

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

PRELIMINARY DECISION
Leask Cove Subdivision – ADL 108147

Proposed Land Offering in the Ketchikan Gateway Borough
AS 38.05.035(e), AS 38.05.045

RELATED ACTIONS:
None Proposed

PUBLIC COMMENT PERIOD ENDS 5:00PM, WEDNESDAY, APRIL 13, 2022

I. Proposed Action

Preliminary Decision: Leask Cove Subdivision - ADL 108147

Attachment A: Vicinity Map

Attachment B: Public Notice

Primary Proposed Action: The primary proposed action of this Preliminary Decision of the State of Alaska, Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) is to offer for sale State-owned land within the identified project area. If approved, surveyed parcels will be offered for sale.

LCS proposes to sell land within the Leask Cove project area for the purpose of providing land for settlement by developing a subdivision of no more than 25 parcels no smaller than two acres in the east portion, and no smaller than one acre in the west portion of the project area. Subdivision design may include additional tracts as necessary. The project area consists of approximately 150 acres with approximately 75 acres identified for disposal by this proposed action. The project area may be subdivided and offered in multiple stages.

After consideration of public comment, the size and boundaries of the project area will be described in a subsequent Final Finding and Decision (FFD), if the project proceeds to that step. Additional adjustments may be made prior to survey/subdivision, as described in the applications to the platting authority, as needed to reserve areas for public use, minimize conflicts between uses, or ensure compliance with platting requirements. Although actions under this proposal are limited to the stated maximums, additional offerings may be authorized under future proposals, which could increase the density of privately-owned parcels within, adjacent to, or near the project area.

Proposed Related Actions: No related actions proposed.

Public Notice of Proposal: In accordance with *AS 38.05.945 Notice*, during a period of at least 30 consecutive days, the public will have the opportunity to submit written comment on this proposal.

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Public Meeting: LCS will be holding a public meeting to discuss the proposal and share information about the project area. The public meeting will be held via Microsoft Teams on March 31, 2022 from 5:00 PM – 7:00 PM. Please see **Attachment B: Public Notice** for details.

See **Section VIII. Submittal of Public Comments** at the end of this document and *Attachment B: Public Notice* for details on how to submit a comment for consideration. If, after consideration of timely, written comments, LCS moves forward with the proposal, a Final Finding and Decision will be issued.

II. Method of Sale

LCS proposes to offer for sale land within the project area as described herein, through a future offering under *AS 38.05.045 Generally*.

Parcels offered through this action are offered fee-simple for the surface estate only. For more information about the land sales program, please visit <http://landsales.alaska.gov>.

III. Authority

DNR has the authority under *AS 38.05.045 Generally* to sell State-owned land if, on preparation and issuance of a written finding, it is determined to be in the best interest of the State, as required by *AS 38.05.035(e) Powers and Duties of the Director*. Article VIII, Section 1, of the Constitution of the State of Alaska states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." In addition, if it is deemed appropriate, DNR has the authority to develop and offer parcels larger than 5 acres under the allowances listed in *AS 38.04.020(h) Land Disposal Bank*.

IV. Administrative Record

The project file, Leask Cove Subdivision - ADL 108147, constitutes the administrative record for this proposed action. Also incorporated by reference are:

- Central/Southern Southeast Area Plan for State Lands (CSSEAP, adopted 2000) and associated land classification files;
- *Alaska Interagency Wildland Fire Management Plan (2021 Review)*;
- *Alaska Department of Fish and Game Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes*;
- *Alaska Department of Transportation & Public Facilities Ketchikan to Shelter Cove Road Reconnaissance Report, August 2012*;
- *1979 Exploratory Soil Survey of Alaska*; and
- DNR case files: National Forest Community Grant selection (NFCG 143), public easement for power transmission lines (ADL 106839), public easement for Shelter Cove Road (ADL 107613), University of Alaska Agreement/Settlement (ADL 229401), conveyance from University of Alaska to State of Alaska DNR (OSL 1431), mineral orders (MO 1017 and MO 1045); and, other cases, documents, reports, etc. referenced herein.

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V. Scope of the Proposal

The scope of this proposal, under the statutes described in the preceding **Section III. Authority**, is limited and specific to LCS's proposal to offer State-owned land within the defined project area for disposal as described herein. The scope of this proposal does not include the control of post-patent use and LCS does not intend to impose deed restrictions for this purpose. The subdivision may be conducted in multiple stages.

VI. Location

The project area is located within DNR's Southeast Region, on Revillagigedo Island, approximately 13 miles northeast of Ketchikan, within Section 30, Township 73 South, Range 92 East, Copper River Meridian, within the Ketchikan Gateway Borough (KGB). The project area consists of approximately 150 acres with up to 75 acres identified for disposal by this proposed action.

The project area is within the Ketchikan Gateway Borough and subject to the borough's platting authority.

Native Regional and Village Corporations: The project area is within the boundaries of the Sealaska regional corporation. The villages of Saxman and Metlakatla are within 25 miles of this proposed action and notice will be sent to Ketchikan Indian Community, Central Council of the Tlingit and Haida Indian Tribes of Alaska, Village of Saxman, Cape Fox Corporation, and Metlakatla Indian Community.

VII. Property Description

Lots 5, 6, 7, 8, 10B, 11A, & Tract 1 of Section 30, Township 73 South, Range 92 East, Copper River Meridian, according to Alaska State Cadastral Survey No. 880073, recorded in the Ketchikan Recording District on April 26, 1990 as plat 90-7, containing approximately 150 acres, as depicted on Attachment A: Vicinity Map.

VIII. Title

Title Report No. 20811, current as of December 29, 2021, indicates the State of Alaska holds fee title to the land and mineral estate within the project area under Statutory Quitclaim Deed, dated April 23, 2010. The applicable State case file is OSL 1431. The parcel is subject to the reservations, easements and exceptions contained in the federal patent including the right to the United States, its permittees or licensees, to enter upon, occupy, and use, any part or all of said land lying within one hundred (100) feet of the centerline of the transmission line right-of-way of the Alaska Energy Authority, Power Project No. 2911 (AA-56764), located within the project area, for the purposes set forth in and subject to the conditions and limitations of Section 24 of the Federal Power Act of August 26, 1935, as amended, 41 Stat. 1075, as amended, 16 U.S.C. 818.

State Reservations of Title:

Retention of and Access to Mineral Estate: In accordance with *Section 6 (i) of the Alaska Statehood Act* and *AS 38.05.125 Reservation [of Rights to Alaska]*, the State retains ownership of the mineral estate that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals (such as gold, copper and silver, etc.), and leasable minerals (such as oil, gas, coal, etc.).

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The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing, and producing these reserved mineral resources. Access reserved to these retained interests is superior to any and all surface uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, *AS 38.05.130 Damages and Posting of Bond* also provides that the land estate owner will be compensated for damages resulting from mineral exploration and development.

Navigable Waters: Per *AS 38.05.126(b) Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the state, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the state." This trust is in accordance with the principles of the Public Trust Doctrine, which are included in Article VIII, Section 14 of the Constitution of the State of Alaska and protected in the United States Constitution. It is vested in the title to this land, is not transferable, and the State's title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made and access will be reserved per *AS 38.05.127 Access To and Along Public and Navigable Water*. For more information, see section **XIII. Access To, Within, and Beyond Project Area**.

The Bureau of Land Management has not made a navigability determination for waters within the affected townships for title purposes.

Where they exist within the project area, State third-party interests will be described in land sales brochures.

IX. Physical Characteristics and Hazards

Information about the project area is based on internal research, information received during agency review, and on-ground field inspections conducted on August 21, 2014 and October 1, 2020. This is by no means a complete description of the project area and if this proposal is approved and the area offered for sale, it will be the responsibility of interested parties to inspect individual parcels prior to purchase to familiarize themselves with the physical characteristics of the land.

Terrain and Major Features: The project area is split into east and west portions that do not intersect. Elevation within the project area ranges between 0 to 600 feet above sea level with an average slope of 30% and a maximum slope of 75%. The topography within the project area is generally steep. The southern point on the west portion of the project area has a maximum slope of 10% and is most desirable for development. The eastern portion contains a plateau above and parallel to the shoreline and boundary of the conveyed Upper George Inlet subdivision lots. Parts of the project area with slopes that are too steep for development will be retained in state ownership. Both the east and west portions contain limited shoreline access, with gravelly and rocky beaches.

View: Some parcels will have views of Leask Cove, Bat Cove, and/or George Inlet.

Vegetation: Vegetation within the project area is a temperate rainforest consisting of young growth with scattered patches of old growth hemlock, Sitka spruce, and

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occasional western red cedar trees. The underbrush consists of ferns, blueberries, high bush cranberries, and moss. Vegetation has been brushed below the power transmission lines within the ADL 106839 public easement.

Soils: Soils within the project area generally consist of well drained, very gravelly silty loam Humic Lithic Cryorthod and Humic Cryorthod soils. These soils are present on steep hillsides where outcrops of bare rock are common. Bedrock may be reached within 20 inches below the forest litter. No class 2-4 agricultural soils are present. Known soil concerns will influence the project's design and feasibility and such features will be described in the project file and offering materials where relevant.

Wetlands: Freshwater Forested/Shrub Wetlands and a freshwater pond may exist along the southeast edge of the east portion of the project area. Subdivision design will account for wetland areas as appropriate. Dredging or filling of wetlands may require a permit from the US Army Corps of Engineers.

Geologic Hazards: Geologic hazards are common throughout Alaska. Information gathered during field inspection did not indicate any specific geologic hazards for this area. Should any geologic hazards be discovered in the development of this proposal, information will be included in offering materials.

Fire Information: Pursuant to observations from the August 21, 2014 and October 1, 2020 field inspections and information received from the Division of Forestry, fire risk in the area is likely low. There is no reported history of fires within the vicinity. The project area is within the Full and Modified Fire Management Option Areas.

Fire management options and policies for the area are identified in the Alaska Interagency Wildland Fire Management Plan available from DNR Division of Forestry. The current fire management options for the project area are "Full" and "Modified."

The policy on areas with the "Full" management option reads, "The suppression objective is to prioritize the protection of cultural and paleontological sites, developed recreational facilities, physical developments, administrative sites and cabins, uninhabited structures, high-value natural resources, and other high-value areas that do not involve the protection of human life and inhabited property. The allocation of suppression resources is a high priority but is below wildland fires within or threatening a Critical management option area." The policy on areas with the "Modified" management option reads, "The Modified option provides a management level between Full and Limited. Unlike Full management areas, the intent is not to minimize burned acres, but to balance acres burned with suppression costs and to accomplish land and resource management objectives when conditions are favorable. The allocation of suppression resources is below Critical and Full areas."

The Alaska Interagency Wildland Fire Management Plan also states that there is no guarantee of protection from wildfire in any management option. It is the personal responsibility of the landowner to mitigate and minimize risk to their property and structures and to be 'Firewise'."

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Flood Hazard: There is no Flood Insurance Rate Map available for the project area. There is potential for seasonal flooding and erosion of parcels adjacent to water bodies, especially in low-lying areas. All coastal lots within the Ketchikan Gateway Borough are subject to FEMA regulations, and flood elevation certificates are required for structures that are built on coastal lots. Parcels outside of the mapped flood zones are subject to the community determined base flood elevation of 22 feet above mean lower low water unless the base flood elevations are determined by a licensed surveyor or engineer in the field.

Water Resources: All surface and subsurface waters on all lands in Alaska are a public resource, subject to appropriation in accordance with the Alaska Water Use Act (AS 46.15). No active water rights have been identified within the vicinity of the project area. There is no well or water quality information within the area. Potential water sources in the area include rainwater collection or collection from several small, unnamed streams. Water quality is unknown. Additional information on wells, water quality, and drinking water may be obtained from the Alaska Department of Environmental Conservation.

Utilities: No known services exist within the project area.

Waste Disposal: The Ketchikan Solid Waste Facility is located 22 miles from the project area. All on-site wastewater disposal systems must meet the regulatory requirements of the Alaska Department of Environmental Conservation.

X. Background:

The state acquired the land within the project area under statehood entitlement, National Forest Community Grant (NFCG) 143 for the purpose of furthering the development and expansion of communities. The State received tentative approval for the land in 1983, and patent for the surface and mineral estate in 1991. In 2008, State-owned land in upper George Inlet, along with the land within the project area was conveyed to the Board of Regents of the University of Alaska (UA) under case file ADL 229401. Shortly thereafter, the Supreme Court of Alaska enjoined the State from conveying the land to the UA, and the land was conveyed back to the State of Alaska in 2010 through quitclaim deed. The land is subject to all reservations, easements, restrictions, covenants, conditions, rights-of-way, encumbrances, exceptions, and other matters of record included in the Federal Patent. The reconveyed land was serialized as case file OSL 1431 and all original land classifications remained.

LCS identified the area for this project based on the settlement classification in the CSSEAP and the recent construction of the Shelter Cove Road which will provide road access to the area. Shelter Cove Road is an extension of White River Road. White River Road is a 14-foot single lane rock and gravel road accessed from Ketchikan's main road system at the end of Revilla Road near Lake Harriet Hunt. The road has been extended to the project area by the Alaska Department of Transportation & Public Facilities (DOT&PF) through the purchase of approximately 107 acres of Alaska Mental Health Trust land in 2014. The road changes to Shelter Cove Road upon entering the project area and is constructed within a 300-foot wide easement issued to the DOT&PF. Shelter Cove Road continues beyond the project area to Shelter Cove in Carroll Inlet. The connection to Ketchikan's road system will likely make parcels within this project more desirable to purchasers.

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The project area is surrounded by public and navigable waters in Leask Cove and Bat Cove. Both the east and west portions contain limited shoreline access, with gravelly and rocky beaches. The adjacent state-owned uplands are within the Southeast State Forest managed by the DNR Division of Forestry as commercial forest. All other uplands in the surrounding area are Mental Health Trust, private, or federal lands part of the Tongass National Forest. The eastern portion of the project area is adjacent to 22 parcels of the 1984 Upper George Inlet Subdivision (ASLS 84-39, plat 84-54). These parcels range from approximately 1.5 to 2.5 acres and are primarily used for recreational residences. No other private property or prior State land offerings have occurred or exist in the area. LCS does not anticipate that the sale of land in this area will affect the resources including present or potential use of lands in other ownership.

There are no known utilities or services within the project area. Ketchikan Public Utilities stated that the project area is outside of their service area and providing utility power is not feasible. Present and potential uses of the land have been considered. Known uses in the area include hunting, boating, and recreational use by Ketchikan area residents. The adjacent Upper George Inlet Subdivision parcels have been used for private settlement purposes, but the construction of the White River/Shelter Cove Road extension may make the area more accessible to future landowners and the public.

The power transmission lines for the Swan Lake Hydroelectric Project transect the project area through a 200-foot right-of-way (ROW) described in the patent. This hydroelectric project is regulated by the Federal Energy Regulatory Commission (FERC) as power project No. 2911, licensed to Southeast Alaska Power Agency (SEAPA). In 2004, DNR DMLW issued ADL 106839, a 300-foot public utility easement encompassing the 200-foot ROW, to SEAPA. This easement authorized the power transmission lines connecting the powerhouse at the Swan Lake Hydroelectric Power Project with the Ketchikan power grid. LCS engaged SEAPA during the planning for this subdivision project. SEAPA advised that access to or along a power transmission line corridor is generally not authorized except for the purpose of maintenance and emergency repair access. LCS intends to retain the land within the 200-foot ROW in state ownership. If the project is approved, parcels containing land within the additional 50-feet on each side of the 200-foot ROW will be conveyed subject to the public utility easement.

Parcels in excess of five acres may be created during subdivision design due to the remote location or topography of the project area. Parcels in excess of five acres allow additional space around topographical features, potential wetlands, soil conditions, on-site sewage disposal requirements, or water supply and drainage considerations that are unique to the subdivision.

LCS proposes to develop a subdivision of no more than 25 parcels no smaller than two acres in the east portion, and no smaller than one acre in the west portion of the project area. Final design and plat approval will be in coordination with the Ketchikan Gateway Borough, in accordance with their ordinance. The proposed subdivision will help fulfill the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest. The subdivision will provide an excellent opportunity for the public to obtain land for settlement in a scenic area that is accessible by road and/or water from Ketchikan. In addition, offering land in the area will provide additional opportunities for economic involvement in the community.

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XI. Planning and Classification

The project area is within the Central/Southern Southeast Area Plan (CSSEAP, adopted 2000), Region 5 - Ketchikan, Unit K-11. Lands within this unit are currently designated for the multiple uses of Settlement, General Use, and Public Recreation & Tourism-Undeveloped. The lands are classified as Settlement, Resource Management, and Public Recreation lands under Land Classification Order No. SE-00-001. The project area consists of a portion of the management unit within the south half of Section 30, excluding Bat Point. LCS reviewed the general management intent of the area plan, region, and management unit for consistency with the proposed offering.

Region 5, Unit K-11 Considerations: The unit management intent states that the comparatively flat coastal areas adjoining the cove and occupying the south one-half of Section 30 designated S (Settlement) are to be managed for eventual settlement. A remote residential land disposal should be considered during the planning period. The remainder of the parcel is designated General Use. Timber sales are appropriate within areas designated Settlement if intended to support the development of an eventual or proposed subdivision. In these sales, consideration will be given for, but not limited to, maintaining a vegetated buffer between the areas of timber harvest and settlement, and the creation of leave areas for community recreation and to minimize the visual impacts of logging. Due to the limited size of the project area, LCS is not proposing a timber sale in advance of subdivision development.

Area-wide Considerations: LCS reviewed the area plan's guidelines in Chapter 2 Areawide Land Management Policies. LCS will incorporate these considerations into the design and development of the project. Lands to be retained in public ownership, conditions, and reservations will be included on the plat and in offering materials as appropriate. Specific area-wide management intent and management guidelines affecting this proposal are discussed below.

Coordination and Public Notice: Management guidelines provide that public notice in accordance with *AS 38.05.945* is required for decisions involving the sale of State land, and that notice will be given to parties known or likely to be affected by an action. Public notice is being conducted in accordance with *AS 38.05.945*. Refer to section **XVII. Submittal of Public Comments** for more information.

Cultural Resources: Management guidelines provide that the state will protect the cultural resources by conducting cultural surveys or inventories prior to the design of land offerings in areas that the Division of Parks and Outdoor Recreation Office of History and Archaeology (OHA) determines have high potential to contain important cultural sites. LCS coordinated with OHA during the development of this proposal and OHA did not identify any known cultural resources within the project. LCS will continue to coordinate with OHA through the design of the subdivision as necessary.

Fish and Wildlife Habitat and Harvest Areas: These management guidelines primarily apply to areas designated Habitat or Harvest. However, management guidelines regarding fish and wildlife habitat provide that all land use activities will be conducted with appropriate planning and implementation to avoid or minimize adverse effects

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on fish, wildlife, or their habitats. ADF&G was consulted during the agency review period and did not have any specific comments or concerns for this project area.

Forestry: Area-wide management guidelines provide that in areas designated Settlement, state commercial timber sales will adhere to the Forest Resources and Practices Act (FRPA), pertinent state regulations for commercial forestry, and will not be considered a “land use conversion” as described in FRPA. Such timber harvest shall be a direct support of current or future state subdivision development. A license is required for beach log salvage. LCS is not proposing a timber sale within the project area.

Settlement: Management guidelines regarding settlement address: Planning and Coordination; Isolated Parcels of State Land; Protection, Management, and Enhancement of Other Resources; and Design. These guidelines have been considered in the development of this proposal. Guidelines provide that DNR should retain greenbelts, buffer areas, public use corridors, roads, and other public facilities to create a desirable land use pattern in developing areas. Subdivision design will preserve and enhance the natural setting and will take into account site limitations such as slope, drainage, soils, and erosion to ensure that land is buildable and environmental impact can be mitigated. Within stream corridors, DNR will set a higher priority on protecting public use values than on providing opportunities for private ownership of land. LCS will retain a 100-foot buffer along each side of anadromous stream #101-45-10350 to protect public values and habitat.

Shorelines and Stream Corridors: Area-wide management guidelines provide that DNR should reserve public access to waterbodies and retain land within buffers when transferring land out of state ownership. LCS will reserve a 50-foot easement along the Mean High Water (MHW) of Leask Cove, Bat Cove, and any other water bodies determined to be public water and will reserve a 25-foot building setback outside of this easement. LCS will retain a 100-foot buffer along each side of anadromous stream #101-45-10350 to protect public values and habitat. Refer to the *Easements, Setbacks, and Reservations* subsection for more information.

Subsurface Resources: Management guidelines note that mining operations are judged to be in conflict with proposed land disposals. The project area is closed to mineral entry.

Trail and Public Access Management: Area-wide management guidelines provide that public access to areas with significant public resource values should be retained or improved by retaining means of access in public ownership, reserving rights of access when selling or leasing state land, or asserting rights-of-way. Reasonable access will be accommodated across state lands to other public and private lands. There are no trails identified in the project area, however, the state will retain easements as appropriate to maintain access through and within the project area. See the *Access To, Within, and Beyond Project Area* section for more information.

The proposed offering is consistent with area-wide land management policies and general management intent of the CSSEAP and specific management unit.

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Mineral Activity and Orders: No mineral activity has been identified on these lands. The project area is closed to mineral entry under Mineral Order (closing) numbers 1017 and 1045.

Mineral orders which close an area to mineral entry, close the applicable area to new exploration and development of locatable minerals. Such mineral orders do not apply to leasable minerals (such as: oil, gas, coal, etc.), or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from exploration and development.

Local Planning: The project area is within the KGB and property purchased through this proposed offering will be subject to the applicable zoning, ordinances, and restrictions of the borough. Land within the project area is currently zoned Future Development (FD) which states that single family homes are permitted, but the land is primarily used for recreation and natural resource development. LCS will pursue a rezone to Rural Residential (RR) for land within the project area prior to offering. RR allows a minimum lot size of 50,000 square feet. The project area is within the boundary of the Ketchikan Gateway Borough Comprehensive plan, however, the plan does not discuss the project area. Review of that plan did not indicate any conflicts with the proposed State land disposal.

XII. Traditional Use Finding

The project area is located within the Ketchikan Gateway Borough (KGB) and a traditional use finding is therefore not required per *AS 38.05.830 Land Disposal in the Unorganized Borough*. However, information on current or traditional use is welcomed and can be given during the public comment period. See the **Section VIII. Submittal of Public Comments** at the end of this document and *Attachment B: Public Notice* for details on how to submit comment.

XIII. Access To, Within, and Beyond Project Area

Current access to the project area is by boat or float plane via public and navigable water. Future access will also be available by highway vehicle via White River Road. White River Road is a 14-foot single lane rock and gravel road accessed from Ketchikan's main road system at the end of Revilla Road near Lake Harriet Hunt. The project area is approximately 10 miles from the start of White River Road. White River Road has been extended to the project area by the Alaska Department of Transportation & Public Facilities (DOT&PF) through the purchase of approximately 107 acres of Alaska Mental Health Trust land in 2014. The extension project changed White River Road into a public road; however, the road will be gated until the completion of the project, which is estimated to be the end of summer 2022.

White River Road changes to Shelter Cove Road upon entering the project area. The road is constructed within a 300-foot wide easement issued to the DOT&PF. A driveway permit issued by the DOT&PF will be required to access parcels fronting Shelter Cove Road. Shelter Cove Road continues beyond the project area and ends at Shelter Cove in Carroll Inlet. LCS intends to reserve access to the Upper George Inlet Subdivision through a minimum 10-foot access easement from Shelter Cove Road to and along the property boundary for parcels adjoining Lots 4 - 15 of ASLS 84-39.

Subdivision design will consider topography within the project area boundaries. The project area is subject to the platting authority of the KGB. LCS will coordinate with KGB during the platting

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process for the possible dedication/reservation of a boat launch in the western portion of the project. Approval of platting actions and dedication of rights-of-way will require separate processes and public notices through the borough.

Access To and Along Public or Navigable Waters: In accordance with AS 38.05.127 *Access To Navigable or Public Water*, DNR will determine if a water body is navigable or public and establish easements or rights-of-way as necessary to ensure unobstructed access to and along the body of water. Regulations dictating the creation of easements or rights-of-way under this statute include 11 AAC 51.035 *Determination of Navigable and Public Water*, 11 AAC 51.045 *Easements To and Along Navigable and Public Water*, and 11 AAC 53.450, *Buffer Strips, Reserved Areas, and Public Easements*.

For the purposes of AS 38.05.127:

- navigable waters are generally lakes larger than 50 acres in size or streams larger than 50 feet in average width;
- public waters are generally lakes larger than 10 acres in size or streams larger than 10 feet in average width; and
- waters may be determined public or navigable consistent with AS 38.05.965 (21) *Definitions*.

Leask Cove and Bat Cove are navigable water bodies. Anadromous stream #101-45-10350 crosses through the eastern portion of the project area, and is determined to be a public water body. Parcels will be subject to access reservations in accordance with AS 38.05.127 *Access to Public or Navigable Water* and a 25-foot building setback outside of easements along the MHW or OHW of the water bodies described, as well as any additional water bodies identified as public or navigable prior to completion of survey in accordance with the CSSEAP. LCS will retain a 100-foot buffer along each side of anadromous stream #101-45-10350 to protect public values and habitat.

Building Setbacks From Public or Navigable Water: If subdivision is deemed feasible, LCS proposes to place a note on the final survey plat describing a building setback upland from the MHW or OHW of public or navigable water to protect access, fish and wildlife habitat, and personal property. Except for utilities, water-dependent structures whose purpose is access to or across the stream or lake, or minor accessory structures for uses that must be in or adjacent to the water body in order to function, structures and subsurface sewage disposal systems will not be permitted within the building setback.

Easements, Setbacks, and Reservations: Subdivision design may include a variety of easements, setbacks, and retained lands, which will be identified on the subdivision plat and included in related documents. Standards for easements are provided in 11 AAC 51.015 or by local platting ordinances. Final width and location of easements and reservations will be determined as part of the local platting process, which will include an additional opportunity for public participation.

Parcels and subdivision design may be subject to a variety of reservations or restrictions where appropriate:

- public access easements;

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- utility easements;
- a 50-foot-wide section-line easement on each side of surveyed or protracted section-lines on State-owned land in accordance with *AS 19.10.010 Dedication of Land for Public Highways* and *11 AAC 51.025 Section-line Easements*; section-line easements may be vacated under *AS 19.30.410 Vacation of Rights-of-Way* and *11 AAC 51.065 Vacation of Easements* as part of the subdivision development;
- a 50-foot continuous easement upland from the MHW or OHW of public or navigable water bodies in accordance with *AS 38.05.127 Access To Navigable or Public Water*;
- a minimum 25-foot building setback adjacent to buffers or easements from the MHW or OHW of public or navigable water bodies, in accordance with the area plan;
- a 5-foot survey easement from the nearest practical point on the property boundary to control monuments within the parcel and an easement with a radius around the control monument, and as applicable, a 5-foot direct line-of-sight easement from the control station to an azimuth mark or other control monument;
- a minimum 10-foot access easement from Shelter Cove Road to and along the property boundary for parcels adjoining Lots 4 - 15 of ASLS 84-39 (Upper George Inlet Subdivision); and
- additional reservations and/or restrictions required through the local platting authority;

Where appropriate, reservations and restrictions will be depicted on the plat and described in plat notes.

Retained Lands: LCS intends to retain the following lands.

- North of Shelter Cove Road in the west portion due to topography;
- 100-foot buffers on each side of the unnamed anadromous stream in the east portion; and
- Within the 200-foot-wide ROW corridor for power transmission lines as described in the patent;

XIV. Hazardous Materials and Potential Contaminants

During the ground field inspections conducted on August 21, 2014 and October 1, 2020, field staff did not observe any environmental hazards within the project area. There are no known environmental hazards present within the project area; however, the State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land here proposed for conveyance. The State further assumes no liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances eventually be found. Interested parties are encouraged to inspect the property and familiarize themselves with the condition and quality of the land prior to bid or application submittal.

LCS recognizes there are potential future environmental risks when previously vacant land is occupied. Many of the activities increasing these potential risks are regulated by other agencies,

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such as the regulation of septic system installation by the State of Alaska, Department of Environmental Conservation. This risk is no greater than when vacant private land undergoes development. Given that this land was specifically designated Settlement for transfer into private ownership, and given the high degree of interest from both the legislature and citizens in transferring State-owned land into private ownership, LCS is of the opinion that the benefits of offering the land outweigh the potential risks.

XV. Survey, Platting, and Appraisal

After evaluating public comment and conditions of the land, DNR will determine if it is in the State's best interest to offer the proposed project area. In order to offer the property, a combination of survey, subdivision, and/or platting actions may be required.

This proposed project area is located within the Ketchikan Gateway Borough, and therefore survey and platting will be subject to the relevant subdivision standards. The borough's platting requirements provide for separate public notice periods and processes for platting actions. These additional opportunities for public involvement occur after DNR issues a Final Finding and Decision, if this proposed action is approved.

In accordance with *AS 38.05.840 Appraisal*, an appraisal meeting DNR standards will be required within two years of the date fixed for the sale of any parcel developed under this proposed action. Even though the sale of project area parcels in multiple offerings over time will mitigate "flooding" the market, the two-year appraisal requirement must still be followed.

Project research and development includes consideration of economic factors utilizing market data and project development costs compiled by DNR DMLW staff, to evaluate the economic feasibility of a project. Since it commonly takes several years for the project development process, *AS 38.05.840* ensures the current market conditions are addressed in order to obtain a realistic minimum bid or purchase price for the sale of State land.

XVI. DMLW and Agency Review

Information and comments received from multiple sections within DMLW prior to and during agency review have been considered and included in the preparation of this preliminary decision. Agency review was conducted from June 10, 2020 through July 10, 2020. Comments pertinent to this proposed action received during agency review have been considered and addressed below. Additional timely comments received during the Public Notice period will be considered and addressed in a subsequent Final Finding and Decision, if one is issued.

DNR DMLW LCS received brief comments of non-objection from the following agencies: Alaska Department of Transportation & Public Facilities; DNR Division of Oil and Gas; and, DNR Division of Parks and Outdoor Recreation, Office of History and Archaeology (OHA).

DNR DMLW LCS Response: LCS appreciates your review of the proposal.

Department of Fish and Game (ADF&G) Division of Wildlife Conservation: ADF&G provided the following comments.

ADF&G Comment: ADF&G recommends larger lots to maximize open space for wildlife movement.

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DNR DMLW LCS Response: LCS appreciates your review of the proposal. The surveyed parcels in the proposed subdivision will not be smaller than two acres in the east portion, and one acre in the west portion, except for tracts. The adjacent Upper George Inlet subdivision (ASLS 84-39) contains parcels between 1.5 and 2.5 acres, with most structures and development occupying only a small portion of the parcel. The smaller parcel size in portions of the project area is necessary to accommodate subdivision design and ensure suitable economic return on the subdivision project.

ADF&G Comment: ADF&G recommends retaining coastal areas in state ownership to the extent practical to minimize impact on marine resources, provide wildlife movement corridors, and public access.

DNR DMLW LCS Response: The land within the project area was specifically designated Settlement for transfer into private ownership and furthering community development. However, parcels will be subject to access reservations in accordance with *AS 38.05.127 Access to Public or Navigable Water* and a 25-foot building setback outside of easements along the MHW and OHW of water bodies identified as public or navigable prior to completion of survey in accordance with the CSSEAP. Subdivision design may include a variety of easements, setbacks, and retained lands, which will be identified on the subdivision plat and included in related documents. Portions of the project will remain in public ownership, including the land retained for the power transmission line corridor, and the western portion of the project area north of Shelter Cove Road. These areas will help to minimize impacts.

Alaska Mental Health Trust Land Office (MHTLO): MHTLO provided the following comments.

MHTLO Comment: The demand for public access to the water by landowners in upper George Inlet has increased in recent years. The MHTLO has issued temporary land use authorizations for the public to seasonally launch boats and store vehicles and trailers at the Leask Cove log transfer facility on MHT-owned land. Use and demand is expected to increase if the proposed subdivision is developed. The MHTLO requests that LCS consider developing and/or reserving an area for a public boat launch on land within the project area.

DNR DMLW LCS Response: DMLW is unable to develop or manage any public boat launch facilities within the project area. However, LCS will coordinate with the KGB during the platting process to determine if reserving or dedicating a boat launch area is feasible.

DNR Division of Forestry (DOF): DOF commented that the uplands to the north and west of the project area are part of the Southeast State Forest and are managed as commercial forest. Adjacent proposed development within the subdivision project area should acknowledge this use for the future. DOF also stated that the western portion of the project area contains relatively steep terrain, and the possibility of residential development is unlikely north of the road.

DNR DMLW LCS Response: LCS appreciates your review of the proposal. LCS will notify potential purchasers of the timber activities in the area. Larger portions of land that

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are too steep for development will be retained in state ownership and available for multiple use.

The following agencies or groups were included in the agency review, but no comment was received:

- Department of Environmental Conservation;
- Department of Natural Resources;
 - Division of Geological and Geophysical Surveys;
 - Division of Agriculture;
 - Division of Parks and Recreation (Operations);
 - Office of Project Management and Permitting; and
 - State Pipeline Coordinator's Section;
- Department of Commerce and Economic Development;
- Southeast Soil and Water Conservation District;
- Alaska Conservation District;
- Alaska Railroad; and
- University of Alaska Land Management;

XVII. Submittal of Public Comments

See Attachment B: Public Notice for specific dates and conditions.

Pursuant to *AS 38.05.945 Notice*, LCS is issuing public notice inviting comment on this Preliminary Decision.

In accordance with *AS 38.05.946(a) Hearings*, a municipality or corporation entitled to receive notice under *AS 38.05.945(c)* may hold a hearing within 30 days after receipt of the notice. If a hearing is held, the Commissioner (or representative) shall attend the hearing. The Commissioner has discretion whether to hold a public hearing.

LCS will consider all timely, written comments received. If analysis of such comments indicates the need for significant changes to the Preliminary Decision, additional public notice for the affected lands will be given. Reducing the amount of land offered and making minor changes to any of the proposals will not be considered significant changes requiring additional public notice.

If the proposal is approved and no significant change is required, the Preliminary Decision including any deletions, minor changes, and summary of comments and LCS responses will be issued as a subsequent Final Finding and Decision without further notice.

Only persons from whom LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Upon approval and issuance of a Final Finding and Decision, a copy of the decision will be made available online at <http://landsales.alaska.gov/> and sent with an explanation of the appeal process to any party who provides timely written comment.

LCS is prepared to accommodate individuals with disabilities by providing auxiliary aids, services, or special modifications in order to participate in this review. Individuals who may need

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such assistance should contact the Department's Public Information Center. For more information refer to *Attachment B: Public Notice*.

DEADLINE TO SUBMIT WRITTEN COMMENT IS 5:00 PM, WEDNESDAY, APRIL 13, 2022

XVIII. Alternatives and Discussion

LCS is considering the following alternatives:

Alternative 1: (Preferred) Survey and plat a subdivision consisting of no more than 25 parcels no smaller than two acres within the east portion, and no smaller than one acre in the west portion, except for tracts, and offer those parcels for sale. The development and offering of these parcels may be completed in multiple stages.

Alternative 2: (No Action) Do not offer this project area for private ownership. Retain the land in State ownership.

Article VIII, Section 1 of the Alaska Constitution states, "it is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." Furthermore, *AS 38.05.045 Generally* has placed this charge with DNR, and the legislature has provided funding to administer the land sale program.

Alternative 1 provides a method for DNR to meet the obligations laid out in the Constitution and statute, and maximizes public interest. This offering provides an opportunity for the public to obtain land for settlement in a desirable area. This proposal, if approved in a subsequent Final Finding and Decision, will allow LCS to create and design a subdivision which will provide for the best use and development of the land and financial return to the State. Alternative 1 provides the greatest opportunity for more Alaskans to purchase land within this area. Due to the recreation amenities of the area, desirable views, select waterfront locations, future road access, and location relative to the community of Ketchikan, the project area is better suited to subdivision prior to offering. Alternative 1 is preferred.

Alternative 2 does not meet the legislative and public desire for DNR to offer State-owned land for private ownership. Retention of this land would inhibit DNR from meeting its constitutional, statutory, and legislative goals. Not offering the project area would deny many Alaskans the opportunity to obtain land in an area that is suited to settlement and consistent with the surrounding development in the Upper George Inlet subdivision. Alternative 2 is not preferred.

For the aforementioned reasons, Alternative 1 is the preferred alternative.

Recommendation follows.

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XIX. Recommendation

This Preliminary Decision for the proposed disposal of State lands described throughout this document and its attachments is consistent with the overall management intent for State-owned land. Alternative 1 is the preferred alternative because it provides the maximum opportunity for offering State land to the public and helps meet the mission of the land sales program. The Preliminary Decision described above, as represented by the preferred alternative, has been reviewed and considered. I find that the recommended action may be in the best interest of the State and that it is hereby approved to proceed to public notice.

This is a Preliminary Decision, and analysis of subsequent public review may result in changes to the preferred alternative of the proposed disposal of State lands.

signature on file

Prepared by: John King
Natural Resource Specialist 3
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

3/4/2022

Date

signature on file

Approved by: Tim Shilling
Natural Resource Manager 2
Land Conveyance Section
Division of Mining, Land and Water
Department of Natural Resources
State of Alaska

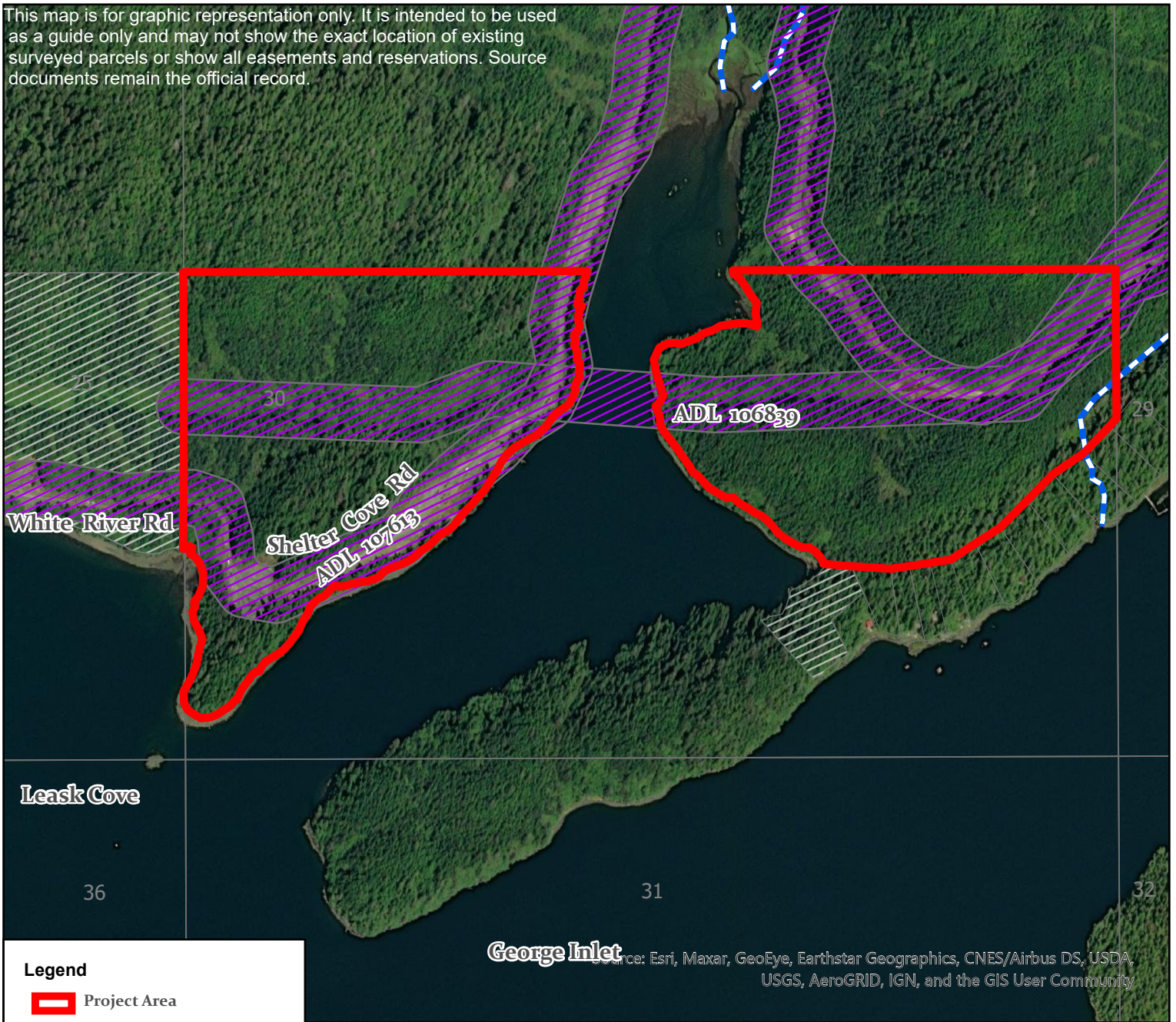
3/4/2022

Date



Attachment A: Vicinity Map Leask Cove Subdivision ADL 108147

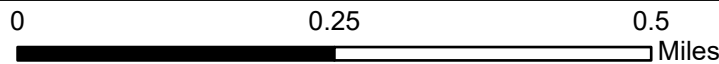
This map is for graphic representation only. It is intended to be used as a guide only and may not show the exact location of existing surveyed parcels or show all easements and reservations. Source documents remain the official record.



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Legend

- Project Area
- Shelter Cove Road Buffer
- Power Line Buffer
- Mental Health Trust Land
- Anadromous Streams

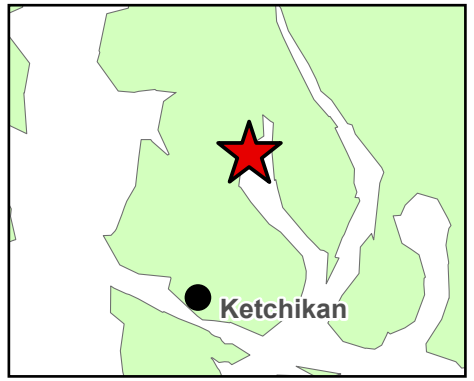
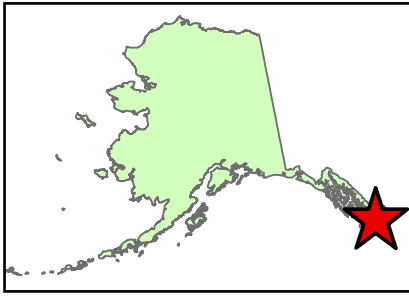


JDK 3/24/2021

USGS QUAD 1:63.360
Ketchikan C-5
For more information contact:
John King
Department of Natural Resources
Division of Mining, Land, and Water
Land Sales Section
Phone: 907-465-3511
Fax: 907-500-9011
Email: land.development@alaska.gov



**Section 30, Township 73 S,
Range 92 E, Copper River Meridian**



STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND & WATER
LAND CONVEYANCE SECTION

ATTACHMENT B: PUBLIC NOTICE

Requesting Input for
a Proposed Land Offering:
Leask Cove Subdivision – ADL 108147

COMMENT PERIOD ENDS 5:00PM, WEDNESDAY, APRIL 13, 2022

This proposed project includes offering for sale surveyed parcels in a future offering under the method described in the Preliminary Decision document. The project may be subdivided and offered in multiple offerings over time.

Location: The project area is located within DNR's Southeast Region, on Revillagigedo Island, approximately 13 miles northeast of Ketchikan, within Section 30, Township 73 South, Range 92 East, Copper River Meridian, within the Ketchikan Gateway Borough (KGB). The project area is subject to the borough's platting authority.

Project size: The project area consists of approximately 150 acres with up to 75 acres identified for disposal by this proposed action.

To obtain a copy of the Preliminary Decision or instructions on submitting comment, go to <http://landsales.alaska.gov/> or <http://aws.state.ak.us/OnlinePublicNotices/>. For assistance in obtaining the documents by an alternative method, to request auxiliary aids, services, or special accommodations, contact DNR's Public Information Centers on State work days, Monday through Friday, between 10AM and 5PM in Anchorage at 907-269-8400, Fairbanks at 907-451-2705, or the Southeast Land Office in Juneau at 907-465-3400 (TTY for the hearing impaired for all locations: 711 for Alaska relay or 800-770-8973), or go to <http://dnr.alaska.gov/commis/pic/> for additional contact information. Individuals who require special assistance must request assistance from the Public Information Center in Anchorage no later than 4:00 PM, Wednesday, April 6, 2022.

DNR will be holding a Public Meeting via Microsoft Teams to discuss the proposal and share information about the project area. The meeting will be held from 5:00 PM – 7:00 PM, Thursday, March 31, 2022. Please see the attached flyer for meeting details.

Pursuant to AS 38.05.945 Notice, the public is invited to submit comment on the Preliminary Decision. If commenting on more than one proposed action, separate comments should be submitted for each. **The deadline for public comment is 5:00PM, WEDNESDAY, APRIL 13, 2022.** Only persons from whom DNR DMLW LCS receives timely, written comment during the identified comment period will be eligible to file an appeal of the Final Finding and Decision. Written comment may be received by email, fax, or postal mail. To submit comments or for direct inquiries, contact John King, Natural Resource Specialist 3: land.development@alaska.gov, fax # 907-500-9011, or P.O. Box 111020 Juneau, AK 99811. If you have questions, call John King at 907-465-3511.

Attachment B: Public Notice

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If no significant change is required, the Preliminary Decision including any minor changes and a summary of comments and responses, will be issued as the Final Finding and Decision without further notice. A copy of the Final Finding and Decision will be sent to any persons who commented timely on the Preliminary Decision.

DNR reserves the right to waive technical defects in this notice.

Leask Cove Subdivision

Public Meeting

Date	Time	Location	Meeting Link (Microsoft Teams app or internet browser only)	Conference ID # (Telephone Call Only)
March 31, 2022	5:00pm – 7:00pm	Live stream via Microsoft Teams and & Telephone	Meeting Link	841 067 074#

The Department of Natural Resources (DNR) has issued a Public Notice of the Preliminary Decision for the Leask Cove Subdivision proposed land offering. DNR is offering an online public meeting via Microsoft Teams for this proposed land offering in order to facilitate discussion and hear from interested parties in Ketchikan and other communities. The meeting will consist of a short presentation, followed by a question and answer session. Using the Teams link will allow participants to submit questions via chat messages. This method is encouraged and will help moderators keep track of incoming questions and give everyone a more focused meeting. The meeting will be recorded for DNR records.

Microsoft Teams Meeting Instructions:

1. If possible, download Microsoft Teams before the meeting, to be able to submit questions via chat. The program can be downloaded using this link: <https://www.microsoft.com/en-us/microsoft-365/microsoft-teams/download-app>
2. 5-10 minutes before the start time, click on the meeting link above. A browser will pop up and you can choose to “Open Microsoft Teams” or “Join on the web instead.” Choose the option most appropriate for your method of participation.
3. Enter your name and click the purple “Join now” button. A moderator will let you into the meeting. Please be sure to have your mic and video muted. This will help with background noise.

If you are unable to join via Teams, there is a telephonic option that is accessed by dialing 907-202-7104, then the 9-digit Conference ID, followed by the pound (#) sign. Please join 5-15 minutes prior to the start time.

For additional information contact:
John King, 907-465-3511 or land.development@alaska.gov

