Radiocarbon dating (or C14 dating) is an analytical technique used by archaeologists to determine age of artifacts or archaeological sites, and is based on the known rate of radioactive decay of an isotope of carbon. This technique can be used to date organic materials such as charcoal, wood, bone, antler or shell. Samples for radiocarbon dating are sent to a specialized lab where they are analyzed in a mass spectrometer.

Shell Midden

A shell midden is an accumulation of the discarded remains of shellfish, fire-cracked rock, stone tools and faunal remains resulting from the past occupation of an area. Shell middens accumulate through many years of repeated use of an area. While the term midden refers to a refuse dump, shell middens are not only dumps, but contain the remains of houses, features and burials. Large shell middens are typically interpreted as the remains of past villages or settlements, while small shell middens are typically interpreted as the remains of temporary camps.

Stable Isotope Analysis

Stable isotope analysis is a type of chemical analysis of human or animal bone that identifies particular ratios of stable radioactive isotopes of specific elements to infer past diets. This analysis involves analysis of isotopes of carbon (C) and nitrogen (N) to determine the relative contribution of certain plants in past diets or the ratio of marine to terrestrial protein in past diets. Stable isotope analysis involves analyzing a small sample of bone in a mass spectrometer.

Systematic Data Recovery

In archaeology, systematic data recovery refers to the controlled excavation of archaeological materials by hand (trowel) involving the screening of all excavated materials and collection of all artifacts and fauna. Systematic data recovery is employed to gain the maximum amount of information from an intact archaeological deposit.

Toolstone

In archaeology, toolstone refers to a suite of rocks that are suitable for making flaked and ground stone tools. For flaked stone tools, desirable toolstones should fracture conchoidally, should hold a sharp edge, and should be free of internal fracturing planes. Examples of toolstones for

making flaked stone tools include obsidian, basalt, dacite, chert, and chalcedony. For ground stone tools, desirable toolstones should not fracture conchoidally, have either no internal fracturing planes or have clear unidirectional fracturing planes, and should be tough enough to hold a cutting edge. Examples of toolstones for making ground stone tools include slate and nephrite (jade).

Cultural Terms

ʔəms naʔ giʔe : “our territory” (‘umps na gijaye’)

ʔəms hehew : “ancestors (‘umps hey-hew’)

ʔəms taʔaw: “teachings from our ancestors” (‘umps tao’)

he səm t kʷə ms hehew kənesε: “the ancestors will look out for you” (‘he som koms hey-hew konese’)

11. Appendix 1 – KFN CHIP Application and Permit



K'ómoks First Nation

K'ómoks First Nation
3330 Comox Rd, Courtenay, BC V9N 3P8

Cultural Heritage Investigation
Permit (CHIP) Application

1. Applicant Information

Applicant: _____ Date: _____

Affiliation: _____

Address: _____

Street Address

City _____ Province _____ Postal Code _____

Phone: _____ Email _____

2. Project Background

Project name: _____

Project type: _____

Project proponent: _____

3. Project Area

General description: _____

Legal description: _____

PID: _____ PIN: _____

Borden Number(s) of registered archaeological site(s): _____

Classification / description of registered archaeological site(s): _____

Attach map of general project area

4. Archaeological Project Investigations

Type of investigation (select all that apply):

- Preliminary field reconnaissance
- Archaeological inventory or survey
- Archaeological Impact Assessment
- Mitigative excavation
- Construction monitoring
- Site alteration
- Academic research (including survey, testing and excavation)

Does this project also require a permit under the Heritage Conservation Act (HCA)?

YES NO

If yes, please attach the HCA permit or permit application.

If no, provide an explanation as to why it does not:

KFN Cultural Heritage Policy

Description of project and anticipated impacts to KFN cultural heritage:

Proposed measures to mitigate KFN cultural heritage impacts (include archaeological methodology for data recovery): *(see KFN Required Mitigation Table for recommended mitigations)*

Proposed project schedule:

Please note: if ancestral remains are recovered, the proponent will be responsible for reburial costs by KFN.

Proposed repository** for any KFN cultural heritage objects or artifacts.

** Please note that KFN's preferred repositories are:

- The *Courtenay District Museum and Archives* for cultural heritage and artifacts from the Comox Valley area
- The *Campbell River Museum and Archives* for cultural heritage and artifacts from the Campbell River area.
- The *Royal BC Museum (RBCM)* in Victoria for sites where excavated collections are already located at the RBCM (additional collections should join existing collections)

Does this project have a reasonable probability of encountering ancestral remains?

NONE LOW MED HIGH N/A

5. Permitting Fees

Select type of investigation and corresponding fee:

- \$400 CDN Small Cultural Heritage Investigation as defined under the KFN Cultural Heritage Policy
(the investigation area is less than 100 meters in maximum dimension or less than one hectare in area)
- \$600 CDN Large Cultural Heritage Investigation as defined under the KFN Cultural Heritage Policy
(the investigation area is greater than 100 meters in maximum dimension or more than one hectare in area)

Please note: large or complex cultural heritage investigations may require additional project management fees. These fees will be negotiated with KFN at time of permitting.

6. Signature

I certify that the information captured in this Cultural Heritage Investigation Permit (CHIP) application is true and complete to the best of my knowledge. I also certify that I have read the CHIP terms and conditions below.

Signature: _____ Date: _____



K'ómoks First Nation

K'ómoks First Nation
3330 Comox Rd, Courtenay, BC V9N 3P8

**Cultural Heritage Investigation
PERMIT (CHIP)**

1. Administrative Information

KFN CHIP Number: _____

Permit Holder Name: _____

Permit Holder

Affiliation: _____

Address: _____

Street Address

City Province Postal Code

Phone: _____ *Email* _____

2. CHIP Details

Site location: _____

Borden Number(s) of registered
archaeological site(s): _____

Activities covered under this KFN CHIP:

KFN Cultural Heritage Policy

Repository for any KFN cultural heritage objects or artifacts.

Issuance date: _____

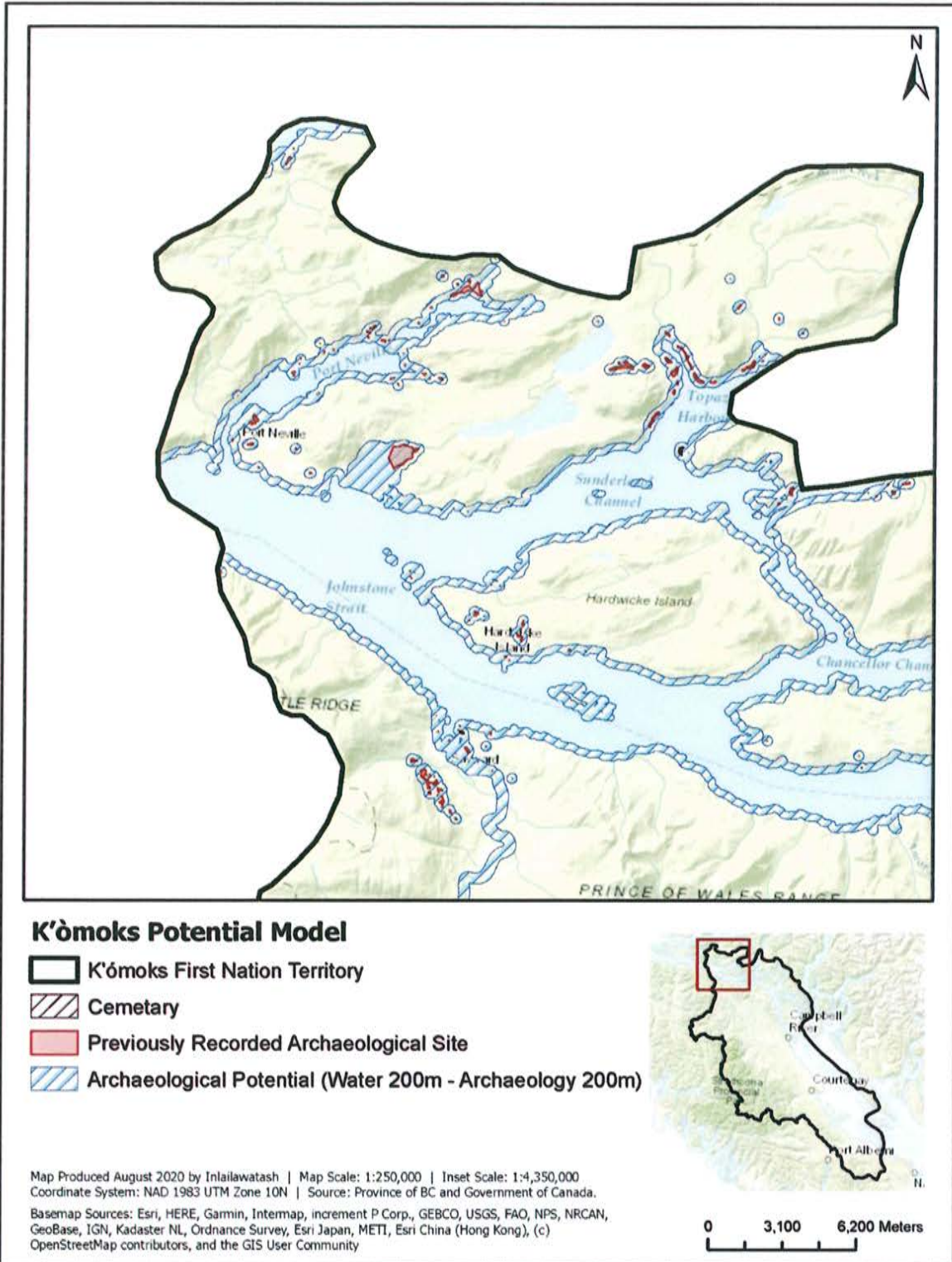
Expiry date: _____

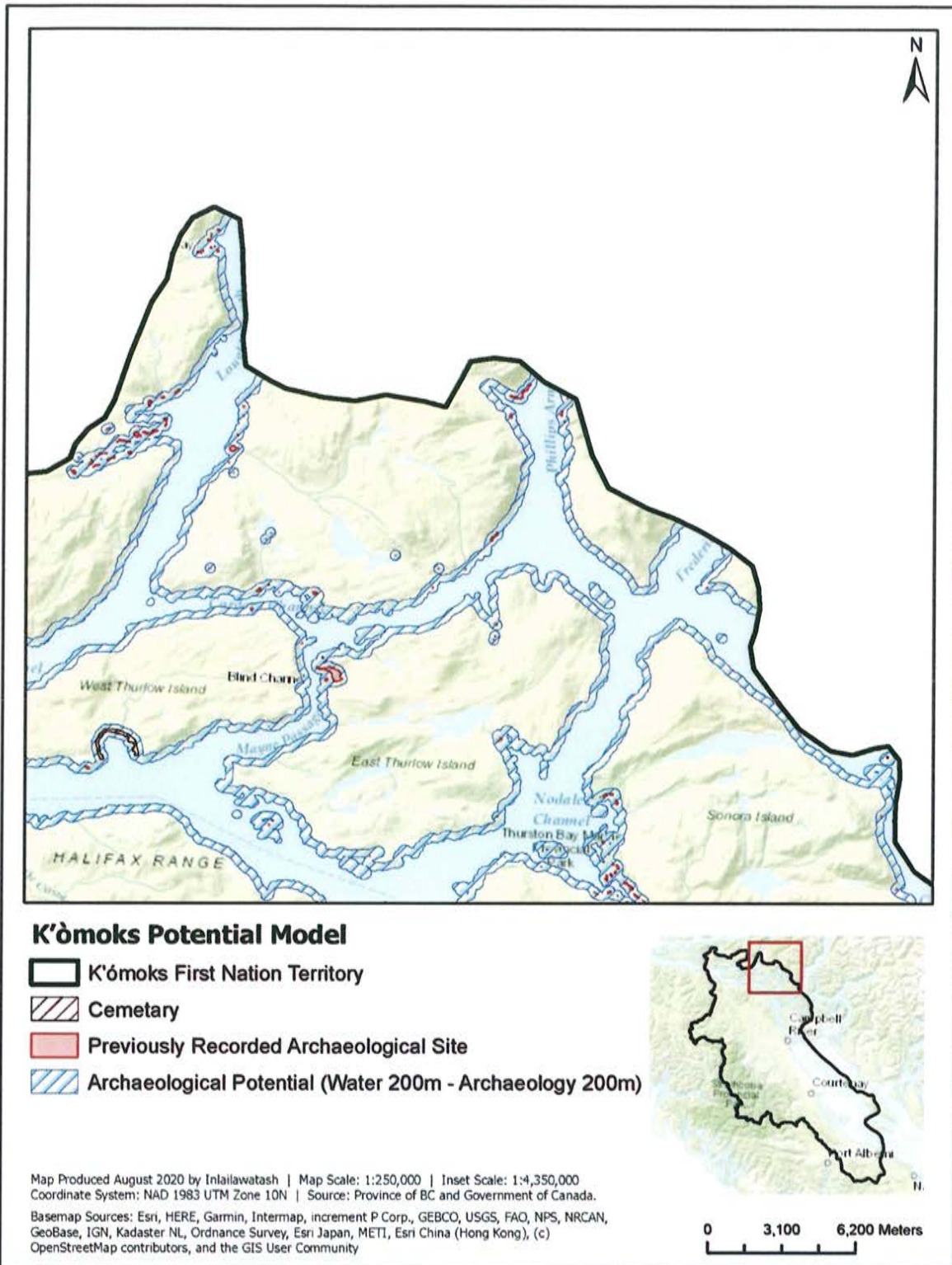
Signatory, Elected Chief

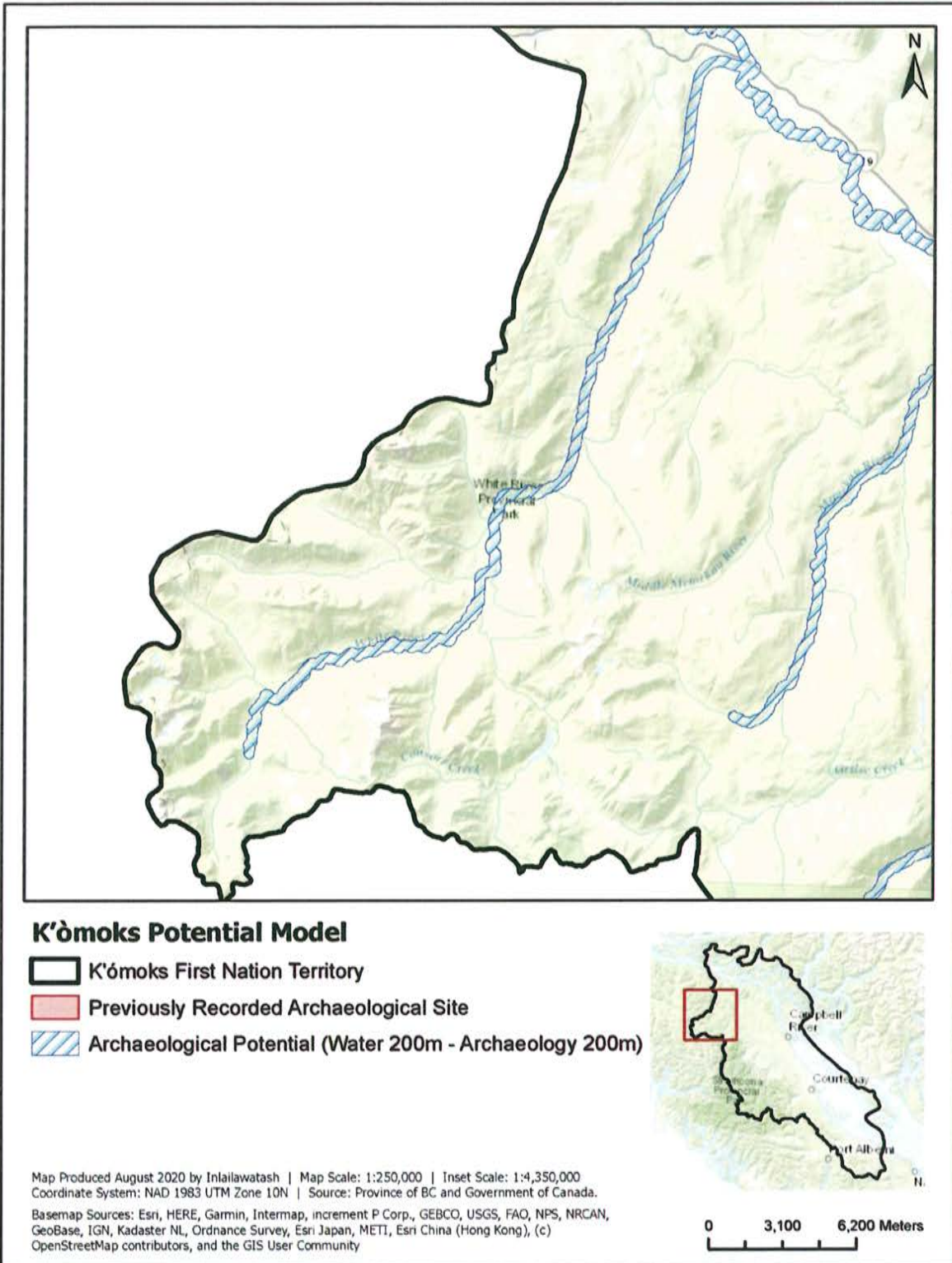
**K'ómoks First Nation Cultural Heritage Investigation Permit (KFN CHIP)
terms and conditions**

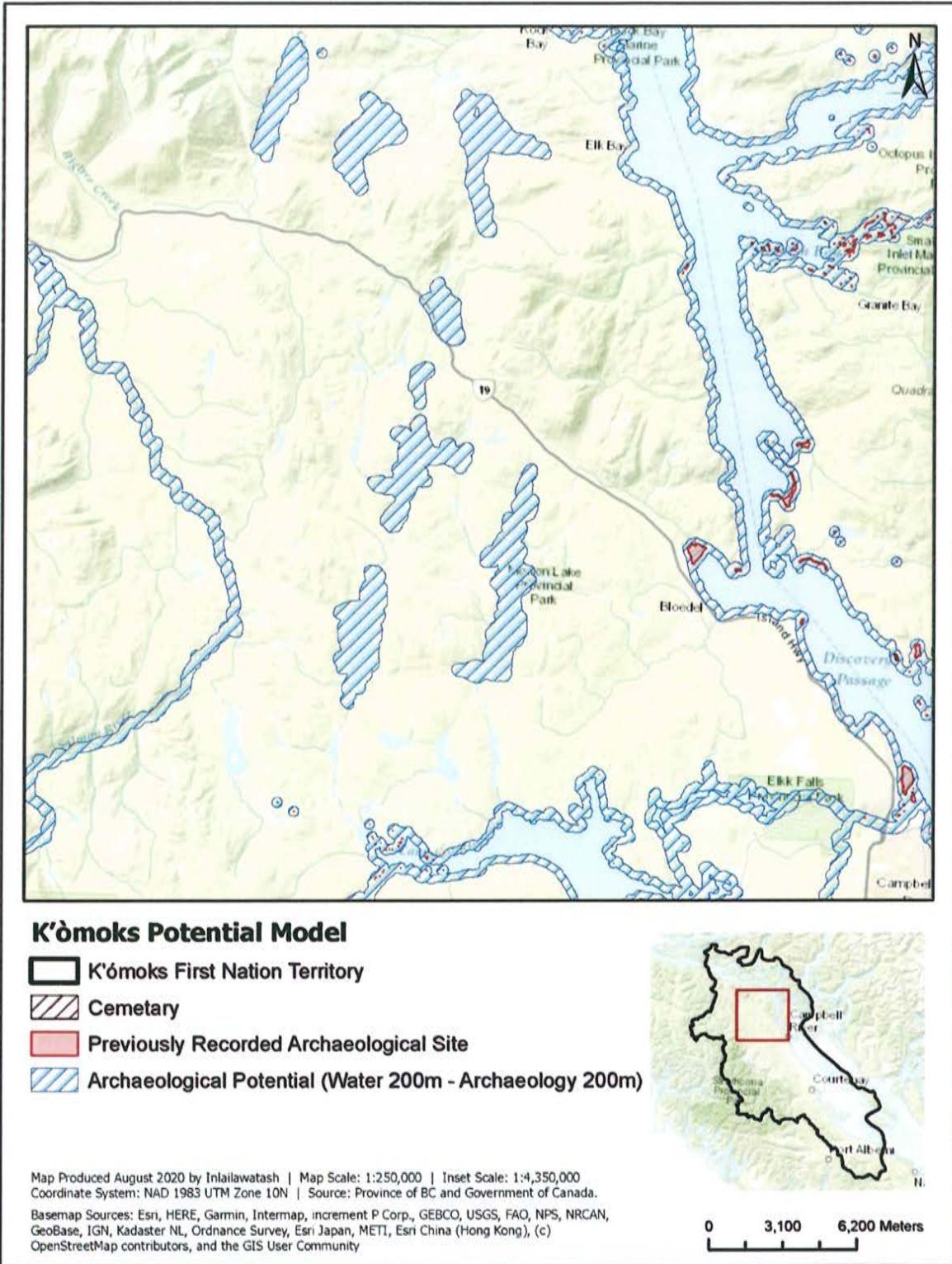
- The KFN Cultural Heritage Investigation Permit is valid for two years from the time of issuance. If the project is not complete within two years, an additional KFN Cultural Heritage Investigation Permit will need to be applied for.
- All fieldwork undertaken under this permit will include a KFN Guardian Watchman or KFN Archaeological Monitor for the duration of the fieldwork.
- Projects may require an additional project management fee, in addition to the permit fee, to be paid by the proponent.
- **If human remains are identified as a result of project related activities, the permit holder will immediately cease work, contact KFN, and follow KFN's specific requirements regarding human remains as detailed in the KFN Cultural Heritage Policy.**
- If human remains are removed as a result of project related activities, the proponent will bear the costs associated with reburial.
- Upon completion of fieldwork, the permit holder will make reasonable efforts to restore the physical appearance of the site.
- KFN will have a chance to review and comment upon the penultimate draft of the permit report.
- Upon completion of the project, KFN will be provided one digital and one paper copy of the final report.
- KFN retains the right to terminate this permit if evidence indicates that the permit holder is not acting under the terms and conditions of the permit.

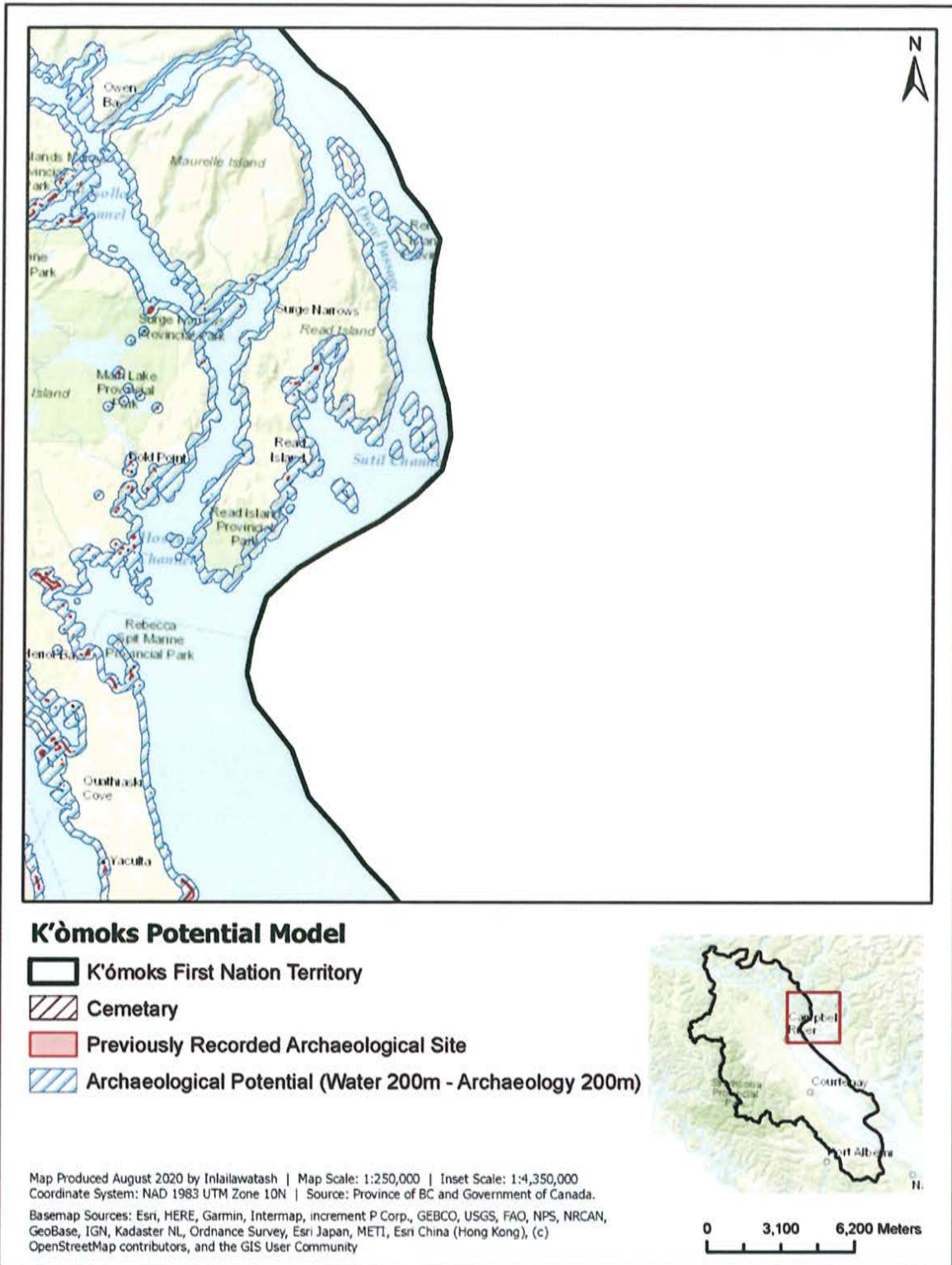
12. Appendix 2 – Map Atlas of KFN Territory, Archaeological Sites, and Areas of High Archaeological Potential

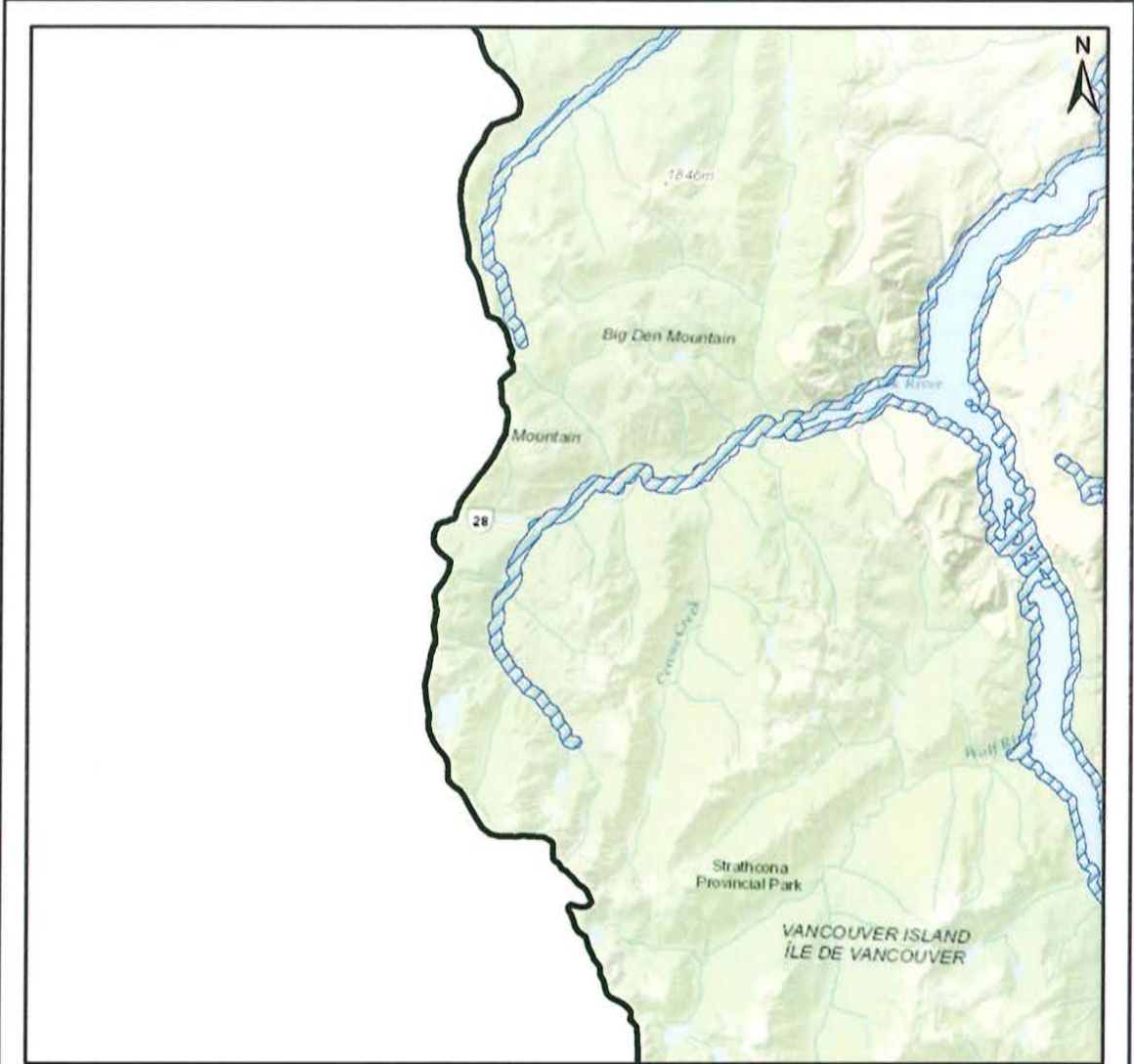






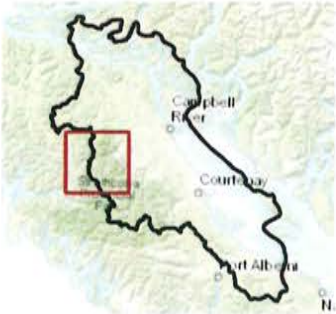




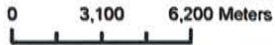


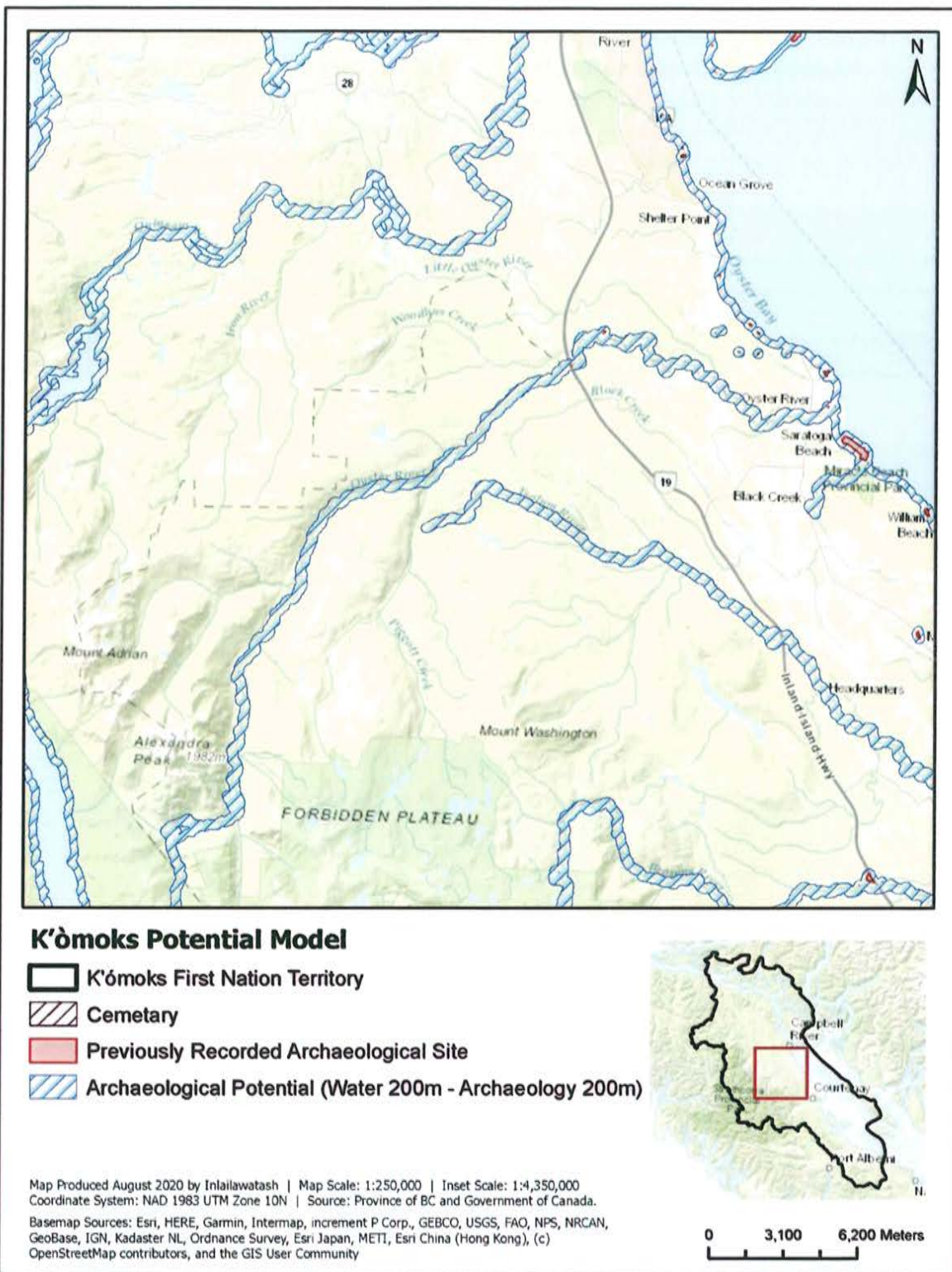
K'òmoks Potential Model

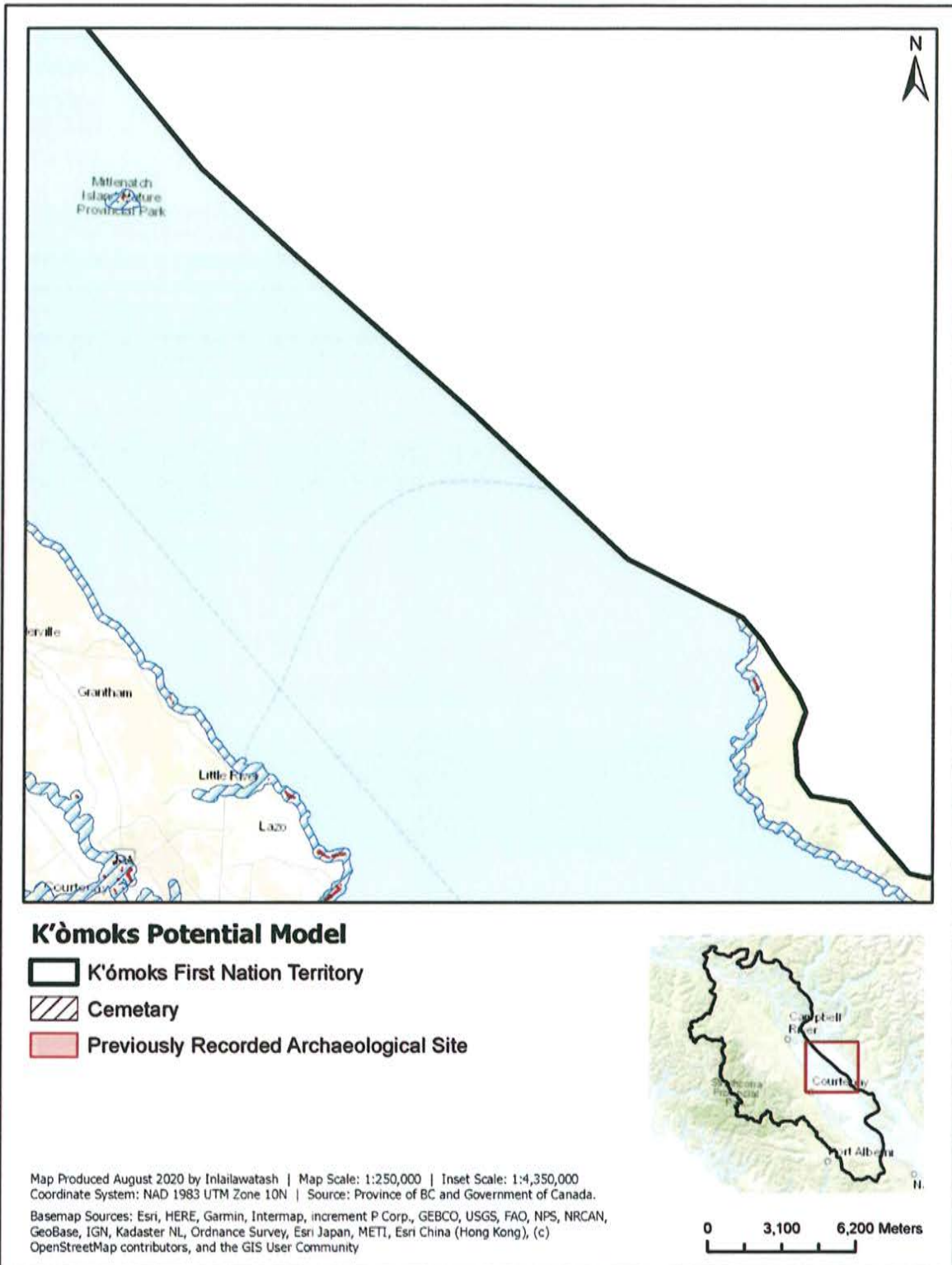
-  K'òmoks First Nation Territory
-  Previously Recorded Archaeological Site
-  Archaeological Potential (Water 200m - Archaeology 200m)

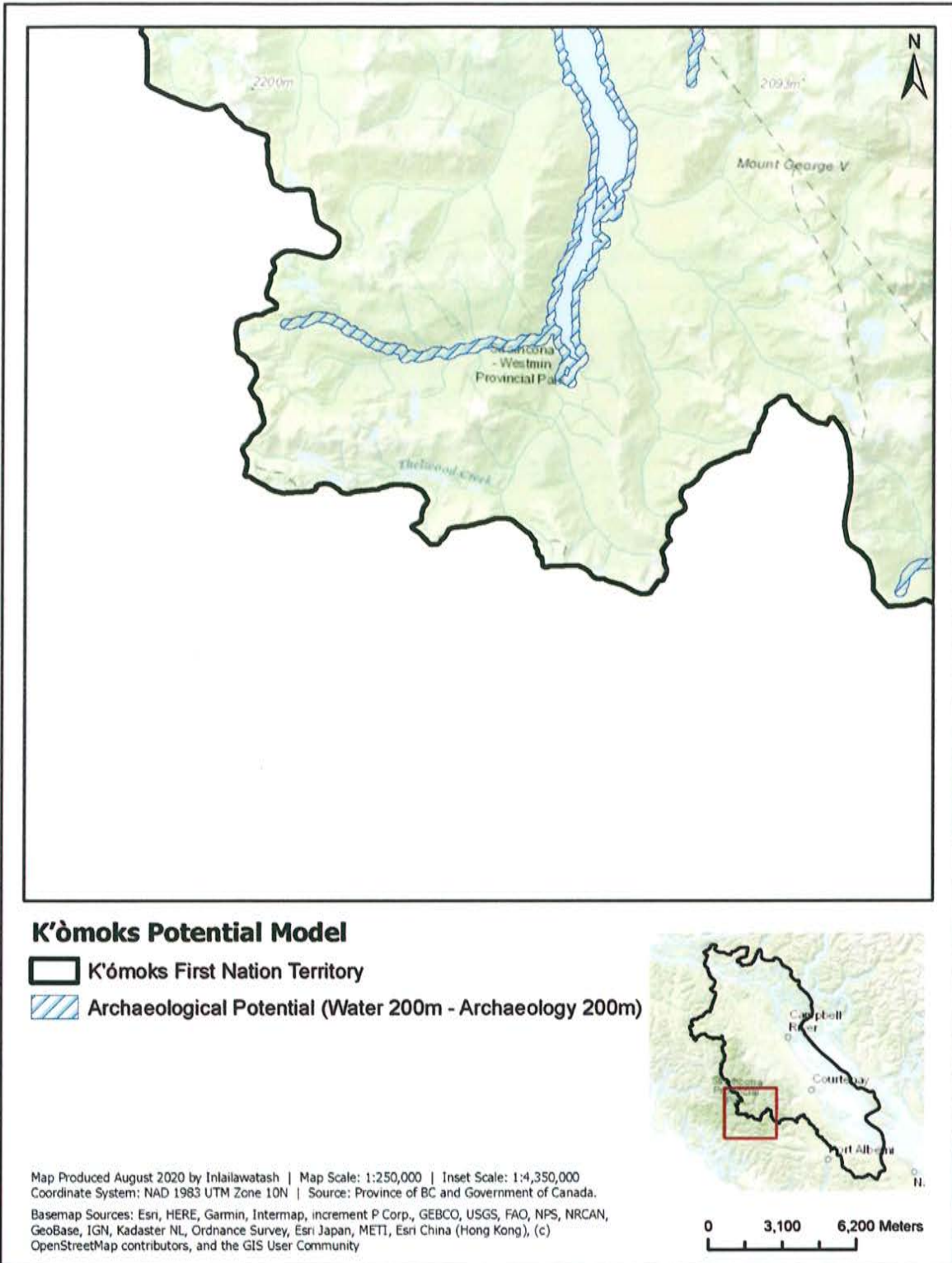


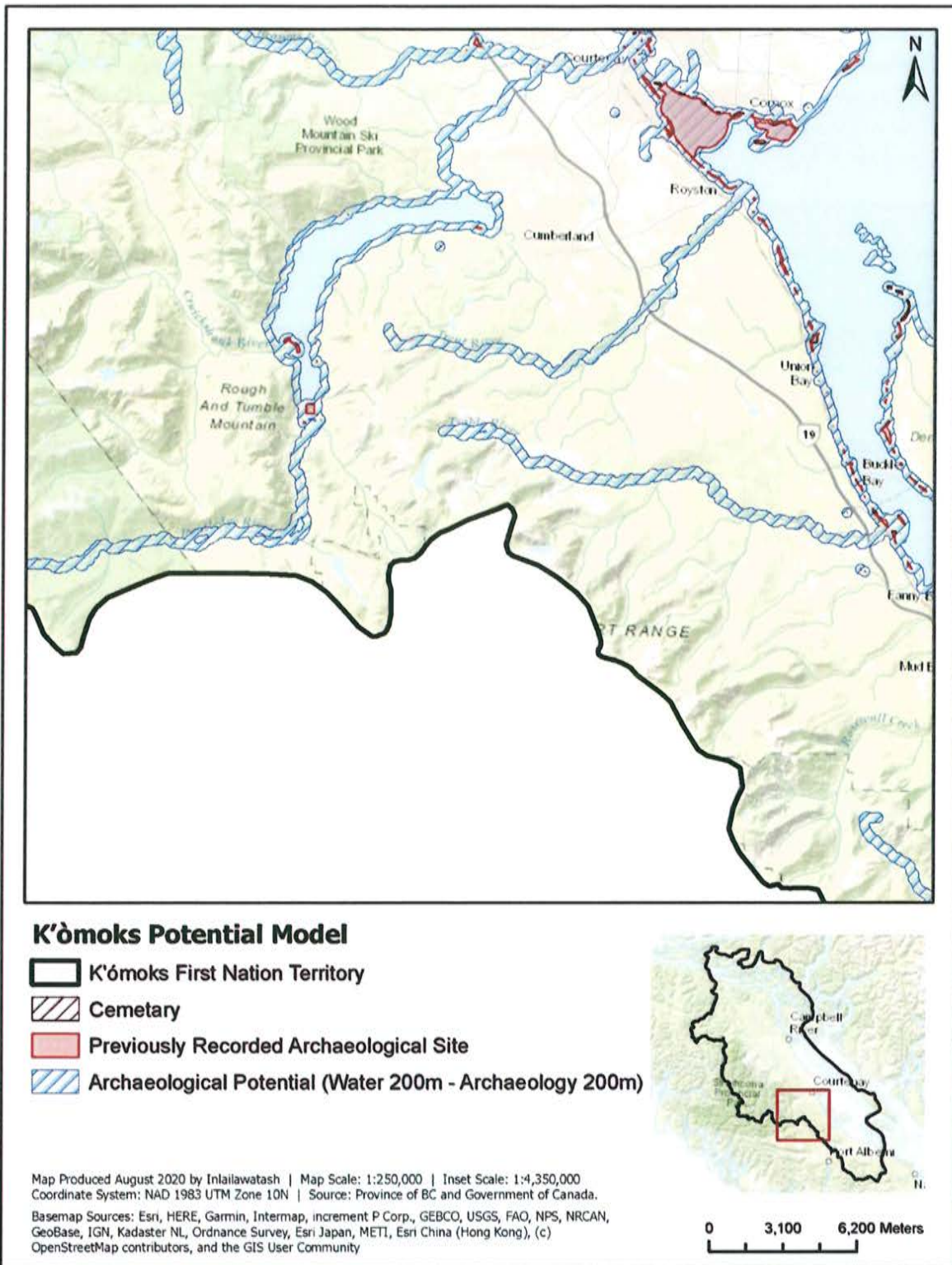
Map Produced August 2020 by Inlailawatash | Map Scale: 1:250,000 | Inset Scale: 1:4,350,000
 Coordinate System: NAD 1983 UTM Zone 10N | Source: Province of BC and Government of Canada.
 Basemap Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

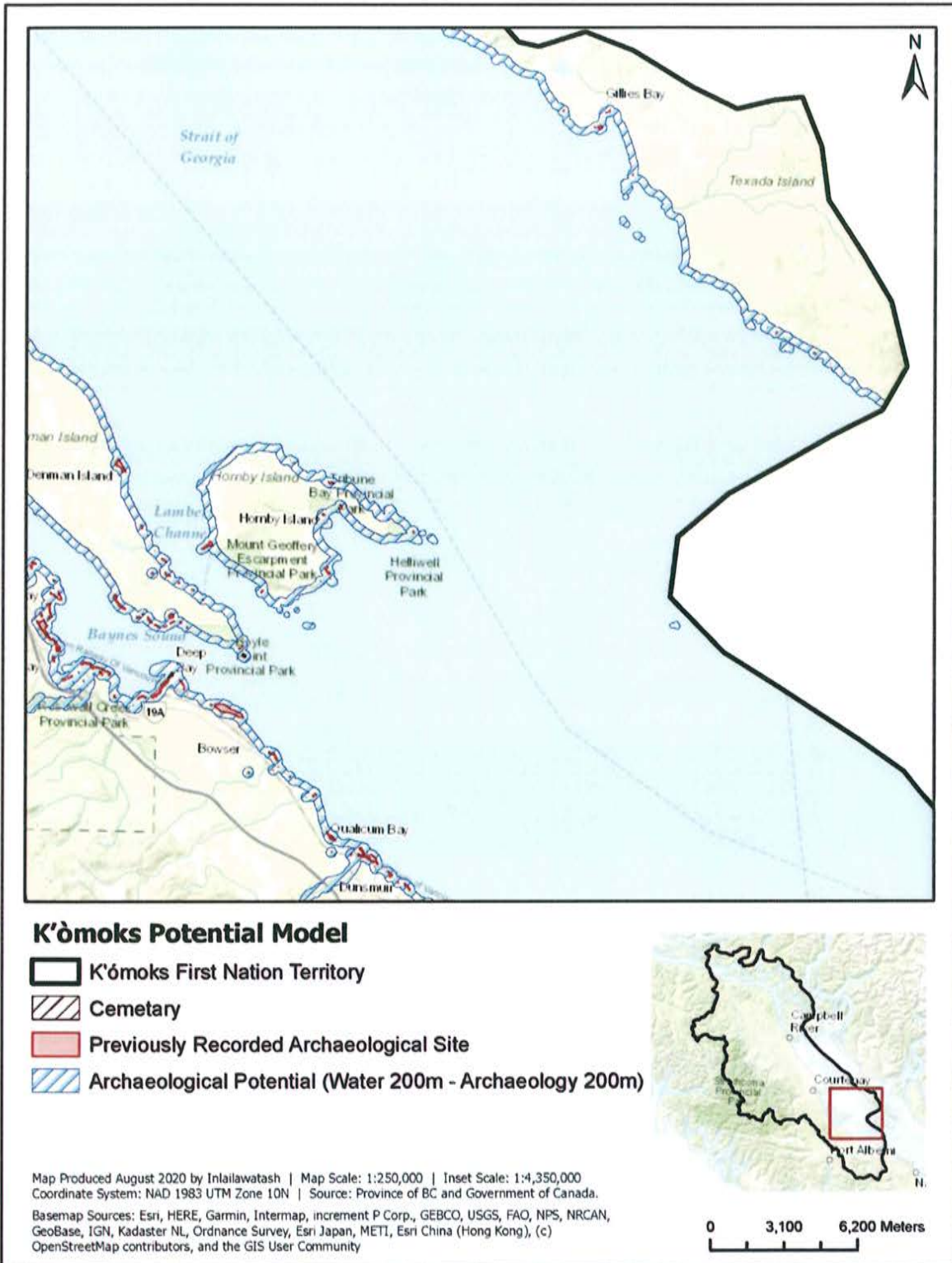


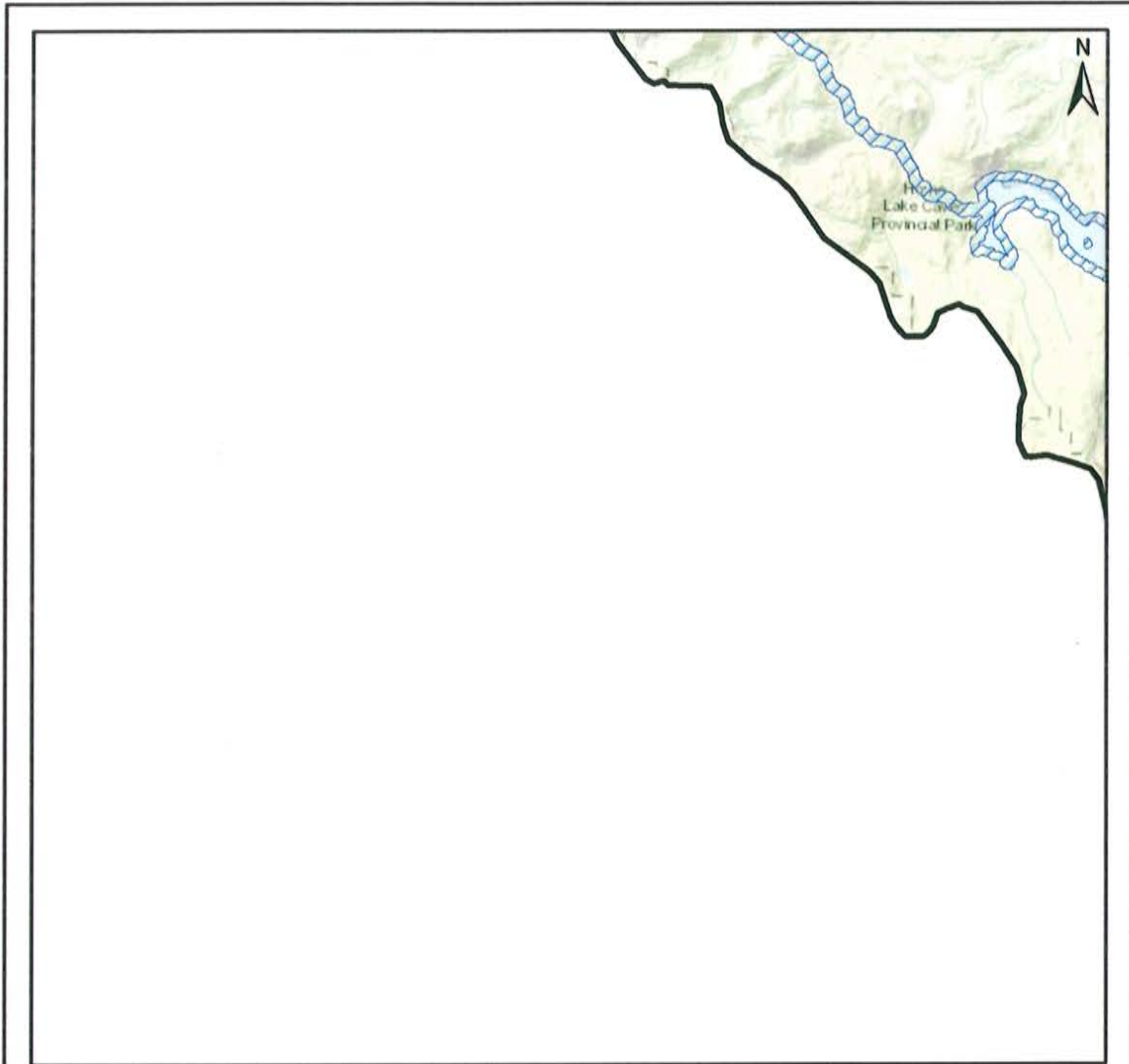












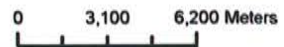


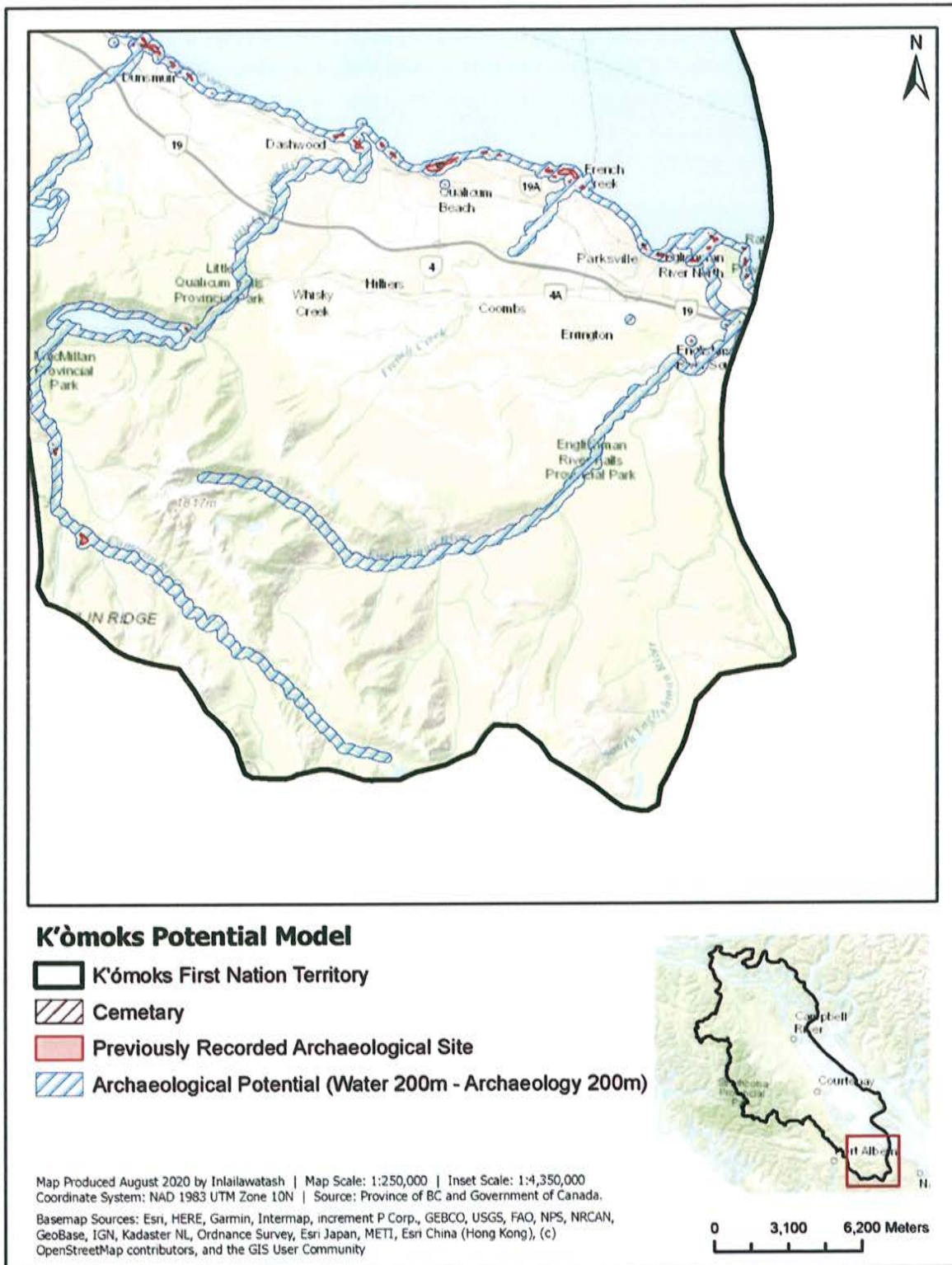
K'ómoks Potential Model

-  K'ómoks First Nation Territory
-  Archaeological Potential (Water 200m - Archaeology 200m)




Map Produced August 2020 by Inlailawatash | Map Scale: 1:250,000 | Inset Scale: 1:4,350,000
Coordinate System: NAD 1983 UTM Zone 10N | Source: Province of BC and Government of Canada.
Basemap Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community





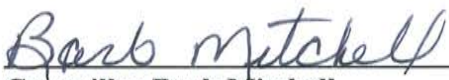
Signed on the 2nd day of OCTOBER 2nd, 2020 by the following:



Chief Nicole Rempel



Councillor Richard Hardy



Councillor Barb Mitchell

Councillor Katherine Frank