

Attachment: Strata Plan (3 Pages)

THIS EXAMINATION CONSISTS OF 7 PAGES (INCLUDING ATTACHMENT)
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER

THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – APRIL 2023

LAW 442
Condominium Law

Section 1
Professor DC Harris

TOTAL MARKS: 100

TIME ALLOWED: 1.75 HOURS (105 MINUTES)

1. This examination consists of two questions, and there are two parts to the 2nd question. Answer ALL questions.
2. This is an open-book examination. You are allowed to use any printed or published material. You may not use any electronic material other than your laptop or notebook computer with ExamSoft Exemplify software.
3. Put your exam code on the question paper and return the question paper at the end of the exam.
4. Students writing by hand:
 - a. write legibly on every second line of your exam booklet and on one side of the page;
 - b. do not put your name on the exam booklets; and
 - c. return all exam booklets, including blank ones, at the end of the exam.
5. Do not begin your exam until you are instructed to do so.
6. **Good luck!**

QUESTION 1 [50 Marks]

In *2475813 Nova Scotia Ltd. v Rodgers*, 2001 NSCA 12, Justice Cromwell of the Nova Scotia Court of Appeal described condominium as “the combination of several legal concepts” and one that incorporates “principles drawn from several different areas of law.” Among the legal concepts and areas of law, Cromwell noted this:

The law relating to corporations is also of importance because the condominium is administered by the condominium corporation in which the unit holders are in a position analogous to shareholders.

Describe the extent to which the law relating to corporations is relevant in British Columbia’s strata property regime. Is it descriptively accurate and normatively desirable to think of strata lot owners as analogous to shareholders? Would another analogy provide greater clarity and suggest a better model?

QUESTION 2 [50 Marks]

Sidney Island is one of the southern Gulf Islands located several kilometres off the coast from the town of Sidney. It is nearly nine square kilometres in size. The Sidney Spit National Park Reserve, part of the Gulf Islands National Reserve Park, occupies the north end of the island. The Sidney Island strata corporation occupies the south end.

In 2001, the owner-developer of the southern portion of Sidney Island deposited a strata plan, subdividing the area into 24 residential strata lots (see page 5). The lots occupied the perimeter of the island. The strata plan designated the large interior of the island and parts of the shoreline as common property.

In 2005, the owner-developer submitted an amended strata plan, eliminating the original strata lots and creating in their place 136 residential strata lots. The first sheet of the amended strata plan is shown on page 6, and a detailed view of strata lots 27-39 and 135 and 136 in the amended strata plan appears on page 7. These lots occupy what had been strata lots 1 and 2 and part of 3 on the original strata plan. Most of the strata lots created in 2005 were approximately one hectare in area. The interior of the island and parts of the shoreline remain designated as common property. Indeed, approximately 80% of the area of the strata corporation is common property.

A. 20 Marks

Sidney Island lies within the North Pender Island Local Trust Area, and the North Pender Island Local Trust Committee acts as the regional government for the area. Under North Pender Island Local Trust bylaws, the minimum lot size is four hectares.

Explain the legal basis for how an owner-developer might be permitted to subdivide a parcel of land, creating strata lots that are smaller than the minimum lot size as set out in the regional bylaws. What additional information, if any, would you need in order to determine whether this development would meet this standard?

B. 30 Marks

The Sidney Island strata corporation has worked for years with Parks Canada, which manages the Sidney Spit National Park Reserve on the north end of the island, to restore the indigenous ecology of the island. European settlement brought invasive species, including English Hawthorn, Scotch broom, and fallow deer. The English Hawthorn and Scotch broom have crowded out many indigenous plants and grazing by the large population of fallow deer has severely hampered efforts to restore the ecology. In fact, the fallow deer, which co-exist on the island with native black-tailed deer, have a significant negative impact on the island's vegetation and ecosystem.

In 2022, Parks Canada and the Sidney Island strata council signed an agreement that would allow Parks Canada officials to remove invasive plant species from common areas of the strata corporation and to eradicate deer, including the fallow deer and black-tailed deer. The removal of the invasive plant species would involve extensive digging and excavation on the common property. The deer would be eradicated primarily by aerial shooting and then by fenced zoning, using teams with trained dogs to help clear a fenced area in the common property before moving to another fenced area. The fencing would be temporary. Once the deer were removed, then the fences would be taken down and the black-tailed deer would be allowed to return to the island. Parks Canada would cover all the costs.

The agreement provides that its implementation is subject to ratification by the strata corporation.

The strata lot owners are divided over the agreement with Parks Canada. The strata corporation held a Special General Meeting (SGM) to discuss and to vote on the agreement. Of the 136 owners, 120 attended the SGM. They voted 62 in support of the agreement, 58 opposed.

The owners in support claim that this outcome is sufficient to ratify the agreement with Parks Canada to undertake the restoration work. In fact, they argue that no vote was required, at least in so far as the *Strata Property Act* is concerned, and that the strata council could have simply authorized the work on the common property. They point to the work that the strata corporation undertook in past years to manage and reduce the deer population, including targeted deer culls. In some years, the strata corporation hired professional cull hunters to reduce the deer population. In those years, the expense for

hiring the hunters was approved when the owners approved the budgets at annual general meetings, but there was no separate vote to authorize the hunt.

On the other hand, the owners opposed to the plan claim that the vote was inadequate to approve the agreement and to authorize the work. They point to the disruption that would be caused by the work to remove the invasive plant species. Some within the group are concerned about the loss of the deer and that the black-tailed deer may not naturally repopulate the island. The majority are concerned that the removal of the deer will eliminate recreational hunting opportunities. Under the strata corporation's rules, there is a 35-day open season for hunting deer on the common property, and most years the owners and their guests take approximately 100 deer. The owners who are opposed also speculate that the loss of recreational hunting will reduce the attractiveness of the island to many potential purchasers and thus the value of the lots.

Set out the legal basis for the positions of the owners in support of the agreement with Parks Canada and those who are opposed. What vote, if any, is required?

END OF EXAMINATION

BARE LAND STRATA PLAN OF LOT A, PLAN VIP 72610, SECTION A, SECTIONS 1 TO 11, RANGE 1 EAST, SECTIONS 1 TO 12, RANGE 1 WEST, SALLAS OR SIDNEY ISLAND, NORTH SAANICH DISTRICT

Sheet 1 of 11 Sheets

STRATA PLAN V/S5/22

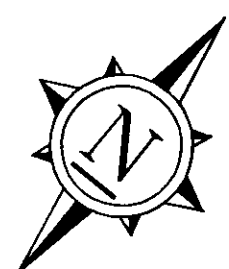
Deposited and registered in the Victoria Land Title Office, this 3rd day of Aug., 2001.

Registrar

SEE AMENDED SHEET 1 AMENDED PURSUANT TO SECTIONS 257 AND 259 STRATA PROPERTY ACT THIS 25TH DAY OF MAY, 2005 SEE EX60549.

B.C.G.S. 928.054 and 928.064

SIDNEY SPIT MARINE PARK



PLAN INDEX	
STRATA LOT	SHEET NUMBER
1	2
2	3
3	4
4	5
5	6
6	7
7	8
8	9
9	10
10	11
11	12
12	13
13	14
14	15
15	16
16	17
17	18
18	19
19	20
20	21
21	22
22	23
23	24

Legend

Scale 1:7500



All distances shown are in metres LCP denotes Limited Common Property S.L. denotes Strata Lot Pt. denotes Part Bearings are astronomic and derived from Plan VIP 72610 This plan lies within the Capital Regional District. This plan lies within the Capital Assessment Area.

BOOK OF REFERENCE	
AREA	SIZE (hectares)
COMMON PROPERTY	543.8
COMMON PROPERTY (conservation zones)	43.5
LIMITED COMMON PROPERTY	4.7
STRATA LOTS	121.5
AGGREGATE	713.5

The areas of the strata lots, limited common property, and the conservation zones, are shown on the individual strata sheets. See the PLAN INDEX for the appropriate strata sheet number.

SIDNEY CHANNEL

Miners Point

MINERS CHANNEL

Mortgagee: Vancouver City Savings Credit Union

Fiona Quinn
Authorized Signatory

S. Maclean
Authorized Signatory

Witness: *Michael P. Leroux*
Barrister & Solicitor
300 - 1111 MELVILLE ST.
VANCOUVER, B.C. V6E 4H7
TEL: (604) 682-3664

Owner: SYLVAN ENTERPRISES LTD.
IN TRUST, DD EF5321

S. Pearce
Authorized Signatory

Witness: *Arnon Daxner*
Address: 1500 - 1040 W. GEORGIA ST.
VANCOUVER, BC V6E 4H8
Occupation: LAWYER

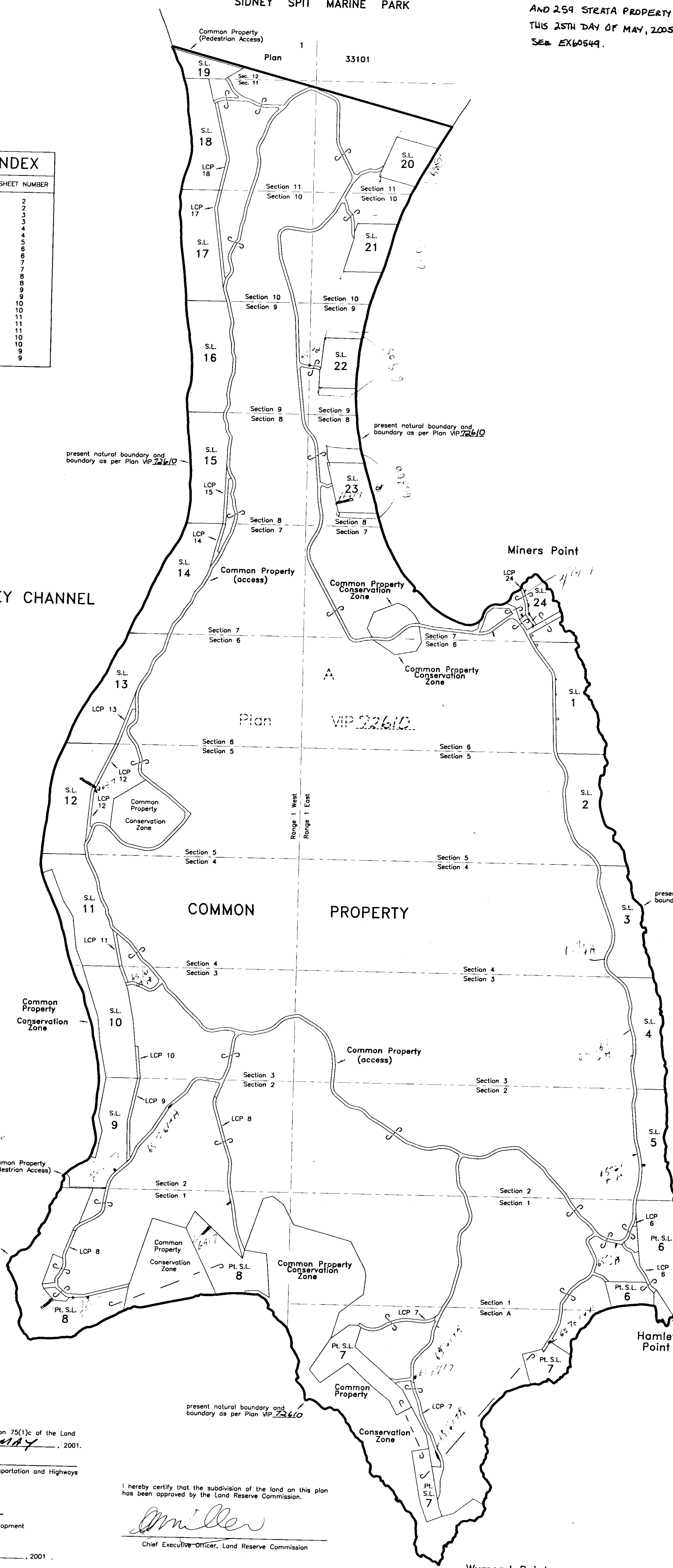
The registered owners designated hereon hereby acknowledge that they have entered into a covenant in favour of Her Majesty the Queen in the Right of the Province of British Columbia, as represented by the Minister of Transportation and Highways, and the North Fraser Island Local Trust Committee, under Section 219 of the Land Title Act.

The registered owners designated hereon hereby acknowledge that they have entered into a covenant in favour of Her Majesty the Queen in the Right of the Province of British Columbia, as represented by the Minister of Transportation and Highways, and the Capital Regional District Building Inspector under Section 219 of the Land Title Act.

The registered owners designated hereon hereby acknowledge that they have entered into a covenant in favour of the Trust Fund Board of the Island Trust, under Section 219 of the Land Title Act.

I, Michael S. Manson, a British Columbia Land Surveyor, of Victoria, in British Columbia, certify that I was present at and personally superintended the survey as represented by this plan and that the survey and plan are correct. The survey was completed on the 17th day of May, 2001.

Michael S. Manson
B.C.L.S.



This plan need not comply with Section 75(1)c of the Land Title Act. Dated this 31st day of MAY, 2001.

Approved as a Bare Land Strata development under the Strata Property Act, this 31 day of MAY, 2001.

I hereby certify that the subdivision of the land on this plan has been approved by the Land Reserve Commission.

J.E. ANDERSON & ASSOCIATES B.C. Land Surveyors - Consulting Engineers Victoria and Nanaimo, B.C. phone 727-2214 File: 20625/2

19042

Status: Filed Plan #: V/S5/22 App #: N/A Ctrl #: (Altered) RCVD: 2001-08-03 ROST: 2023-04-11 16:35:07

PLAN OF SUBDIVISION OF STRATA LOTS 2 TO 18, 20, 21, 22, 23, 25 and 26, STRATA PLAN VIS5122, SECTION A, SECTIONS 1 TO 11, RANGE 1 EAST, SECTIONS 1 TO 12, RANGE 1 WEST, SIDNEY ISLAND, NORTH SAANICH DISTRICT

(PREPARED PURSUANT TO SECTIONS 257 AND 259 OF THE STRATA PROPERTY ACT)

B.C.G.S. 928.054 and 928.064

AMENDED SHEET 1

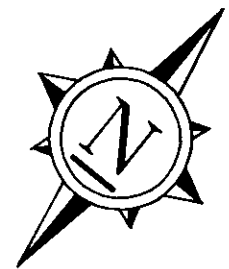
Sheet 1 of 11 Sheets

STRATA PLAN VIS5122

Deposited and registered in the Victoria Land Title Office, this 25th day of MAY, 2005.

Pailey M.F. Registrar

EX60549



SIDNEY SPIT MARINE PARK

SIDNEY CHANNEL

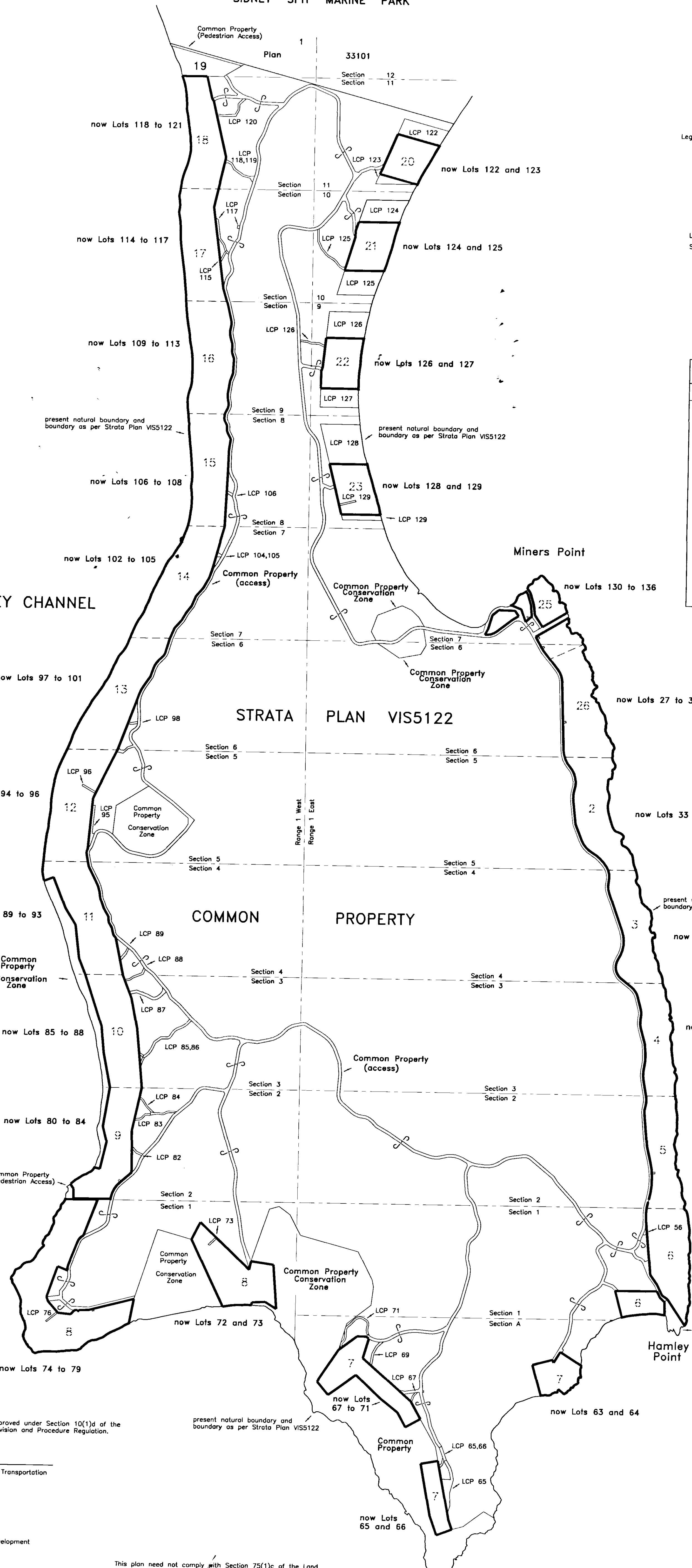
STRATA PLAN VIS5122

COMMON PROPERTY

MINERS CHANNEL

Hamley Point

Wymond Point



Legend

Scale 1:7500



All distances shown are in metres

LCP denotes Limited Common Property
S.L. denotes Strata Lot

Bearings are astronomic and derived from Strata Plan VIS5122

This plan lies within the Capital Regional District.

This plan lies within the Capital Assessment Area.

PLAN INDEX

OLD STRATA LOT	SHEET	NEW STRATA LOT	SHEET
2	2	33 to 38	SECOND AMENDED 2
3	3	39 to 43	AMENDED 3
4	3	44 to 49	AMENDED 3
5	4	50 to 54	SECOND AMENDED 4
6	4	55 to 62	SECOND AMENDED 4
7	5	63 to 71	SECOND AMENDED 5
8	6	72 to 79	SECOND AMENDED 6
9	7	80 to 84	SECOND AMENDED 6
10	7	85 to 88	AMENDED 7
11	7	89 to 93	AMENDED 7
12	8	94 to 98	AMENDED 8
13	8	99 to 101	AMENDED 8
14	9	102 to 105	THIRD AMENDED 9
15	9	106 to 108	AMENDED 9
16	10	109 to 113	AMENDED 10
17	10	114 to 117	AMENDED 10
18	11	118 to 121	AMENDED 11
19	11		
20	11	122, 123	AMENDED 11
21	10	124, 125	AMENDED 10
22	10	126, 127	AMENDED 10
23	9	128, 129	AMENDED 9
24	9		
25	SECOND AMENDED 9	130 to 134	THIRD AMENDED 9
26	AMENDED 2	135 and 136	SECOND AMENDED 2
		27 to 32	SECOND AMENDED 2

Note: Not all of the Limited Common Property has been shown on this index sheet because of the scale of the drawing. Refer to the individual sheets for a complete description.

AS TO SIGNATURES OF OWNERS SEE DF NO.

EX60549

The registered owners designated hereon hereby declare that they have entered into a covenant agreement with Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Transportation under Section 249 of the Land Title Act.

I hereby certify that this plan is approved under Section 10(1)d) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation.

Approving Officer for The Ministry of Transportation

ACCESS BY WATER ONLY

Approved as a Bare Land Strata development under the Strata Property Act, this

28 day of April, 2005.

Approving Officer for The Ministry of Transportation

This plan need not comply with Section 75(1)c) of the Land Title Act. Dated this 28 day of April, 2005.

Minister of Transportation

J.E. ANDERSON & ASSOCIATES
B.C. Land Surveyors - Consulting Engineers
4212 Glenford Avenue, Victoria, B.C.
phone 727-2214
File : 20625-7

20625-2004/20625_STRATA_SHEET_1_amended.DWG

I, Michael S. Manson, a British Columbia Land Surveyor, of Victoria, in British Columbia, certify that I was present at and personally supervised the survey as represented by this plan and that the survey and plan are correct. The field survey was completed on the

11th day of February, 2005.

The plan was completed and checked, and the checklist filed under # 27,617, on the 18th day of February, 2005.

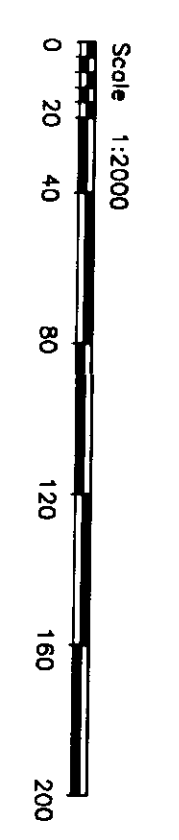
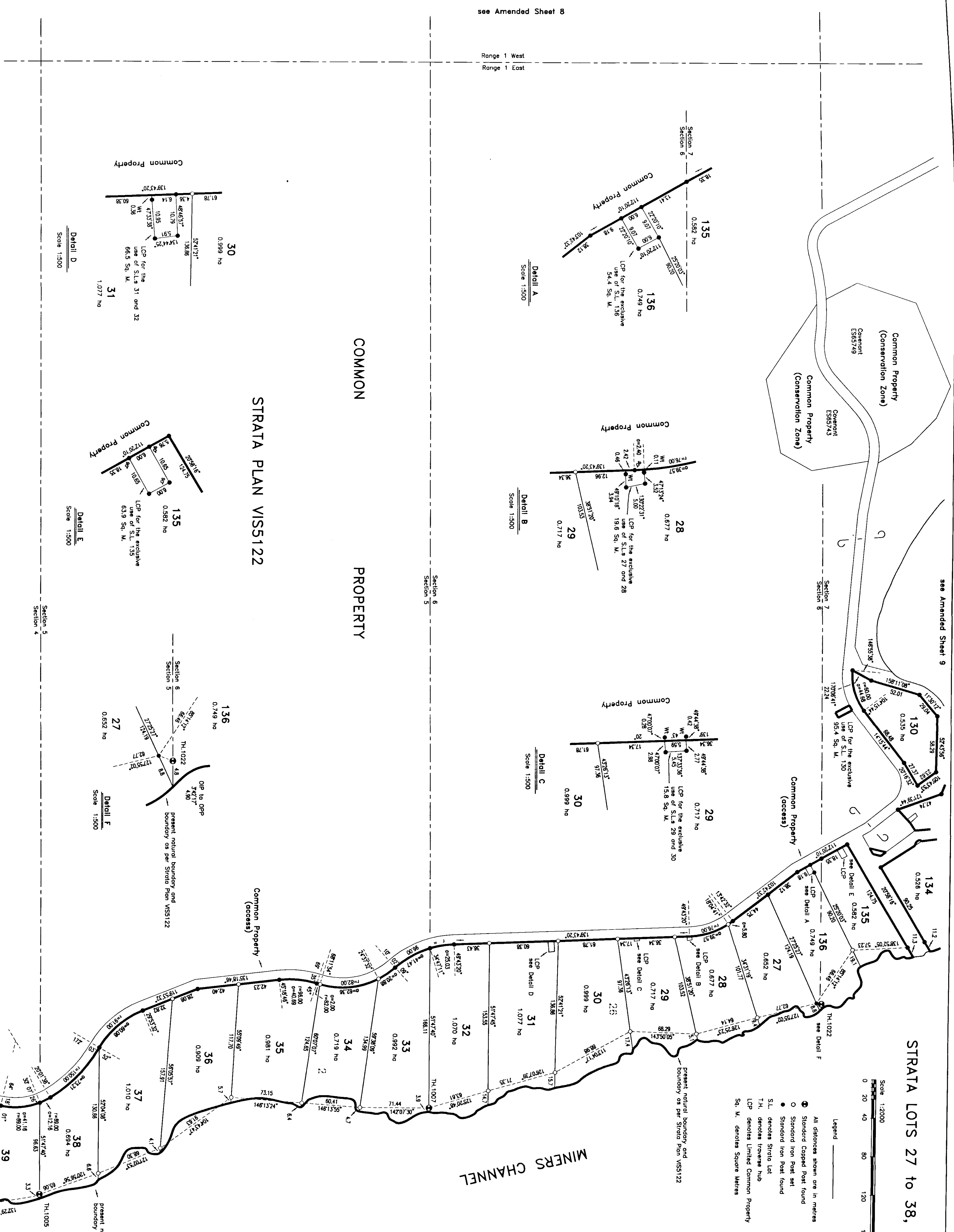
Michael S. Manson
B.C.L.S.

Status: Filed

Plan #: VIS5122 App #: N/A Ctrl #: (Altered)

RCVD: 2001-08-03 ROST: 2023-04-11 16:35:07

see Amended Sheet 8



- Legend
- All distances shown are in metres
 - Standard Capped Post found
 - Standard Iron Post set
 - Standard Iron Post found
 - S.L. denotes Strata Lot
 - T.H. denotes Traverse Hub
 - LCP denotes Limited Common Property
 - Sr. M. denotes Square Metres

STRATA LOTS 27 to 38, 135 and 136

STRATA PLAN VIS5122

TRAVERSE TABLE OF TIES TO THE NATURAL BOUNDARY

At TH.1007	Bearing (Bearing Point)	Distance
W188	310/56/00	117.0
W189	311/16/30	108.5
W190	308/48/07	104.0
W200	295/27/50	129.1
W202	310/01/55	87.6
W203	309/20/11	82.0
W204	312/43/15	79.1
W205	314/05/12	69.9
W209	318/28/12	68.7
W208	323/01/28	53.3
W209	325/01/28	48.7
W210	329/12/12	48.9
W211	342/25/49	34.6
W212	346/40/25	21.0
W213	337/28/48	14.6
W214	338/11/04	7.5
W215	13/22/22	4.3
A216	19/08/03	11.8
W218	83/07/20	14.4
W219	110/05/04	28.0
W220	114/53/45	38.5
W221	121/03/29	38.2
W222	125/45/03	42.9
A222	136/28/41	42.8
W225	134/31/22	54.2
W226	138/52/18	58.4
W227	142/28/31	75.9
W228	142/28/31	75.9
W229	148/44/09	83.9
W230	148/09/01	92.7
W232	148/42/32	111.0
A233	148/29/26	120.9
W235	143/15/14	130.2
W236	143/48/42	149.5
W237	145/00/51	178.9
W238	145/12/15	178.9
W239	143/48/01	178.9
A241	141/08/21	232.0
W242	139/20/09	255.8
A243	137/12/22	267.8
W244	135/04/49	267.8
W245	131/21/21	280.5
W246	132/00/05	287.3

TRAVERSE TABLE OF TIES TO THE NATURAL BOUNDARY

At TH.1022	Bearing (Bearing Point)	Distance
W126	286/01/51	60.6
W127	295/31/02	140.9
W128	294/09/29	126.1
W129	285/33/52	111.3
W130	292/37/15	101.0
W133	292/37/15	102.2
W134	280/22/26	91.7
W135	281/48/28	92.9
W136	279/18/29	83.9
W137	279/18/29	76.7
W138	279/28/08	67.6
W139	278/28/08	58.7
W140	278/28/08	58.7
W141	278/28/08	58.7
W142	287/52/33	51.1
W143	296/34/08	48.3
W144	301/12/44	35.4
W145	307/41/17	37.2
W146	307/41/17	37.2
W147	302/27/18	34.2
W148	316/29/29	24.3
W149	325/40/13	20.1
W150	325/21/00	13.5
A151	319/09/28	10.2
W152	319/09/28	10.2
W153	67/27/12	7.7
W154	95/46/08	15.7
W155	108/44/26	20.5
W156	108/44/26	17.4
A156	121/11/34	17.4
W158	146/27/22	21.3
W159	131/40/34	32.9
W160	135/18/37	32.9
W161	129/23/05	46.3
W162	131/21/28	51.7
W163	121/30/43	78.2
W164	123/33/28	81.0
W165	122/28/26	84.7
W166	120/40/28	82.4
W167	120/40/28	82.4
W168	120/40/28	82.4
W169	121/16/17	102.6
W170	122/29/51	108.0
W171	124/03/45	118.1
W172	125/22/26	129.4
W173	126/42/04	129.7
W174	125/33/26	133.8
W175	124/42/23	142.2
W176	125/09/25	148.6
W177	122/18/04	153.8
W178	122/18/04	153.8
W179	122/28/09	160.4
A180	124/59/41	182.8
C11	125/28/24	180.1
A181	129/28/24	180.1
W182	129/28/24	177.7
A183	131/26/43	180.6
W184	131/26/29	188.1
W185	129/13/26	191.9
W186	129/02/05	197.0
A188	128/10/01	205.1
W189	127/40/05	213.3
W190	125/59/53	213.3
A191	125/59/53	213.3
W192	125/59/53	213.3
W193	123/55/20	240.6
W194	123/55/20	261.1
W195	124/09/24	275.1
W196	124/32/06	285.8
W197	124/18/51	283.8

J.E. ANDERSON & ASSOCIATES
 B.C. Land Surveyors - Consulting Engineers
 Victoria and Nanaimo, B.C. Phone 727-2214
 File #: 20625-7
 20625_2004\20625_strata_lot_1_2.dwg

see Amended Sheet 3

Feb. 18, 2005
 Michael S. Morrison
 B.C.L.S.