

Council Meeting

Wednesday September 6th, 2023
Video Conference
AGENDA

<https://us02web.zoom.us/j/83498935865?pwd=TVFsTUlSeiVWYnRjTXJucFlibVN3dz09>

Meeting ID: 834 9893 5865

Passcode: 916648

Start time: 6:00 p.m.

Guest:

Convening the meeting

Adoption of Agenda

Approval of minutes from August 15, 2023

4

STARTS CM00626

REGULAR BUSINESS

1) PETITIONS, DELEGATIONS & PRESENTATIONS

2) REQUEST FOR DECISION AND LEGISLATION

a) Request for Decision

i) Public Works & Services Act with edits

Kristy Pozniak

6

ii) Public Works and Services Act Amendment Act (will be provided on Tuesday)

THAT the Public Works & Services Act be introduced to the Council for first reading

THAT Council resolve to waive the requirement for 24 hours between first and second reading regarding the Public Works & Services Act

THAT the Council resolve to adopt in principle the Public Works & Services Act and it be referred to _____ for detailed consideration

b) Request for Decision

i) Briefing Note GST Framework Termination

74

ii) Goods and Services Tax Act Repeal Act

69

THAT the Goods and Services Tax Act Repeal Act be introduced to the Council for first reading

THAT Council resolve to waive the requirement for 24 hours between first and second reading regarding the Goods and Services Tax Act Repeal Act

THAT the Council resolve to adopt in principle the Goods and Services Tax Act Repeal Act and it be referred to finance committee for detailed consideration

c) Request for Decision

- i) Land Act Amendment Act (will be provided on Tuesday legal has a couple edits)
- ii) Draft Land Act consolidation (to show how the act would look with all changes) 76

THAT Toquaht Council receive the recommendation from Council committee of the whole and resolve to enact the Land Act Amendment Act in the form now laid before the Council as TNS 3/2023 of the Toquaht Nation.

d) Request for Decision

- i) Stanley John Bob transfer in to Toquaht Nation from Tla-o-qui-aht First Nation request
 - (1) Letter of request 147

From Tuesday August 15, 2023 Citizenship & Enrolment Committee mtg.

MOVED: Gale Johnsen

SECONDED: Anne Mack

THAT the citizenship & enrolment committee resolve to recommend that Toquaht Council approve the transfer of Stanley John Bob, status number 6600067601, from Tla-o-qui-aht First Nation to Toquaht Nation.

YES: 4

NO: 0

Motion Carried

THAT Council resolves to give notice to the Registrar of the acceptance of

FULL NAME: Stanley John Bob

BIRTHDATE: January 27, 1982

REGISTRY NUMBER: 6600067601

TRANSFERRING IN to Toquaht Nation from Tla-o-qui-aht First Nation and to request that departmental records be amended to reflect their addition to our registry.

3) REPORTS & DRAFT MINUTES

- a) Council committee of the whole draft minutes from August 23, 2023 148

THAT council receive the Council committee of the whole draft minutes from August 23, 2023.

4) INFORMATION FOR RECEIPT

- a) Qacca Settlement Trust (QST) Minutes- 2023-03-29 150
- b) QST Minutes- 2023-05-24
- c) QST financial statements - period ending June 30, 2023

THAT council receive the Qacca Settlement Trust minutes and financial statements - period ending June 30, 2023

5) **ADDITIONS**

6)

Additions/deletions

- Adjourn meeting

Toquaht Council

Tuesday, August 15, 2023

Toquaht Boardroom

DRAFT Meeting Minutes

Present:

Call In: Kirsten Johnsen, Naomi Mack, Anne Mack, Noah Plonka, Kevin Mack

Absent:

Guest: Kathy Waddell, Ken Matthews

Chair: Kirsten Johnsen

Recorder: Naomi Mack

Quorum was present throughout the meeting

Convened 6:15 p.m.

Agenda adopted by consensus

Additions and Deletions

- Ec Dev committee discussion

Minutes from July 26, 2023 approved by consensus

STARTS CM00625

REGULAR BUSINESS

1) PETITIONS, DELEGATIONS & PRESENTATIONS

- a) Discussion on the current Toquaht relationship with Tseshaht Ken Matthews
- i) Email and discussion with Ken Mathews
- (1) Eric H has submitted a plan to the province and now consultation is required by affected parties
 - (2) This licence would give Toquaht exclusive rights and we would like nominal consent from Tseshaht
 - (3) Anne and Noah are willing to attend an informal meeting with Ken Watts

2) REQUEST FOR DECISION & LEGISLATION

- a) Request for Decision
- i) Approval of the 5-year Economic Development Plan 2-23-2027
- (1) Draft Ec. Dev. Plan
 - (2) BN presented to Executive

EX00625 MOVED: Noah Plonka

SECONDED: Kevin Mack

THAT Council resolve to receive the recommendation from the Toquaht Executive to approve the 5-year Economic Development Plan 2023-2027.

YES: 5

NO: 0

Motion Carried

3) REPORTS

4) INFORMATION FOR RECEIPT

5) ADDITIONS

a) Ec Dev committee discussion

- i) Kevin suggested Rick Shafer attend Ec Dev committee meetings as technical support in his capacity as Capital Projects coordinator going forward

Adjourned 7:00 p.m.

Minutes prepared by

Chairperson

Law Clerk

Date

TOQUAHT NATION GOVERNMENT

PUBLIC WORKS AND SERVICES ACT

TNS 4/2018



This law enacted on May 8th, 2018

Signed _____
Anne Mack, ḥaʔwił of the Toquaht Nation

DEPOSITED IN THE
REGISTRY OF LAWS AND
OFFICIAL RECORDS

ON ____ / ____ / ____

Signature of Law Clerk

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PREAMBLE

As a treaty first nation, the Toquaht Nation assumes responsibility for providing public works and services on Toquaht lands and Toquaht foreshore. The Toquaht Nation wishes to ensure that core services are provided to Toquaht citizens and persons ordinarily resident or operating on Toquaht lands or Toquaht foreshore and that any services provided for or on behalf of the Toquaht Nation are provided efficiently, effectively and fairly.

The Toquaht Nation also wishes to ensure that any waste generated on Toquaht lands or Toquaht foreshore, including sewage, garbage and recycling, is disposed of in an appropriate manner, consistent with public health and safety standards.

To assist with realizing these goals, the Toquaht Nation wishes to establish rules governing the provision of sanitary and storm sewer services, potable water and fire protection services, garbage and recycling collection services and other services provided for or on behalf of the Toquaht Nation, including ~~entitlement to~~[eligibility](#) and fees for those services.

The Toquaht Nation adopts this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Public Works and Services Act, [TNS 4/2018](#).

Executive oversight

1.2 The member of the Executive holding the lands, public works and environmental protection portfolio is responsible for the executive oversight of this Act.

Authority and application

1.3 (a) This Act is enacted under

- (i) [13.12.1, 13.12.2, 13.14.1 and](#) 13.27.1 of Chapter 13 Governance of the Maa-nulth Treaty,
- (ii) section 3.2(w) of the Constitution, and
- (iii) section 3.1(a)(iii) of the Foreshore Agreement.

(b) This Act

- (i) establishes, and regulates the provision of, certain core Toquaht services, namely
 - (A) the Toquaht sewer service,
 - (B) the Toquaht water service, [and](#)
 - ~~(C) the Toquaht garbage collection and recycling service, [and](#)~~
 - ~~(D)~~ [\(C\) the Toquaht internet service](#), and
- (ii) delegates law-making authority to the Executive to
 - (A) regulate any aspect of the core Toquaht services not addressed in this Act, and
 - (B) establish, and regulate the provision of, any other Toquaht service.

(c) Unless expressly provided otherwise, this Act does not apply to the Toquaht Nation as represented by the Toquaht government.

Definitions

1.4 In this Act,

“applicant” means, as applicable, a person who submits a sewer application or a water application~~an application under section 2.2, 2.11, 2.16, 3.2, 3.10 or 3.15;~~

~~“connection application fee” means a fee in the amount prescribed;~~

“approved contractor” means a contractor on a list maintained by the director;

~~“building official” has the meaning given to that term in the Building and Development Authorization Act;~~

“condition of service” means a condition under section 4.2(c) or section 4.4(a);

“construction waste” means waste resulting from the construction or renovation of a building or structure;

“core Toquaht service” means the Toquaht sewer service, the Toquaht water service or and the Toquaht garbage collection and recycling service~~a Toquaht service referred to in section 1.3(b)(i);~~

~~“construction waste” means waste resulting from the construction or renovation of a building or structure;~~

“curb valve” means a shut off valve installed on a water connection by or ~~on behalf of the Toquaht Nation~~with authorization from the Toquaht government;

“director” means the director of lands, public works and resources;

“flankage” means, as applicable, in relation to a parcel of Toquaht lands or Toquaht foreshore that abuts the Toquaht sewer system or Toquaht water system along more than one boundary, the boundary that abuts the Toquaht sewer system or Toquaht water system and has the greatest length;

“frontage” means, as applicable, in relation to a parcel of Toquaht lands or Toquaht foreshore that abuts the Toquaht sewer system or Toquaht water system,

- (a) the boundary that abuts the Toquaht sewer system or Toquaht water system, if the parcel only abuts the Toquaht sewer system or Toquaht water system along one boundary, or
- (b) the boundary that abuts the Toquaht sewer system or Toquaht water system and has the least length, if the parcel abuts the Toquaht sewer system or Toquaht water system along more than one boundary;

“garbage” means solid waste other than recycling;

~~(a) — recycling, or~~

~~(b) — a material or substance referred to in section 4.9(c);~~

“garbage and recycling fee” means a fee in the amount prescribed under section 4.5(b);

“garbage bin” means a [public garbage bin or a garbage bin provided under section 4.5\(a\) utilized by an owner or occupier for the Toquaht garbage and recycling service;](#)

~~“interest holder” means;~~

~~(a) — in relation to Toquaht lands, a person registered in the lands registry office or land title office as the holder of the interest in, or licence in relation to, those Toquaht lands, and~~

~~(b) — in relation to Toquaht foreshore, a person who holds an interest in, or licence in relation to, [that](#) parcel of Toquaht foreshore;~~

~~“internet connection application” means an application under section 5.2;~~

~~“internet connection fee” means a fee in the amount prescribed under section 5.2;~~

~~“internet disconnection application” means an application under section [5.10](#)5.9;~~

~~“internet extension” means an extension of the Toquaht internet works under section [5.6](#)5.5;~~

~~“internet extension application” means an application under section [5.6\(a\)](#)5.5(a);~~

~~“internet extension deposit” means a deposit required by the director under section 5.6(b);~~

~~“internet extension fee” means a fee determined by the director under section 5.6(e)[€](#);~~

~~“internet service fee” means a fee in the amount prescribed under section [5.9](#)5.8;~~

“licensed sewage disposal business” means a waste removal business operating with and in accordance with any licence or permit required by law;

“licensed waste removal business” means a waste removal business operating with and in accordance with any licence or permit required by law;

“Toquaht garbage and recycling service” means the service established under section 4.1;

~~“Toquaht internet service” means the service established under section 5.1;~~

~~“Toquaht internet works” means all things and components, using any type of technology from time to time, used in the provision of internet services by or on behalf of the Toquaht Nation;~~

“Toquaht sanitary sewer system” means every part of any sanitary sewer system operated by or on behalf of the Toquaht Nation, including any sewer treatment facility, sewage lagoon, pipe, manhole, inspection chamber or meter used in the provision of sanitary sewer services by or on behalf of the Toquaht Nation;

“Toquaht service” means a service provided by or on behalf of the Toquaht Nation for the benefit of

- (a) the public,
- (b) Toquaht citizens ~~or Toquaht enrollees,~~
- (c) individuals ordinarily resident on Toquaht lands or Toquaht foreshore, or
- (d) businesses or organizations operating on Toquaht lands or Toquaht foreshore;

“Toquaht sewer service” means the service established under section 2.1;

“Toquaht sewer system” means the Toquaht sanitary sewer system ~~or~~ and the Toquaht storm sewer system;

“Toquaht storm sewer system” means every part of any storm sewer system operated by or on behalf of the Toquaht Nation, including any pipe, storm drain, manhole or inspection chamber used in the provision of storm sewer services by or on behalf of the Toquaht Nation;

“Toquaht water service” means the service established under section 3.1;

“Toquaht water system” means every part of any water system operated by or on behalf of the Toquaht Nation, including any reservoir, well, water storage or treatment facility, pipe, manhole, hydrant, standpipe, valve, curb valve or meter used in the provision of potable water or fire protection services by or on behalf of the Toquaht Nation;

“other Toquaht service” means a Toquaht service other than a core Toquaht service;

“owner” means a person or persons who hold a

(a) fee simple interest, or

(b) lease,

or a person authorized in writing to act on behalf of that person or persons;

“plumbing system” means, as applicable, every part of any plumbing system on or under any Toquaht lands or Toquaht foreshore, or any building or structure on those Toquaht lands or Toquaht foreshore, which is intended to carry

- (a) sewage or storm water from those Toquaht lands or Toquaht foreshore to a sewer connection, or
- (b) water to those Toquaht lands or Toquaht foreshore from a water connection.

“private sanitary sewer system” means a sanitary sewer system installed, constructed, operated, maintained, repaired, upgraded and replaced in ~~accordance~~ substantial compliance with

- (a) the British Columbia Building Code,
- (b) the Building and Development Authorization Act, TNS 2/2013,
- (c) this Act,
- (d) the British Columbia Sewerage System Standard Practice Manual,
- (e) the Sewerage System Regulation (British Columbia), and
- (f) any other applicable enactment;

“recycling” means any material or substance ~~prescribed as~~ the director determines to be recyclable, by directive;

“recycling bin” means a public recycling bin or a recycling bin utilized by an owner or occupier for the Toquaht garbage and recycling service ~~provided under section 4.5(a)~~;

~~“registered professional” has the meaning given to that term in the Building and Development Authorization Act;~~

“residential property” means a property within Toquaht lands or Toquaht foreshore that is used for residential purposes and includes single-family homes, duplexes, townhouses, multi-family apartments, condominiums and co-ops;

“residential unit” means a self-contained dwelling unit within a residential property with separate living, cooking and sleeping facilities;

“sewage” means water carried waste but excludes storm water;

“sewer application” means a sewer connection application, a sewer extension application or a sewer disconnection application;

“sewer connection” means, as applicable,

- (a) a pipe installed or constructed by or ~~on behalf of the Toquaht Nation~~ with authorization from the Toquaht government from a sanitary sewer main to the property line of a parcel, which is intended to carry sewage from that parcel to that sewer main, and any appurtenance to that pipe, or
- (b) a pipe installed or constructed by or with authorization from the Toquaht government ~~on behalf of the Toquaht Nation~~ from a storm sewer main to the property line of a parcel, which is intended to carry storm water from that parcel to that sewer main, and any appurtenance to that pipe, and
- (c) if the director requires a meter to be installed under section 2.13(b), that meter.

“sewer connection application” means an application under section 2.2;

~~“sewer connection fee” means a fee in the amount prescribed under section 2.2;~~
“sewer disconnection” means a disconnection from the Toquaht sewer service under section 2.17;

“sewer disconnection application” means an application under section 2.17(a);

~~“sewer disconnection fee” means a fee in the amount prescribed under section 2.17(a);~~

“sewer extension” means an extension of the Toquaht sewer system under section 2.12;

“sewer extension application” means an application under section 2.12(a);

~~“sewer extension deposit” means a deposit in the amount prescribed under section 2.12(a);~~

~~“sewer extension fee” means a fee in the amount prescribed under section 2.12(f);~~

“sewer service fee” means a fee in the amount prescribed under section 2.16(b);

“storm water” means water resulting from natural precipitation from the atmosphere;

~~“temporary discontinuance” means, in relation to a Toquaht service, a discontinuance of that service for a period of less than 90 days;~~

~~“waste bin” means a garbage bin or a recycling bin;~~

“water application” means a water connection application, a water extension application or a water disconnection application;

“water connection” means

- (a) a pipe installed or constructed by or ~~on behalf of the Toquaht Nation~~ with authorization from the Toquaht government from a water main to the property line of a parcel, which is intended to carry water to that parcel from that water main, and any appurtenance to that pipe, and
- (b) if the director requires a meter to be installed under section 3.12(d), that meter.

“water connection application” means an application under section 3.2;

~~“water connection fee” means a fee in the amount prescribed under section 3.2;~~

“water disconnection” means a disconnection from the Toquaht water service under section 3.16;

“water disconnection application” means an application under section 3.16(a);

~~“water disconnection fee” means a fee in the amount prescribed under section 3.16(a);~~

“water extension” means an extension of the Toquaht water system under section 3.11;

“water extension application” means an application under section 3.11(a);

~~“water extension deposit” means a deposit in the amount prescribed under section 3.11(a);~~

~~“water extension fee” means a fee in the amount prescribed under section 3.11(f);~~

“water service fee” means a fee in the amount prescribed under section 3.15(b).

Human occupancy

- 1.5** For certainty, for the purposes of ~~sections 2.3, 2.4, 2.7, 3.3, 3.4 and 3.7~~ this Act, a building or structure designed or used for human occupancy includes a building or structure occupied as a workplace during regular business hours.

PART 2 - SEWER SERVICE

Toquaht sewer service

- 2.1 The Toquaht sewer service is established and must be operated in accordance with this Part.

Connection application

- 2.2 ~~An interest holder~~The owner of Toquaht lands or Toquaht foreshore may apply

- (a) to ~~have connect~~ an existing building or structure, or a building or structure to be constructed, on those Toquaht lands or Toquaht foreshore, ~~connected~~ to the Toquaht sewer system, or
- (b) in the case of a renovation referred to in section 2.4(a)(iv), to ~~have~~ install or construct a replacement sewer connection ~~installed or constructed~~ and reconnect the applicable building or structure ~~reconnected~~ to the Toquaht sewer system,

by submitting a sewer connection application in the prescribed form, together with the ~~prescribed sewer connection~~applicable application fee, to the director.

Connection required for abutting lands

- 2.3 (a) Subject to subsection (b), ~~an interest holder~~the owner of Toquaht lands
- (i) on which there is a building or structure designed or used for human occupancy, and
 - (ii) that front on the Toquaht sewer system for the entire frontage or flankage of those Toquaht lands,
- must cause that building or structure to be connected to the Toquaht sewer system in accordance with this Part.
- (b) The director may waive the requirement under subsection (a) if, in ~~his or her~~the director's opinion,
- (i) the capacity of the Toquaht sewer system is not sufficient to provide service to that building or structure, or
 - (ii) the sewage generated, or to be generated, in that building or structure is not suitable for discharge into the Toquaht sanitary sewer system.

Connection required for construction on lands

- 2.4 (a) An application for an authorization under the Building and Development Authorization Act, [TNS 2/2013](#) must be accompanied by a sewer connection application, together with the applicable [application sewer connection](#) fee, if
- (i) the application is in relation to Toquaht lands,
 - (ii) the building or structure set out in the application is designed or used for human occupancy,
 - (iii) the Toquaht lands set out in the application front on the Toquaht sewer system for the entire frontage or flankage of those Toquaht lands, and
 - (iv) the application is for renovation to a building or structure already connected to the Toquaht sewer system and
 - (A) the sewer connection for that building or structure is 30 years old or older,
 - (B) the total estimated construction cost for the renovation is greater than \$100,000, or
 - (C) the renovation will result in
 - (I) enlargement of the plumbing system by adding two or more plumbing fixtures, or
 - (II) an increase in the number of bedrooms,
 - (v) the application is for renovation to a building or structure not yet connected to the Toquaht sewer system, or
 - (vi) the application is for construction of a new building or structure.
- (b) The director may waive the requirement under subsection (a) if, in ~~his or her~~[the director's](#) opinion,
- (i) the capacity of the Toquaht sewer system is not sufficient to provide service to that building or structure,
 - (ii) the sewage generated, or to be generated, in that building or structure is not suitable for discharge into the Toquaht sanitary sewer system, or
 - (iii) in the case of a renovation to a building or structure already connected to the Toquaht sewer system, the existing sewer connection is adequate for providing sewer services to that building or structure.

Decision on application

- 2.5 (a) Subject to subsection (b), on receipt of a sewer connection application, together with the applicable ~~sewer connection~~[application](#) fee,
- (i) if,
 - (A) in the opinion of the director,
 - (I) the capacity of the Toquaht sewer system is sufficient to provide service to the building or structure set out in the application, and
 - (II) the sewage generated, or to be generated, in that building or structure is suitable for discharge into the Toquaht sanitary sewer system, and
 - (B) the Toquaht lands or Toquaht foreshore set out in the application front on the Toquaht sewer system for the entire frontage or flankage of those Toquaht lands or Toquaht foreshore,the director must approve the application,
 - (ii) if, in the opinion of the director, the capacity of the Toquaht sewer system is not sufficient to provide service to the building or structure set out in the application, the director may
 - (A) deny the application, or
 - (B) approve the application on the condition that the sewage discharged from that building or structure into the Toquaht sanitary sewer system be limited to an amount determined by the director [or any other condition the director considers appropriate](#),
 - (iii) if, in the opinion of the director, the sewage generated, or to be generated, in the building or structure set out in the application is not suitable for discharge into the Toquaht sanitary sewer system, the director must deny the application, and
 - (iv) if the Toquaht lands or Toquaht foreshore set out in the application
 - (A) do not front on the Toquaht sewer system, or
 - (B) only front on the Toquaht sewer system for a portion of the frontage or flankage of those Toquaht lands or Toquaht foreshore,the director may

- (C) deny the application,
 - (D) approve the application on the condition that, prior to connecting that building or structure to the Toquaht sewer system, the Toquaht sewer system be extended ~~in accordance with section 2.11~~ to a point determined by the director, or
 - (E) approve the application without the condition referred to in subparagraph (D) if, in ~~his or her~~ the director's opinion, that building or structure is suitable for a sewer connection without an extension to the Toquaht sewer system ~~in accordance with section 2.11~~.
- (b) If a sewer connection application is in relation to a parcel of Toquaht foreshore,
- (i) the director must not approve the application without the prior approval of the Executive, ~~by resolution,~~ and
 - (ii) the director must deny the application if, in the opinion of the Executive, that parcel is not suitable for a sewer connection.

Notice of decision

2.6 As soon as practicable after receipt of a sewer connection application, together with the applicable ~~sewer connection~~ application fee, the director must deliver in accordance with Toquaht law to the applicant notice of ~~his or her~~ the director's decision on the application.

~~Direction to connect or refund~~

2.7 [Repealed]

- ~~(a) — If the director approves a sewer connection application, the director must~~
- ~~(b) — as soon as practicable after that approval, direct that a sewer connection be installed or constructed for the building or structure set out in the application, and~~
- ~~(c) — as soon as practicable after installation or construction of that sewer connection and receipt of any certification required under section 2.14(b), direct that the Toquaht sewer service be commenced or, in the case of a renovation referred to in section 2.4(a)(iv), recommenced for that building or structure.~~
- ~~(d) — If the director denies a sewer connection application, the Toquaht Nation must, as soon as practicable after that denial, refund any sewer connection fee paid for that application.~~

Connection at ~~interest holder's~~owner's cost

2.72.8 (a) If ~~the owner~~an interest holder of Toquaht lands

- (i) on which there is a building or structure designed or used for human occupancy, and
- (ii) that front on the Toquaht sewer system for the entire frontage or flankage of those Toquaht lands,

fails to cause that building or structure to be connected to the Toquaht sewer system in accordance with section 2.3, the director may, ~~after~~with prior approval of the Executive, ~~by resolution,~~ and 60 days' written notice to ~~that interest holder~~the owner, cause that building or structure to be connected to the Toquaht sewer system at the ~~interest holder's~~owner's cost.

- (b) Any cost incurred by the Toquaht Nation under subsection (a) is due and payable by the applicable ~~interest holder~~owner to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~the owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.

Pre-servicing at ~~interest holder's~~owner's cost

2.82.9 (a) If

- (i) a road improvements,
- (ii) an improvements to the Toquaht sewer system, or
- (iii) an extension of the Toquaht sewer system,

~~are~~is scheduled along a road or right of way and a parcel of Toquaht lands fronts on that road or right of way, the director may direct that a sewer connection be installed or constructed to the property line of that parcel.

- (b) If a sewer connection is installed or constructed in accordance with subsection (a), the ~~interest holder~~owner of that parcel must pay ~~the service connection fee that would have been payable had that interest holder applied for that sewer connection in accordance with this Part~~to the Toquaht Nation the portion of the construction or installation cost determined by the director, acting reasonably.
- (c) ~~A sewer connection fee~~An amount payable under subsection (b) is due and payable by the applicable ~~interest holder~~owner to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to that ~~interest holder~~owner, and may

be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, [TNS 6/2011](#).

Separate connection required

~~2.9~~**2.10** ~~Subject to subsection (b)~~ [Unless otherwise approved by the director, in writing,](#) a separate sewer connection is required for

- (a) each parcel of Toquaht lands or Toquaht foreshore, and
- (b) each building or structure on Toquaht lands or Toquaht foreshore, where two or more buildings or structures exist on a single parcel of Toquaht lands or Toquaht foreshore and those buildings or structures can be legally separated by the subdivision of land.
- ~~(c) — The director may waive the requirement under subsection (a)(i) for

 - ~~(i) — a strata lot,~~
 - ~~(ii) — an air space parcel, or~~
 - ~~(iii) — a parcel from which a strata lot or air space parcel is subdivided,~~
 if that parcel is, or will be, developed with a plumbing system that is subject to registered reciprocal easements, satisfactory to the director, permitting all interest holders access to all parts of the plumbing system for inspection, maintenance, repair and replacement.~~
- ~~(d) — The director may waive the requirement under subsection (a)(ii) if the interest holder of that parcel agrees to and registers a restrictive covenant, satisfactory to the director, disallowing future subdivision of that parcel.~~

Obligation to discontinue septic tank

~~2.10~~**2.11** [As soon as practicable after a building or structure is connected to the Toquaht sewer system in accordance with this Part, the ~~interest holder~~ \[owner\]\(#\) of that building or structure must cause](#)

- (a) any septic tank in that building or structure to be discontinued,
- (b) the contents of that septic tank to be removed and properly disposed of, and
- (c) that septic tank to be either
 - (i) dismantled and removed, or
 - (ii) filled with a material approved by the director, [in writing](#).

Extensions

- ~~2.11~~2.12 (a) ~~The owner~~An interest holder of Toquaht lands or Toquaht foreshore may apply to ~~have extend~~ the Toquaht sewer system ~~extended~~ to a point opposite those Toquaht lands or Toquaht foreshore by submitting a sewer extension application in the prescribed form, together with the ~~prescribed sewer extension deposit~~applicable application fee, to the director.
- (b) ~~Subject to subsection (c), e~~On receipt of a sewer extension application, together with the applicable ~~sewer extension deposit~~application fee, ~~and after considering the following factors, the director may approve or deny the application with any conditions the director considers appropriate:~~
- ~~(i) — if, in the opinion of the director,~~
- ~~(ii)(i) whether~~ the capacity of the Toquaht sewer system is sufficient to provide service to the building or structure set out in the application~~;~~
- ~~(iii)(ii) whether~~ the sewage generated, or to be generated, in that building or structure is suitable for discharge into the Toquaht sanitary sewer system~~;~~ and
- ~~(iv)(iii) the cost of operating and maintaining that sewer extension would not be excessive~~ relative to the revenues from buildings or structures serviced by that sewer extension~~;~~
- ~~the director must approve the application, and~~
- ~~(A) — if, in the opinion of the director, the capacity of the Toquaht sewer system is not sufficient to provide service to the building or structure set out in the application,~~
- ~~(v) — the sewage generated, or to be generated, in the building or structure set out in the application is not suitable for discharge into the Toquaht sanitary sewer system, or the cost of operating and maintaining that sewer extension would be excessive relative to the revenues from buildings or structures serviced by that sewer extension, the director may deny the application.~~
- (c) If a sewer extension application is in relation to a parcel of Toquaht foreshore,
- (i) the director must not approve the application without the prior approval of the Executive, ~~by resolution~~, and
- (ii) the director must deny the application if, in the opinion of the Executive, that parcel is not suitable for a sewer extension.

- (d) As soon as practicable after receipt of a sewer extension application, together with the applicable ~~sewer extension deposit~~ application fee, the director must deliver in accordance with Toquaht law to the applicant notice of ~~his or her~~ the director's decision on the application.
- ~~(d) — If the director approves a sewer extension application, the director must direct that the Toquaht sewer system be extended to a point opposite the Toquaht lands or Toquaht foreshore set out in the application.~~
- ~~(e) — Within 30 days after a sewer extension is installed or constructed in accordance with this section or on such other date as may be agreed upon in writing by the director of finance, the applicable interest holder must pay to the Toquaht Nation the prescribed sewer extension fee, less any sewer extension deposit paid for that sewer extension, and that amount may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.~~
- ~~(f) — If the director denies a sewer extension application, the Toquaht Nation must, as soon as practicable after that denial, refund any sewer extension deposit or sewer extension fee paid for that application.~~

Construction and operation of Toquaht sewer system

- 2.13 (a) The Toquaht sewer system, including any sewer connections and sewer extensions, must not be installed, constructed, operated, maintained, repaired, upgraded or replaced by any person except
- (i) a Toquaht government employee, or
- ~~(i)(ii) an approved contractor.~~
- ~~(ii) a Toquaht government employee in the course of his or her duties as a Toquaht government employee;~~
- ~~(iii) an independent contractor of the Toquaht Nation in the course of his or her duties as an independent contractor of the Toquaht Nation, or~~
- (iii) another person approved by the director.
- ~~(b) — If an applicant requests that a sewer connection be installed or constructed at a particular location and, in the opinion of the director, that location is practicable, the director must direct that the sewer connection be installed or constructed at that location.~~
- (b) For certainty, if the director approves a sewer application, the director may require the applicant to retain an approved contractor directly to carry out the sewer connection, sewer extension or sewer disconnection, as applicable.

- (c) The director may require a meter to be installed for any sewer connection.
- (d) As soon as practicable after the director becomes aware of any damage to or failure, breakdown, malfunction or blockage of the Toquaht sewer system, the director must, ~~at the Toquaht Nation's cost, cause~~ make reasonable efforts to remedy that damage, failure, breakdown, malfunction or blockage ~~to be remedied~~ and restore service to any affected buildings or structures.

Construction and operation of plumbing system

2.14 (a) ~~The owner~~An interest holder of Toquaht lands or Toquaht foreshore must, ~~at that interest holder's cost,~~ cause any plumbing system on or under those Toquaht lands or Toquaht foreshore to be installed, constructed, operated, maintained, repaired, upgraded and replaced in ~~accordance~~ substantial compliance with

(i) the British Columbia Building Code,

(ii) the Building and Development Authorization Act, TNS 2/2013,

~~(i)~~(iii) this Act, and

~~(ii)~~(iv) any other applicable enactment.

(b) [Repealed]

~~(b) — An interest holder must not commence or, in the case of a renovation referred to in section 2.4(a)(iv), recommence use of the Toquaht sewer system. The director must not direct that the Toquaht sewer service be commenced, or in the case of a renovation referred to in section 2.4(a)(iv), recommenced for a building or structure until certification that the plumbing system for the applicable that building or structure is in substantial compliance with the British Columbia Building Code and the Building and Development Authorization Act has been provided to the director in accordance with the Building and Development Authorization Act or subsection (c).~~

(c) [Repealed]

~~If a sewer connection is for a building or structure constructed prior to the enactment of the Building and Development Authorization Act, prior to directing that the Toquaht sewer service be commenced for that building or structure, the director may require the applicant to~~

~~(c) — engage, at the applicant's cost, a building official or registered professional to certify that the plumbing system for that building or structure is in substantial compliance with the British Columbia Building Code, and~~

~~(d) — provide that certification to the director.~~

~~(e)~~(d) If

- (i) a garage, automobile service station, restaurant, fast food outlet or vehicle or equipment washing establishment is or will be operated in a building or structure serviced by the Toquaht sewer system, or
- (ii) in the opinion of the director, a grease, oil and sand interceptor is necessary for the proper handling of sewage generated within a building or structure serviced by the Toquaht sewer system,

the plumbing system for that building or structure must include a grease, oil and sand interceptor, of a type and at a location approved by the director, in writing.

~~(f)~~(e) As soon as practicable after ~~an interest holder~~ the owner of Toquaht lands or Toquaht foreshore becomes aware of any damage to or failure, breakdown, malfunction or blockage of any plumbing system on or under those Toquaht lands or Toquaht foreshore, ~~that interest holder~~ the owner must, ~~at his or her cost, cause make reasonable efforts to remedy~~ that damage, failure, breakdown, malfunction or blockage ~~to be remedied~~.

Maintenance at ~~interest holder's~~ owner's cost

~~2.12~~2.15 (a) If ~~the owner~~ an interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht sewer system fails to operate, maintain, repair, upgrade or replace a plumbing system on or under those Toquaht lands or Toquaht foreshore in accordance with section 2.14, the director may, after 30 days' written notice to ~~that interest holder~~ the owner, cause any necessary maintenance, repairs, upgrades or replacements to be carried out or made to that plumbing system at the ~~interest holder's~~ owner's cost.

(b) Despite subsection (a), if the director becomes aware of a material blockage or leak in a plumbing system on or under Toquaht lands or Toquaht foreshore serviced by the Toquaht sewer system and the ~~interest holder~~ owner of those Toquaht lands or Toquaht foreshore fails to cause that blockage or leak to be cleared or repaired, as required under section 2.14(e), the director may, after 24 hours' written notice to that ~~interest holder~~ owner, cause that blockage or leak to be cleared or repaired at the ~~interest holder's~~ owner's cost.

(c) Any cost incurred by the Toquaht Nation under subsection (a) or (b) is due and payable by the applicable ~~interest holder~~ owner to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~ the owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.

Sewer service fee

- ~~2.13~~2.16 (a) On or before June 1 of each year, the director of finance must deliver in accordance with Toquaht law to each ~~interest holder~~owner of Toquaht lands or Toquaht foreshore serviced by the Toquaht sewer system a notice setting out the sewer service fee payable for that year for each building or structure on those Toquaht lands or Toquaht foreshore.
- (b) ~~One~~ or before July 2 of each year or such other date as may be agreed upon in writing by the director of finance, ~~an interest holder~~the owner of a building or structure serviced by the Toquaht sewer system must pay the prescribed sewer service fee to the Toquaht Nation.
- (c) In the year a building or structure is connected to or disconnected from the Toquaht sewer system, the sewer service fee for that building or structure must be prorated from or to the date the building or structure is connected or disconnected, as applicable.
- (d) If a building or structure is connected to the Toquaht sewer system after June 1,
- (i) the director of finance must, as soon as practicable after the building or structure is connected, deliver in accordance with Toquaht law to ~~each interest holder~~the owner of that building or structure a notice setting out the sewer service fee payable for that year for that building or structure, prorated in accordance with subsection (c), and
- (ii) ~~that interest holder~~the owner must pay the prorated sewer service fee to the Toquaht Nation within 30 days of receipt of that notice or such other date as may be agreed upon in writing by the director of finance.
- (e) If a building or structure is disconnected from the Toquaht sewer system after the sewer service fee for that year has been paid, the Toquaht Nation must refund any excess paid to the applicable ~~interest holder~~owner, prorated in accordance with subsection (c).
- (f) Despite subsection (e), if an owner of Toquaht lands or Toquaht foreshore has ~~there are~~ any outstanding sewer service fees ~~for a building or structure disconnected from the Toquaht sewer system~~, the director of finance may set off any refund payable under that subsection against
- (i) the outstanding fees, or
- (ii) any penalty or interest incurred in relation to those fees,
- and refund any balance to the applicable ~~interest holder~~owner.
- (g) [Repealed]

- ~~(g) — Despite subsections (c) and (e), the sewer service fee must not be prorated and a refund must not be issued for any temporary discontinuance of the Toquaht sewer service.~~
- (h) If a sewer service fee for Toquaht lands remains unpaid on December 31 of the year in which it becomes payable, the outstanding amount
- (i) is deemed to be a tax levied under the Real Property Tax Act, and
 - (ii) incurs penalties and interest and may be collected in accordance with that Act.
- (i) For certainty, the fact that a sewer connection or sewer extension is installed or constructed at an owner's cost does not in any way exempt the owner from any sewer service fee payable under this section ~~interest holder's cost, by a contractor of that interest holder approved by the director under section 2.12(a)(iii), does not in any way exempt an interest holder of Toquaht lands or Toquaht foreshore serviced via that sewer connection or sewer extension from any sewer service fee payable under this section.~~
- (j) For certainty, the fact that
- (i) no sewage is generated in a building or structure for all or a portion of a year, or
 - (ii) the Toquaht sewer service is temporarily suspended
 - (A) by the ~~Toquaht Nation~~director under section 2.24(b), or
 - (B) due to any damage to or failure, breakdown, malfunction or blockage of the Toquaht sewer system,
- does not in any way exempt the owner~~an interest holder~~ of that building or structure from any sewer service fee payable under this section.

Disconnection on request

- 2.142.17** (a) The owner~~An interest holder~~ of a building or structure serviced by the Toquaht sewer system may apply to ~~have~~ disconnect that building or structure ~~disconnected~~ from the Toquaht sewer system temporarily or permanently by submitting a sewer disconnection application in the prescribed form, together with the ~~prescribed sewer disconnection~~applicable application fee, to the director.
- (b) On receipt of a sewer disconnection application, together with the applicable ~~sewer disconnection~~application fee, the director ~~must direct that the building or structure set out in the application be disconnected from the Toquaht sewer~~

~~system at a location and in a manner approved by the director~~ may approve or deny the application with any conditions the director considers appropriate.

~~(b)(c)~~ As soon as practicable after receipt of a sewer disconnection application, the director must deliver in accordance with Toquaht law to the applicant notice of the director's decision on the application.

Disconnection required on removal, demolition or damage

- 2.152.18** (a) If ~~the owner~~ an interest holder of Toquaht lands or Toquaht foreshore intends to remove or demolish a building or structure on those Toquaht lands or Toquaht foreshore and that building or structure is serviced by the Toquaht sewer system, ~~that interest holder~~ the owner must, prior to carrying out the removal or demolition, as applicable, cause that building or structure to be disconnected from the Toquaht sewer system in accordance with this Part.
- (b) If a building or structure serviced by the Toquaht sewer system is damaged to the extent that it can no longer be put to any legally permitted use, ~~the owner~~ the interest holder of that building or structure must, as soon as practicable after the damage occurs, cause that building or structure to be disconnected from the Toquaht sewer system in accordance with this Part.
- (c) If ~~an owner~~ an interest holder fails to cause a building or structure to be disconnected from the Toquaht sewer system in accordance with subsection (a) or (b), the director may, ~~after with~~ after with prior approval of the Executive ~~, by resolution,~~ and 60 days' written notice to ~~that interest holder~~ the owner, cause that building or structure to be disconnected from the Toquaht sewer system at the ~~interest holder's~~ owner's cost.
- (d) Any cost incurred by the Toquaht Nation under subsection (c) is due and payable by the applicable ~~interest holder~~ owner to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~ the owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.

Disconnection for non-compliance

- 2.162.19** (a) In addition to any penalty that may be imposed under this or any other enactment, if ~~the owner~~ an interest holder or an occupier of a building or structure serviced by the Toquaht sewer system contravenes this Part, the director may, ~~after with~~ after with prior approval of the Executive ~~, by resolution,~~ and 60 days' written notice to ~~each interest holder~~ the owner and each known occupier of that building or structure,
- (i) cause that building or structure to be disconnected from the Toquaht sewer system at the ~~interest holder's~~ owner's cost, and

- (ii) establish the terms or conditions on which that building or structure may be reconnected to the Toquaht sewer system.
- (b) A notice under subsection (a) must be delivered in accordance with Toquaht law to the applicable ~~interest holder~~owner or occupier.
- (c) The owner~~An interest holder~~ or an occupier may, within 14 days of receipt of a notice under subsection (a), request a review of that notice under the Administrative Decisions Review Act, TNS 7/2011.
- (d) Any cost incurred by the Toquaht Nation under subsection (a) is due and payable by the applicable ~~interest holder~~owner to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~the owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.

Prohibitions

- ~~2.17~~2.20 (a) A person must not connect or attempt to connect any building or structure, or allow or cause any building or structure to be connected, to the Toquaht sewer system except in accordance with this Part.
- (b) A person must not discharge, or allow or cause to be discharged, into the Toquaht sanitary sewer system anything except sewage.
 - (c) Unless otherwise approved by the director, in writing, the owner~~an interest holder~~ or an occupier of Toquaht lands or Toquaht foreshore serviced by the Toquaht sewer system must not discharge, or allow or cause to be discharged, into the Toquaht sanitary sewer system any sewage except sewage generated within those Toquaht lands or Toquaht foreshore.
 - (d) A person must not discharge, or allow or cause to be discharged, into the Toquaht sanitary sewer system any
 - (i) sewage of a type, concentration or quantity as may be prescribed,
 - (ii) sludge, material or deposit from a septic tank, or
 - (iii) substance for the purpose of diluting industrial sewage to meet prescribed tolerance standards, except where that dilution is expressly permitted by law.
 - (e) A person must not discharge, or allow or cause to be discharged, into the Toquaht storm sewer system anything except storm water.

- (f) A person must not discharge sewage anywhere on Toquaht lands or Toquaht foreshore except into
- (i) the Toquaht sanitary sewer system,
 - (ii) a private sanitary sewer system, or
 - (iii) a sewage transport vehicle operated by a licensed sewage disposal business.
- (g) A person must not discharge sewage from a recreational vehicle anywhere except into a dump station operated for that purpose.
- (h) A person must not bury, cover or obstruct, at any time or in any manner, access to any manhole, inspection chamber or meter connected to the Toquaht sewer system by placing on or in the vicinity of that manhole, inspection chamber or meter any fencing, landscaping, lumber, brick, stone, gravel sand or other material or thing.
- (i) A person must not break, damage, destroy, deface, remove, uncover, open, close or tamper with any part of the Toquaht sewer system except in accordance with section 2.13.
- (j) A person must not provide false information or omit any relevant information
- (i) in any application under this Part, or
 - (ii) to ~~the director, the director of finance, a trained public works operations and maintenance worker, or an enforcement officer~~ a Toquaht official in the performance of ~~his or her~~ the Toquaht official's duties or the exercise of ~~his or her~~ the Toquaht official's powers under this Part.

Inspection

- 2.182.21** (a) The director, ~~a trained public works operations and maintenance worker, or an enforcement officer~~ may, at any reasonable time,
- (i) enter any Toquaht lands or Toquaht foreshore, ~~including or, with~~ 24 hours' written notice, any building or structure on those Toquaht lands or Toquaht foreshore,
 - (ii) make reasonable inspections of those Toquaht lands or Toquaht foreshore,
 - (iii) make reasonable inquiries of ~~any interest holder~~ the owner or an occupier of those Toquaht lands or Toquaht foreshore,

- (iv) obtain a sample from any plumbing system on or under those Toquaht lands or Toquaht foreshore, or
 - (v) read any meter on those Toquaht lands or Toquaht foreshore, to determine the sewer service fee payable for those Toquaht lands or Toquaht foreshore ~~or to ascertain whether or not this Part is being complied with.~~
- (b) A person must not interfere with or obstruct the director, ~~a trained public works operations and maintenance worker, or an enforcement officer in the performance of his or her duties or the exercise of his or her powers~~ when exercising a power under subsection (a).

Accidental discharge

- ~~2.19~~ 2.22 (a) Where a discharge of any substance into Toquaht sewer system occurs or is reasonably likely to occur in contravention of this Act, every person causing or contributing to the discharge or increasing the likelihood of such a discharge, and the owner or the person in charge, management or control of the substance before its discharge or likely discharge, must immediately
- (i) subject to any regulations, report the discharge or likely discharge to the director,
 - (ii) at that person's cost, take all reasonable measures consistent with public safety to stop the discharge, repair any damage caused by the discharge and prevent or eliminate any danger to life, health, property or the environment that results or may be reasonably expected to result from the discharge or likely discharge.
- (b) Where a person fails or neglects to take remedial measures, as required under subsection ~~(a)(ii)~~(a), or where, in the opinion of the director, immediate remedial measures are required to protect the environment, public health or property or to minimize damage to the Toquaht sewer system, the director may, at that person's cost, cause those remedial measures to be carried out.
- (c) Any cost incurred by the Toquaht Nation under subsection (b) is due and payable by the applicable ~~interest holder~~person to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~the person, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.
- (d) For certainty, reporting a discharge or taking remedial measures, as required under subsection (a), does not relieve any person from liability or any penalty that may be imposed under this or any other enactment in respect of that discharge.

No liability for nuisance

~~2.20~~2.23 The Toquaht Nation is not liable in any action based on nuisance or on the rule in the Rylands v. Fletcher case if the damages arise, directly or indirectly, out of any damage to or failure, breakdown, malfunction or blockage of the Toquaht sewer system.

No liability for change in operating conditions

~~2.21~~2.24 (a) The Toquaht Nation does not guarantee continuity or adequacy of the Toquaht sewer service.

- | (b) The ~~Toquaht Nation~~director may, at any time without notice, change the operating conditions of the Toquaht sewer system or temporarily suspend the Toquaht sewer service for any purpose, including maintenance, repairs, upgrades or replacements.
- (c) The Toquaht Nation is not liable for any loss, damage, expense, death or injury, including bodily injury, sustained by any person as a result of any change in the operating conditions of the Toquaht sewer system or temporary suspension of the Toquaht sewer service.

PART 3 - WATER SERVICE

Toquaht water service

- 3.1 The Toquaht water service is ~~continued~~/established and must be operated in accordance with this Part.

Connection application

- 3.2 ~~An interest holder~~The owner of Toquaht lands or Toquaht foreshore may apply
- (a) to ~~have~~connect an existing building or structure, or a building or structure to be constructed, on those Toquaht lands or Toquaht foreshore, ~~connected~~ to the Toquaht water system, or
 - (b) in the case of a renovation referred to in section 3.4(a)(iv), to ~~have~~install or construct a replacement water connection ~~installed or constructed~~ and reconnect the applicable building or structure ~~reconnected~~ to the Toquaht water system,
- by submitting a water connection application in the prescribed form, together with the ~~prescribed water connection~~applicable application fee, to the director.

Connection required for abutting lands

- 3.3 (a) Subject to subsection (b), ~~an interest holder~~the owner of Toquaht lands
- (i) on which there is a building or structure designed or used for human occupancy, and
 - (ii) that front on the Toquaht water system for the entire frontage or flankage of those Toquaht lands,
- must cause that building or structure to be connected to the Toquaht water system in accordance with this Part.
- (b) The director may waive the requirement under subsection (a) if, in ~~his or her~~the director's opinion, the capacity of the Toquaht water system is not sufficient to provide service to that building or structure.

Connection required for construction on lands

- 3.4 (a) An application for an authorization under the Building and Development Authorization Act, TNS 2/2013 must be accompanied by a water connection application, together with the applicable ~~water connection~~application fee, if
- (i) the application is in relation to Toquaht lands,

- (ii) the building or structure set out in the application is designed or used for human occupancy,
 - (iii) the Toquaht lands set out in the application front on the Toquaht water system for the entire frontage or flankage of those Toquaht lands, and
 - (iv) the application is for renovation to a building or structure already connected to the Toquaht water system and
 - (A) the water connection for that building or structure is 30 years old or older,
 - (B) the total estimated construction cost for the renovation ~~is~~ greater than \$100,000, or
 - (C) the renovation will result in
 - (I) enlargement of the plumbing system by adding two or more plumbing fixtures, or
 - (II) an increase in the number of bedrooms,
 - (v) the application is for renovation to a building or structure not yet connected to the Toquaht water system, or
 - (vi) the application is for construction of a new building or structure.
- (b) The director may waive the requirement under subsection (a) if, in ~~his or her~~[the director's](#) opinion,
- (i) the capacity of the Toquaht water system is not sufficient to provide service to that building or structure, or
 - (ii) in the case of a renovation to a building or structure already connected to the Toquaht water system, the existing water connection is adequate for providing water services to that building or structure.

Decision on application

- 3.5 (a) Subject to subsection (b), on receipt of a water connection application, together with the applicable ~~water connection~~[application](#) fee,
- (i) if,
 - (A) in the opinion of the director, the capacity of the Toquaht water system is sufficient to provide service to the building or structure set out in the application, and

- (B) the Toquaht lands or Toquaht foreshore set out in the application front on the Toquaht water system for the entire frontage or flankage of those Toquaht lands or Toquaht foreshore,
- the director must approve the application.
- (ii) if, in the opinion of the director, the capacity of the Toquaht water system is not sufficient to provide service to the building or structure set out in the application, the director ~~must deny the application~~ may approve or deny the application with any conditions the director considers appropriate, and.
- (iii) if the Toquaht lands or Toquaht foreshore set out in the application
- (A) do not front on the Toquaht water system, or
- (B) only front on the Toquaht water system for a portion of the frontage or flankage of those Toquaht lands or Toquaht foreshore,
- the director may
- (C) deny the application,
- (D) approve the application on the condition that, prior to connecting that building or structure to the Toquaht water system, the Toquaht water system be extended ~~in accordance with section 3.10~~ to a point determined by the director, or
- ~~(E)~~ approve the application without the condition referred to in subparagraph 3.5(a)(iii)(D) if, in ~~his or her~~the director's opinion, that building or structure is suitable for a water connection without an extension to the Toquaht water system ~~in accordance with section 3.10~~.
- (b) If a water connection application is in relation to a parcel of Toquaht foreshore,
- (i) the director must not approve the application without the prior approval of the Executive, ~~by resolution,~~ and
- (ii) the director must deny the application if, in the opinion of the Executive, that parcel is not suitable for a water connection.

Notice of decision

- 3.6** As soon as practicable after receipt of a water connection application, together with the applicable ~~water connection~~ application fee, the director must deliver in accordance with Toquaht law to the applicant notice of ~~his or her~~ the director's decision on the application.

Direction to connect or refund**3.7** ~~[Repealed]~~

- ~~———— If the director approves a water connection application, the director must~~
- ~~(i) — as soon as practicable after that approval, direct that a water connection be installed or constructed for the building or structure set out in the application, and~~
 - ~~(ii) — as soon as practicable after installation or construction of that water connection and receipt of any certification required under section 3.13(b), direct that the Toquaht water service be commenced or, in the case of a renovation referred to in section 3.4(a)(iv), recommenced for that building or structure, including opening the curb valve for that building or structure.~~
- ~~(b) — If the director denies a water connection application, the Toquaht Nation must, as soon as practicable after that denial, refund any water connection fee paid for that application.~~

Connection at ~~interest holder's~~owner's cost**3.73.8** (a) If ~~an interest holder~~the owner of Toquaht lands

- (i) on which there is a building or structure designed or used for human occupancy, and
- (ii) that front on the Toquaht water system for the entire frontage or flankage of those Toquaht lands,

~~fails to cause that building or structure to be connected to the Toquaht water system in accordance with section 3.3, the director may, after with prior approval of the Executive, ~~by resolution,~~ and 60 days' written notice to ~~that interest holder~~the owner, cause that building or structure to be connected to the Toquaht water system at the ~~interest holder's~~owner's cost.~~

- (b) Any cost incurred by the Toquaht Nation under subsection (a) is due and payable by the applicable ~~interest holder~~owner to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~the owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.

Pre-servicing at ~~interest holder's~~owner's cost**3.83.9** (a) If

- (i) a road improvements,
- (ii) an improvements to the Toquaht water system, or
- (iii) an extension of the Toquaht water system,

~~are~~ is scheduled along a road or right of way and a parcel of Toquaht lands fronts on that road or right of way, the director may direct that a water connection be installed or constructed to the property line of that parcel.

- (b) If a water connection is installed or constructed in accordance with subsection (a), ~~the interest holder~~ the owner of that parcel must pay ~~the water connection fee that would have been payable had that interest holder applied for that water connection in accordance with this Part~~ to the Toquaht Nation the portion of the construction or installation cost determined by the director, acting reasonably.
- (c) ~~A water connection fee~~ An amount payable under subsection (b) is due and payable by the applicable ~~interest holder~~ owner to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~ the owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.

Separate connection required

- ~~3.93.10~~ (a) ~~Subject to subsection (b)~~ Unless otherwise approved by the director, in writing, a separate water connection is required for
- (i) each parcel of Toquaht lands or Toquaht foreshore, and
 - (ii) each building or structure on Toquaht lands or Toquaht foreshore, where two or more buildings or structures exist on a single parcel of Toquaht lands or Toquaht foreshore and those buildings or structures can be legally separated by the subdivision of land.

~~(b) — The director may waive the requirement under subsection (a)(i) for~~

- ~~(i) — a strata lot,~~
- ~~(ii) — an air space parcel, or~~
- ~~(iii) — a parcel from which a strata lot or air space parcel is subdivided,~~

~~if that parcel is, or will be, developed with a plumbing system that is subject to registered reciprocal easements, satisfactory to the director, permitting all interest holders access to all parts of the plumbing system for inspection, maintenance, repair and replacement.~~

- ~~(c) — The director may waive the requirement under subsection (a)(ii) if the interest holder of that parcel agrees to and registers a restrictive covenant, satisfactory to the director, disallowing future subdivision of that parcel.~~

Extensions

~~3.10~~3.11 (a) ~~An interest holder~~The owner of Toquaht lands or Toquaht foreshore may apply to ~~have extend~~ the Toquaht water system ~~extended~~ to a point opposite those Toquaht lands or Toquaht foreshore by submitting a water extension application in the prescribed form, together with the prescribed ~~water extension deposit~~application fee, to the director.

- (b) ~~Subject to subsection (c), o~~On receipt of a water extension application, together with the applicable ~~water extension deposit~~application fee, and after considering the following factors, the director may approve or deny the application with any conditions the director considers appropriate:

~~(i) — if, in the opinion of the director,~~

~~(ii)(i)~~(i) whether the capacity of the Toquaht water system is sufficient to provide service to the building or structure set out in the application, and

~~(iii)(ii)~~(ii) the cost of operating and maintaining that water extension ~~would not be excessive~~ relative to the revenues from buildings or structures serviced by that water extension,

~~the director must approve the application, and~~

~~(iv) — if, in the opinion of the director,~~

~~(A) — the capacity of the Toquaht water system is not sufficient to provide service to the building or structure set out in the application, or~~

~~(B) — the cost of operating and maintaining that water extension would be excessive relative to the revenues from buildings or structures serviced by that water extension,~~

~~the director must deny the application.~~

- (c) If a water extension application is in relation to a parcel of Toquaht foreshore,
- (i) the director must not approve the application without the prior approval of the Executive, ~~by resolution~~, and
 - (ii) the director must deny the application if, in the opinion of the Executive, that parcel is not suitable for a water extension.

- (d) As soon as practicable after receipt of a water extension application, together with the applicable ~~water extension deposit~~[application fee](#), the director must deliver in accordance with Toquaht law to the applicant notice of ~~his or her~~[the director's](#) decision on the application.
- ~~(e) If the director approves a water extension application, the director must direct that the Toquaht water system be extended to a point opposite the Toquaht lands or Toquaht foreshore set out in the application.~~
- ~~(f) Within 30 days after a water extension is installed or constructed in accordance with this section or on such other date as may be agreed upon in writing by the director of finance, the applicable interest holder must pay to the Toquaht Nation the prescribed water extension fee, less any water extension deposit paid for that water extension, and that amount may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.~~
- ~~(g) If the director denies a water extension application, the Toquaht Nation must, as soon as practicable after that denial, refund any water extension deposit or water extension fee paid for that application.~~

Construction and operation of Toquaht water system

- [3.12](#) (a) The Toquaht water system, including any water connections and water extensions, must not be installed, constructed, operated, maintained, repaired, upgraded or replaced by any person except
- [\(i\) a Toquaht government employee, or](#)
- ~~(i)(ii) an approved contractor.~~
- ~~(ii) a Toquaht government employee in the course of his or her duties as a Toquaht government employee;~~
- ~~(iii) an independent contractor of the Toquaht Nation in the course of his or her duties as an independent contractor of the Toquaht Nation, or~~
- ~~(iv) another person approved by the director.~~
- (b) For certainty, no person may
- (i) open or close any curb valve,
- (ii) open any hydrant or standpipe, or
- (iii) use any water from any hydrant or standpipe,
- except a person referred to in subsection (a).

- ~~(e) If an applicant requests that a water connection be installed or constructed at a particular location and, in the opinion of the director, that location is practicable, the director must direct that the water connection be installed or constructed at that location.~~
- (c) For certainty, if the director approves a water application, the director may require the applicant to retain an approved contractor directly to carry out the water connection, water extension or water disconnection, as applicable.
- (d) The director may require a meter to be installed for any water connection.
- (e) As soon as practicable after the director becomes aware of any damage to or failure, breakdown or malfunction of the Toquaht water system, the director must make reasonable efforts to remedy, ~~at the Toquaht Nation's cost, cause~~ that damage, failure, breakdown or malfunction ~~to be remedied~~ and restore service to any affected buildings or structures.

Construction and operation of plumbing system

- 3.13 (a) ~~An interest holder~~ The owner of Toquaht lands or Toquaht foreshore must, ~~at that interest holder's cost,~~ cause any plumbing system on or under those Toquaht lands or Toquaht foreshore to be installed, constructed, operated, maintained, repaired, upgraded and replaced in ~~accordance~~ substantial compliance with
- (i) the British Columbia Building Code,
- (ii) the Building and Development Authorization Act, TNS 2/2013,
- (iii) this Act, and
- ~~(i)~~ (iv) any other applicable enactment.
- (b) [Repealed]
- ~~(b) An interest holder must not commence or, in the case of a renovation referred to in section 3.4(a)(iv), recommence use of the Toquaht sewer system. The director must not direct that the Toquaht water service be commenced, or in the case of a renovation referred to in section 3.4(a)(iv), recommenced for a building or structure until certification that the plumbing system for that building or structure is in substantial compliance with the British Columbia Building Code and the Building and Development Authorization Act has been provided to the director in accordance with the Building and Development Authorization Act or subsection (c).~~
- (c) [Repealed]

- (c) ~~If a water connection is for a building or structure constructed prior to the enactment of the Building and Development Authorization Act, prior to directing that the Toquaht water service be commenced for that building or structure, the director may require the applicant to~~
- (i) ~~engage, at the applicant's cost, a building official or registered professional to certify that the plumbing system for that building or structure is in substantial compliance with the British Columbia Building Code, and~~
 - (ii) ~~provide that certification to the director.~~
- (d) As soon as practicable after ~~an interest holder~~the owner of Toquaht lands or Toquaht foreshore becomes aware of any damage to or failure, breakdown or malfunction of any plumbing system on or under those Toquaht lands or Toquaht foreshore, ~~that interest holder~~the owner must, ~~at his or her cost, cause make reasonable efforts to remedy~~ that damage, failure, breakdown or malfunction ~~to be remedied.~~

Maintenance at ~~interest holder's~~owner's cost

- ~~3.11~~3.14 (a) If ~~an interest holder~~the owner of Toquaht lands or Toquaht foreshore serviced by the Toquaht water system fails to operate, maintain, repair, upgrade or replace a plumbing system on or under those Toquaht lands or Toquaht foreshore in accordance with section 3.13, the director may, after 30 days' written notice to ~~that interest holder~~the owner, cause any necessary maintenance, repairs, upgrades or replacements to be carried out or made to that plumbing system at the ~~interest holder's~~owner's cost.
- (b) Despite subsection (a), if the director becomes aware of a material blockage or leak in a plumbing system on or under Toquaht lands or Toquaht foreshore serviced by the Toquaht water system and the ~~interest holder~~owner of those Toquaht lands or Toquaht foreshore fails to cause that leak to be repaired, as required under section 3.13(d), the director may, after 24 hours' written notice to that ~~interest holder~~owner, cause that leak to be repaired at the ~~interest holder's~~owner's cost.
- (c) Any cost incurred by the Toquaht Nation under subsection (a) or (b) is due and payable by the applicable ~~interest holder~~owner to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~the owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.

Water service fee

- 3.123.15** (a) On or before June 1 of each year, the director of finance must deliver in accordance with Toquaht law to each ~~interest holder~~owner of Toquaht lands or Toquaht foreshore serviced by the Toquaht water system a notice setting out the water service fee payable for that year for each building or structure on those Toquaht lands or Toquaht foreshore.
- (b) One or before July 2 of each year or such other date as may be agreed upon in writing by the director of finance, the owner ~~an interest holder~~ of a building or structure serviced by the Toquaht water system must pay the prescribed water service fee to the Toquaht Nation.
- (c) In the year a building or structure is connected to or disconnected from the Toquaht water system, the water service fee for that building or structure must be prorated from or to the date the building or structure is connected or disconnected, as applicable.
- (d) If a building or structure is connected to the Toquaht water system after June 1,
- (i) the director of finance must, as soon as practicable after the building or structure is connected, deliver in accordance with Toquaht law to ~~each interest holder~~the owner of that building or structure a notice setting out the water service fee payable for that year for that building or structure, prorated in accordance with subsection (c), and
- (ii) ~~that interest holder~~the owner must pay the prorated water service fee to the Toquaht Nation within 30 days of receipt of that notice or such other date as may be agreed upon in writing by the director of finance.
- (e) If a building or structure is disconnected from the Toquaht water system after the water service fee for that year has been paid, the Toquaht Nation must refund any excess paid to the applicable ~~interest holder~~owner, prorated in accordance with subsection (c).
- (f) Despite subsection (e), if ~~there are~~an owner of Toquaht lands or Toquaht foreshore has any outstanding water service fees ~~for a building or structure disconnected from the Toquaht water system~~, the director of finance may set off any refund payable under that subsection against
- (i) the outstanding fees, or
- (ii) any penalty or interest incurred in relation to those fees,
- and refund any balance to the applicable ~~interest holder~~owner.
- (g) [Repealed]

- ~~(g) Despite subsections (c) and (e), the water service fee must not be prorated and a refund must not be issued for any temporary discontinuance of the Toquaht water service.~~
- (h) If a water service fee for Toquaht lands remains unpaid on December 31 of the year in which it becomes payable, the outstanding amount
- (i) is deemed to be a tax levied under the Real Property Tax Act, and
- (ii) incurs penalties and interest and may be collected in accordance with that Act.
- (i) For certainty, the fact that a water connection or water extension is installed or constructed at an owner's cost does not in any way exempt the owner from any water service fee payable under this section.
- ~~(i) at an interest holder's cost, by a contractor of that interest holder approved by the director under section 1.1(a)(i), or~~
- ~~(ii) using water connection fees, water extension fees or other amounts collected under this Part, with little or no additional cost to the Toquaht Nation,~~
- ~~does not in any way exempt an interest holder of Toquaht lands or Toquaht foreshore serviced via that water connection or water extension from any sewer service fee payable under this section.~~
- (j) For certainty, the fact that
- (i) no water is used from a building or structure for all or a portion of the year, or
- (ii) the Toquaht water service is temporarily suspended
- (A) by the ~~Toquaht Nation~~director under section 3.22(b), or
- (B) due to any damage to or failure, breakdown or malfunction of the Toquaht water system,
- does not in any way exempt ~~an interest holder~~the owner of that building or structure from any water service fee payable under this section.
- (k) For certainty, the fact that a water service fee is ~~Water fees~~ due to a leak from a plumbing system on or under ~~the lands of an interest holder of~~ Toquaht lands or Toquaht foreshore does not in any way exempt the owner of those Toquaht lands or Toquaht foreshore from any water service fee payable under this

~~section serviced by the Toquaht water system will be payable by the interest holder.~~

Disconnection on request

- ~~3.13~~3.16 (a) ~~An interest holder~~The owner of a building or structure serviced by the Toquaht water system may apply to ~~have disconnect~~that building or structure disconnected from the Toquaht water system temporarily or permanently by submitting a water disconnection application in the prescribed form, together with the ~~prescribed water disconnection~~applicable application fee, to the director.
- (b) On receipt of a water disconnection application, together with the applicable water disconnection application fee, the director~~must direct that the building or structure set out in the application be disconnected from the Toquaht water at a location and in a manner approved by the director~~may approve or deny the application with any conditions the director considers appropriate.
- (c) As soon as practicable after receipt of a water disconnection application, the director must deliver in accordance with Toquaht law to the applicant notice of the director's decision on the application.

Disconnection required on removal, demolition or damage

- ~~3.14~~3.17 (a) If ~~an interest holder~~the owner of Toquaht lands or Toquaht foreshore intends to remove or demolish a building or structure on those Toquaht lands or Toquaht foreshore and that building or structure is serviced by the Toquaht water system, ~~that interest holder~~the owner must, prior to carrying out the removal or demolition, as applicable, cause that building or structure to be disconnected from the Toquaht water system in accordance with this Part.
- (b) If a building or structure serviced by the Toquaht water system is damaged to the extent that it can no longer be put to any legally permitted use, ~~the owner~~the interest holder of that building or structure must, as soon as practicable after the damage occurs, cause that building or structure to be disconnected from the Toquaht water system in accordance with this Part.
- (c) If an ~~interest holder~~owner fails to cause a building or structure to be disconnected from the Toquaht water system in accordance with subsection (a) or (b), the director may, ~~after~~with prior approval of the Executive ~~, by resolution,~~ and 60 days' written notice to ~~that interest holder~~the owner, cause that building or structure to be disconnected from the Toquaht water system at the ~~interest holder's~~owner's cost.
- (d) Any cost incurred by the Toquaht Nation under subsection (c) is due and payable by the applicable ~~interest holder~~owner to the Toquaht Nation within 30 days of a

written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~the owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.

Disconnection for non-compliance

- ~~3.15~~3.18 (a) In addition to any penalty that may be imposed under this or any other enactment, if ~~an interest holder~~the owner or an occupier of a building or structure serviced by the Toquaht water system contravenes this Part, the director may, ~~after~~with prior approval of the Executive, ~~by resolution,~~ and 60 days' written notice to ~~each interest holder~~the owner and each known occupier of that building or structure,
- (i) cause that building or structure to be disconnected from the Toquaht water system at the ~~interest holder's cost~~owner's, and
 - (ii) establish the terms or conditions on which that building or structure may be reconnected to the Toquaht water system.
- (b) A notice under subsection (a) must be delivered in accordance with Toquaht law to the applicable ~~interest holder~~owner or occupier.
- (c) ~~An interest holder or~~The owner or an occupier may, within 14 days of receipt of a notice under subsection (a), request a review of that notice under the Administrative Decisions Review Act, TNS 7/2011.
- (d) Any cost incurred by the Toquaht Nation under subsection (a) is due and payable by the applicable ~~interest holder~~owner to the Toquaht Nation within 30 days of a written demand for payment by the director of finance, if that demand is delivered in accordance with Toquaht law to ~~that interest holder~~the owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act, TNS 6/2011.

Prohibitions

- ~~3.16~~3.19 (a) A person must not connect or attempt to connect any building or structure, or allow or cause any building or structure to be connected, to the Toquaht water system except in accordance with this Part.
- (b) A person must not sell or dispose of, or allow or cause to be sold or disposed of, any water from the Toquaht water system.
- (c) ~~An interest holder or occupier of Toquaht lands or Toquaht foreshore serviced by the Toquaht water system~~A person must not use or transport, or allow or cause to be used or transported, ~~for the benefit of any person other than that interest holder or occupier,~~ any water from the Toquaht water system, except for a purpose and

- in accordance with any conditions ~~unless otherwise~~ approved by the director, in writing.
- (d) A person must not willfully or knowingly waste any water from the Toquaht sewer system, including the owner of a building or structure willfully or knowingly failing to repair a leak in the plumbing system for that building or structure.
 - (e) A person must not discharge, or allow or cause to be discharged, into the Toquaht water system any substance that is capable of injuring property or any life form, including humans, animals and plants.
 - (f) A person must not bury, cover or obstruct, at any time or in any manner, access to any hydrant, standpipe, valve, curb valve, manhole or meter connected to the Toquaht water system by placing on or in the vicinity of that hydrant, standpipe, valve, curb valve, manhole or meter any fencing, landscaping, lumber, brick, stone, gravel sand or other material or thing.
 - (g) A person must not break, damage, destroy, deface, remove, uncover, open, close or tamper with any part of the Toquaht water system except in accordance with section 3.12.
 - (h) A person must not provide false information or omit any relevant information
 - (i) in any application under this Part, or
 - (ii) to ~~the director, a trained public works operations and maintenance worker, the director of finance~~ Toquaht official or an enforcement officer in the performance of ~~his or her~~ the Toquaht official's duties or the exercise of ~~his or her~~ the Toquaht official's powers under this Part.

Inspection

- 3.173.20 (a) The director, ~~a trained public works operations and maintenance worker or an enforcement officer~~ may, at any reasonable time,
- (i) enter any Toquaht lands or Toquaht foreshore or, with 24 hours' written notice, ~~including~~ any building or structure on those Toquaht lands or Toquaht foreshore,
 - (ii) make reasonable inspections of those Toquaht lands or Toquaht foreshore,
 - (iii) make reasonable inquiries of ~~any interest holder~~ the owner or an occupier of those Toquaht lands or Toquaht foreshore,
 - (iv) obtain a sample from any plumbing system on or under those Toquaht lands or Toquaht foreshore, or

(v) read any meter on those Toquaht lands or Toquaht foreshore,

to determine the water service fee payable for those Toquaht lands or Toquaht foreshore ~~or to ascertain whether or not this Part is being complied with.~~

- (b) A person must not interfere with or obstruct the director, ~~a trained public works operations and maintenance worker or an enforcement officer in the performance of his or her duties or the exercise of his or her powers~~ when exercising a power under subsection (a).

No liability for nuisance

~~3.18~~3.21 The Toquaht Nation is not liable in any action based on nuisance or on the rule in the Rylands v. Fletcher case if the damages arise, directly or indirectly, out of any damage to or failure, breakdown or malfunction of the Toquaht water system.

No liability for change in operating conditions

~~3.19~~3.22 (a) The Toquaht Nation does not guarantee continuity or adequacy of the Toquaht water system.

- (b) The ~~Toquaht Nation~~ director may, at any time without notice, change the operating conditions of the Toquaht water system or temporarily suspend the Toquaht water service for any purpose, including maintenance, repairs, upgrades or replacements.
- (c) The Toquaht Nation is not liable for any loss, damage, expense, death or injury, including bodily injury, sustained by any person as a result of any change in the operating conditions of the Toquaht water system or temporary suspension of the Toquaht ~~sewer~~ water service.

PART 4 - GARBAGE AND RECYCLING SERVICE

Toquaht garbage and recycling service

- 4.1 The Toquaht garbage and recycling service is established and must be operated in accordance with this Part.

Scope of service

4.2 (a) The director must, by directive, identify properties serviced by the Toquaht garbage and recycling service.

(b) The owner of Toquaht lands or Toquaht foreshore may apply to be added to or removed from a directive under subsection (a) by submitting a written request to the director, in a form approved by the director.

(c) The director may approve or deny a request under subsection (b) with any conditions the director considers appropriate.

~~4.2 Subject to sections 4.4 and 4.8, the Toquaht Nation must collect garbage and recycling from all residential properties on the dates, in the manner and on the conditions as may be determined by the Executive, by resolution, or the director, by directive.~~

~~(a) The Toquaht Nation may, after prior approval of the Executive, by resolution, collect garbage and recycling from a non-residential property on the dates, in the manner and on the conditions as may be determined by the Executive, by resolution, or the director, by directive.~~

Frequency of service

- 4.3 The Toquaht Nation must collect garbage and recycling from each property serviced by the Toquaht garbage and recycling service

- (a) at regular intervals, and
(b) at least 24 times per calendar year.

~~Alternate collection service~~

~~An interest holder~~The owner of a residential property

~~(i) with a mixed commercial use, or~~

~~(ii) with four or more residential units~~

~~(iii) may arrange to have the garbage and recycling collected from that residential property by a licensed waste removal business, provided that~~

~~waste removal business collects garbage and recycling from that residential property~~

- ~~(iv) — at regular intervals, and~~
- ~~(v) — at least 24 times per calendar year.~~
- ~~(c) — An interest holder owner who arranges to have garbage and recycling collected by a licensed waste removal business under subsection (a), must at least 30 days prior to the commencement of that arrangement provide the director written notice of the arrangement, including~~
 - ~~(i) — the name and address of the waste removal business,~~
 - ~~(ii) — the intervals in which garbage and recycling will be collected from the applicable residential property.~~

Garbage and recycling bins

- ~~4.4 — An interest holder of Toquaht lands or Toquaht foreshore The owner or an occupier of a property serviced by the Toquaht garbage and recycling service must ensure that any garbage or recycling to be collected from that property those Toquaht lands or Toquaht foreshore by the Toquaht Nation is contained in at least one garbage bin and at least one recycling bin, each the an appropriate waste bin no larger than 125 litres and of manageable weight.~~
- ~~(b) — An interest holder The owner or an occupier of Toquaht lands or Toquaht foreshore must ensure that any garbage bin provided for located on those Toquaht lands or Toquaht foreshore is clean and sanitary, with its a lid securely fastened to reduce odor, prevent spilling and discourage animals from accessing or attempting to access any garbage in that bin.~~
 - ~~(c) — Subject to subsection (d), the owner or an occupier of a residential property serviced by the Toquaht garbage and recycling service an interest holder of a residential unit must ensure that, on a collection day, any waste bin provided for that residential unit under subsection 4.5(c) any garbage bin or recycling bin containing the garbage and recycling to be collected from that property is placed at the property line for that residential unit~~
 - ~~(i) — between 7:00am and 8:00am, and~~
 - ~~(ii) — at a location easily accessible to the person responsible for collecting garbage or recycling from that residential unit that property.~~
 - ~~(d) — The director may, on written request from an interest holder an owner or occupier, exempt that interest holder owner or occupier from the requirement under~~

~~subsection (c) if an occupier of that residential unit the owner or occupier is unable to place a waste garbage bin or recycling bin at the property line due to age or a disability.~~

Conditions of service

- ~~4.4~~ (a) The director may, by directive, establish conditions of service for the Toquaht garbage and recycling service.
- (b) The ~~Toquaht Nation~~ director may refuse to collect garbage or recycling from a Toquaht lands or Toquaht foreshore property serviced by the Toquaht garbage and recycling service if the owner or an occupier fails to comply with a condition of service.
- (i) ~~that garbage or recycling is not contained in the appropriate waste bin,~~
- (ii) ~~a waste bin is not placed at the property line in accordance with section 4.5(c),~~
- (iii) ~~that garbage or recycling contains a material or substance referred to in section 4.9,~~
- (iv) ~~a waste bin exceeds the weight limit marked on that bin.~~

~~4.5 The Toquaht Nation may, at any time, temporarily suspend the Toquaht garbage and recycling service during any work stoppage of Toquaht government employees resulting from a strike, lockout or other dispute.~~

Garbage and recycling fee

- ~~4.6~~ 4.5 (a) On or before June 1 of each year, the director of finance must deliver in accordance with Toquaht law to each ~~interest holder~~ owner of Toquaht lands or Toquaht foreshore serviced by the Toquaht garbage and recycling service a notice setting out the garbage and recycling fee payable for that year for those Toquaht lands or Toquaht foreshore.
- (b) One or before July 2 of each year or such other date as may be agreed upon in writing by the director of finance, ~~an interest holder~~ the owner of Toquaht lands or Toquaht foreshore serviced by the Toquaht garbage and recycling service must pay the prescribed garbage and recycling fee to the Toquaht Nation.
- (c) In the year the Toquaht garbage and recycling service is commenced or discontinued for Toquaht lands or Toquaht foreshore, the garbage and recycling fees for those Toquaht lands or Toquaht foreshore must be prorated from or to the date of commencement or discontinuance, as applicable.

- (d) If the Toquaht garbage and recycling service is commenced for Toquaht lands or Toquaht foreshore after June 1,
- (i) the director of finance must, as soon as practicable after the Toquaht garbage and recycling service is commenced, deliver in accordance with Toquaht law to ~~each interest holder~~the owner of those Toquaht lands or Toquaht foreshore a notice setting out the garbage and recycling fee payable for that year for those Toquaht lands or Toquaht foreshore, prorated in accordance with subsection (c), and
 - (ii) ~~that interest holder~~the owner must pay the prorated garbage and recycling fee to the Toquaht Nation within 30 days of receipt of that notice or such other date as may be agreed upon in writing by the director of finance.
- (e) If the Toquaht garbage and recycling service is discontinued for Toquaht lands or Toquaht foreshore after the garbage and recycling fee for that year has been paid, the Toquaht Nation must refund any excess paid to the applicable ~~interest holder~~owner, prorated in accordance with subsection (c).
- (f) Despite subsection (e), if an owner of Toquaht lands or Toquaht foreshore has ~~there are~~ any outstanding garbage and recycling fees ~~for Toquaht lands or Toquaht foreshore discontinued from the Toquaht garbage and recycling service~~, the director of finance may set off any refund payable under that subsection against
- (i) the outstanding fees, or
 - (ii) any penalty or interest incurred in relation to those fees,
- and refund any balance to the applicable interest holder.

(g) [Repealed]

~~(g) — Despite subsections (c) and (e), the garbage and recycling fee must not be prorated and a refund must not be issued for any temporary discontinuance of the Toquaht garbage and recycling service.~~

- (h) If a garbage and recycling fee for Toquaht lands remains unpaid on December 31 of the year in which it becomes payable, the outstanding amount
- (i) is deemed to be a tax levied under the Real Property Tax Act, and
 - (ii) incurs penalties and interest and may be collected in accordance with that Act.
- (i) For certainty, the fact that

- (i) ~~an interest holder~~the owner or an occupier of Toquaht lands or Toquaht foreshore does not generate garbage or recycling for all or a portion of a year,
- (ii) the ~~Toquaht Nation~~director refuses to collect garbage or recycling ~~under section 4.6~~due to non-compliance with a condition of service, or
- (iii) the Toquaht garbage and recycling service is temporarily suspended by the director under section 4.4,

does not in any way exempt ~~an interest holder~~the owner of those Toquaht lands or Toquaht foreshore from any garbage and recycling fee payable under this section.

Discontinuance for non-compliance

- 4.74.6 (a) In addition to any penalty that may be imposed under this or any other enactment, if ~~an interest holder~~the owner or an occupier of Toquaht lands or Toquaht foreshore serviced by the Toquaht garbage and recycling service contravenes this Part, the director may, after ~~prior approval of the Executive, by resolution, and~~ 30 days' written notice to the owner and each ~~interest holder or~~ known occupier of those Toquaht lands or Toquaht foreshore,
- (i) discontinue the Toquaht garbage and recycling service for those Toquaht lands or Toquaht foreshore, and
 - (ii) establish the terms or conditions on which the Toquaht garbage and recycling service may be recommenced for those Toquaht lands or Toquaht foreshore.
- (b) A notice under subsection (a) must be delivered in accordance with Toquaht law to the applicable ~~interest holder~~owner or occupier.
- (c) ~~An interest holder or~~The owner or an occupier may, within 14 days of receipt of a notice under subsection (a), request a review of that notice under the Administrative Decisions Review Act, TNS 7/2011.

Temporary suspension

4.7 The director may, at any time without notice, temporarily suspend the Toquaht garbage and recycling service for any purpose.

Prohibitions

- 4.8 (a) A person must not place anything other than garbage into a garbage bin.
- (b) A person must not place anything other than recycling into a recyclinginge bin.

- (c) A person must not place into a ~~waste-garbage bin or recycling~~ bin any material or substance prohibited by the director, by directive.
- (i) ~~construction waste,~~
 - (ii) ~~furniture or appliance,~~
 - (iii) ~~motor vehicle tire or motor vehicle body,~~
 - (iv) ~~farm equipment,~~
 - (v) ~~derelict vessel,~~
 - (vi) ~~explosive or radioactive material or substance,~~
 - (vii) ~~petroleum product,~~
 - (viii) ~~industrial chemical waste,~~
 - (ix) ~~substance that is on fire or smoldering,~~
 - (x) ~~dead animal or part of a dead animal, including road kill or a pet but excluding food waste, or~~
 - (xi) ~~any other material or substance as may be prescribed.~~
- (d) ~~A person must not place any damp or wet garbage into a garbage bin unless that garbage is securely wrapped or sealed so as to not leak.~~
- ~~(e)~~(d) A person must not break, damage, destroy or deface any ~~waste-garbage bin or recycling~~ bin.
- ~~(f)~~(e) A person must not deposit garbage or recycling ~~from a residential property or business~~ into a public garbage bin or recycling receptacle operated by or on behalf of the Toquaht Nation bin, except garbage or recycling produced during personal use of the public space where the garbage bin or recycling bin is located.

PART 5 - ~~[REPEALED]~~ TOQUAHT INTERNET SERVICE**Toquaht internet service**

~~5.1 — The Toquaht internet service is established and must be operated in accordance with this Part.~~

Connection application

~~5.2 — An interest holder of Toquaht lands or Toquaht foreshore may apply to have connect a building or structure on those Toquaht lands or Toquaht foreshore connected to the Toquaht internet works by submitting an internet connection application in the prescribed form, together with the prescribed internet connection application fee, to the director.~~

Decision on application

~~5.3 — On receipt of an internet connection application, together with the applicable internet connection application fee, the director may approve or deny the application in his or her discretion with or without conditions and after considering the following factors:~~

- ~~(a) — whether the capacity of the Toquaht internet works is sufficient to provide service to the building or structure set out in the application;~~
- ~~(b) — whether an extension of the Toquaht internet works would be required to provide service to the building or structure set out in the application; and~~
- ~~(c) — the ability of the applicant to pay the internet service fee.~~

Notice of decision

~~— As soon as practicable after receipt of an internet connection application, together with the applicable internet connection application fee, the director must deliver in accordance with Toquaht law to the applicant notice of his or her decision on the application.~~

Direction to connect or refund

~~5.4 — If the director approves an internet connection application, the director must, as soon as practicable after that approval, direct that the building or structure set out in the application be connected to the Toquaht internet works.~~

- ~~(a) — If the director denies an internet connection application, the Toquaht Nation must, as soon as practicable after that denial, refund any internet connection fee paid for that application.~~

Extensions

- ~~5.5 — An interest holder of Toquaht lands or Toquaht foreshore may apply to have extend the Toquaht internet works extended to a point opposite those Toquaht lands or Toquaht foreshore by submitting an internet extension application in the prescribed form, together with the prescribed application fee, to the director.~~
- ~~(b) — On receipt of an internet extension application, together with the applicable application fee, the director may approve or deny the application in his or discretion with or without conditions, including for certainty a condition that the applicant pay an internet extension deposit to the Toquaht Nation prior to the Toquaht Nation proceeding with the extension, and after considering the following factors:~~
- ~~(i) — whether the capacity of the Toquaht internet works is sufficient to provide service to the building or structure set out in the application;~~
- ~~(ii) — whether the cost of operating and maintaining that internet extension would not be excessive relative to the revenues from buildings or structures serviced by that internet extension; and,~~
- ~~(iii) — the ability of the applicant to pay the internet extension fee or the internet service fee.~~
- ~~(c) — As soon as practicable after receipt of an internet extension application, the director must deliver in accordance with Toquaht law to the applicant notice of his or her decision on the application.~~
- ~~(d) — If the director approves an internet extension application, on receipt of any internet extension deposit, the director must direct that the Toquaht internet works be extended to a point opposite the Toquaht lands or Toquaht foreshore set out in the application.~~
- ~~(e) — Within 30 days after an internet extension is installed or constructed in accordance with this section or on such other date as may be agreed upon in writing by the director of finance, the applicable interest holder must pay to the Toquaht Nation the internet extension fee determined by the director, less any internet extension deposit paid for that internet extension, and that amount may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.~~
- ~~(f) — If the director denies an internet extension application, the Toquaht Nation must, as soon as practicable after that denial, refund any internet extension deposit or internet extension fee paid for that application.~~

Construction and operation of Toquaht internet works

- ~~— The Toquaht internet works, including any internet extensions, must not be installed, constructed, operated, maintained, repaired, upgraded or replaced by any person except~~
- ~~— a Toquaht government employee, or~~
 - ~~— an approved contractor.~~

Approved contractors

- ~~— The Executive must, by directive, maintain a list of approved contractors for the Toquaht internet works.~~
- ~~— If the director approves an internet extension application, the notice under section 5.6(c) must include a list of approved contractors.~~
- ~~— The applicant must use an approved contractor to carry out the internet extension.~~
- ~~— For certainty, the applicant is responsible for any fees charged by the approved contractor to carry out the internet extension.~~

Internet service fee

~~5.6 — Each interest holder of Toquaht lands or Toquaht foreshore serviced by the Toquaht internet works must pay the prescribed internet service fee to the Toquaht Nation on or before the prescribed times.~~

~~(b) — For certainty, the fact that~~

~~(i) — the Toquaht internet service is not used for all or a portion of the applicable payment period, or~~

~~(ii) — the Toquaht internet service is temporarily suspended~~

~~(A) — by the Toquaht Nation under section 5.14(b)5.13(b), or~~

~~(B) — due to any damage to or failure, breakdown or malfunction of the Toquaht internet works,~~

~~does not in any way exempt an interest holder from any internet service fee payable under this section.~~

Disconnection on request

~~5.7 — An interest holder of a building or structure serviced by the Toquaht internet works may apply to have disconnect that building or structure disconnected from~~

~~the Toquaht internet works temporarily or permanently by submitting an internet disconnection application in the prescribed form, together with the prescribed application fee, to the director.~~

~~On receipt of an internet disconnection application, together with the applicable application fee, the director must direct that the building or structure set out in the application be disconnected from the Toquaht internet works.~~

Disconnection for non-compliance

~~5.8 In addition to any penalty that may be imposed under this or any other enactment, if an interest holder or occupier of a building or structure serviced by the Toquaht internet works contravenes this Part, the director may, after prior approval of the Executive, by resolution, and 30 days' written notice to each interest holder and known occupier of that building or structure,~~

~~(i) cause that building or structure to be disconnected from the Toquaht internet works, and~~

~~(ii) establish the terms or conditions on which that building or structure may be reconnected to the Toquaht internet works.~~

~~(b) A notice under subsection 2.19(a) must be delivered in accordance with Toquaht law to the applicable interest holder or occupier.~~

~~(c) An interest holder or occupier may, within 14 days of receipt of a notice under subsection 2.19(a), request a review of that notice under the Administrative Decisions Review Act.~~

Prohibitions

~~5.9 A person must not connect or attempt to connect any building or structure, or allow or cause any building or structure to be connected, to the Toquaht internet works except in accordance with this Part.~~

~~(b) A person must not break, damage, destroy, deface, remove, uncover, open, close or tamper with any part of the Toquaht internet works unless authorized under this Act, by the director or under an agreement with the Toquaht Nation.~~

~~(c) A person must not provide false information or omit any relevant information~~

~~(i) in any application under this Part, or~~

~~(ii) to the director, a trained public works operations and maintenance worker, the director of finance, a Toquaht official or an enforcement officer in the performance of his or her duties or the exercise of his or her powers under this Part.~~

Inspection

- ~~5.10~~ — The director, a trained public works operations and maintenance worker, or an enforcement officer may, at any reasonable time,
- ~~(i)~~ — enter any Toquaht lands or Toquaht foreshore, including any building or structure on those Toquaht lands or Toquaht foreshore,
 - ~~(ii)~~ — make reasonable inspections of those Toquaht lands or Toquaht foreshore, or
 - ~~(iii)~~ — make reasonable inquiries of any interest holder or occupier of those Toquaht lands or Toquaht foreshore,
- to ascertain whether or not this Part is being complied with.
- ~~(b)~~ — A person must not interfere with or obstruct the director, trained public works operations and maintenance worker, or an enforcement officer in the performance of his or her duties or the exercise of his or her powers under subsection (a)2.21(a).

No liability for change in operating conditions

- ~~5.11~~ — The Toquaht Nation does not guarantee continuity or adequacy of the Toquaht internet works.
- ~~(b)~~ — The Toquaht Nation may, at any time without notice, change the operating conditions of the Toquaht internet works or temporarily suspend the Toquaht internet works for any purpose, including maintenance, repairs, upgrades or replacements.
 - ~~(c)~~(a) — The Toquaht Nation is not liable for any loss, damage, expense, death or injury, including bodily injury, sustained by any person as a result of any change in the operating conditions of the Toquaht internet works or temporary suspension of the Toquaht internet works.

PART 6 - GENERAL PROVISIONS

Regulations

6.1 The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.

Other Toquaht services

6.2 The Executive may, by regulation, establish and regulate the provision of any other Toquaht service, which regulation may prescribe

- (a) the terms or conditions on which that service is provided,
- (b) fees for or in relation to that service or how fees for or in relation to that service will be established or calculated, and
- (c) any other matter the Executive considers necessary or advisable for the efficient, effective and fair provision of that service.

6.3 [Repealed]

~~Consultation on Toquaht services~~

~~6.3 — If a Toquaht enactment~~

- ~~(i) — establishes a new Toquaht service, or~~
- ~~(ii) — significantly alters the regulation of an existing Toquaht service,~~
~~that enactment must not be enacted until~~
 - ~~(i) — notice of the proposed enactment has been posted in accordance with Toquaht law for at least 30 days, and~~
 - ~~(ii) — notice of the proposed enactment has been published in accordance with Toquaht law.~~
- ~~(b) — A notice under subsection (a) must provide an opportunity for at least 30 days to persons affected by the enactment to make representations to Council, the Executive or the director, as applicable, concerning the proposed enactment.~~
- ~~(c) — Council, the Executive or the director, as applicable, must give full and fair consideration to any representations received in accordance with subsection (b) prior to enacting the enactment.~~

Offences

- 6.4** (a) Every person who contravenes this Act commits an offence and is liable, on summary conviction, to a fine not exceeding \$10,000 or imprisonment for a term not exceeding six months.
- (b) Each day a contravention of this Act continues is a separate offence.

Transition

- 6.5** Until the first anniversary of the date this Act comes into force, the director of finance may, with the approval of the ~~d~~Director of ~~c~~Operations, reduce or waive a fee prescribed under this Act in circumstances where the director of finance decides it would be unfair or unreasonable to require an interest holder to pay a fee in the prescribed amount.

Housing Authority Act repealed

- 6.6** (a) Subject to subsections (b) and (c), the Housing Authority Act TNS 1/2013 and, for certainty, any regulations made under that Act, are repealed.
- (b) The Toquaht government assumes all right, title and interest, whether legal or beneficial, absolute or contingent, of the Toquaht Housing Authority Corporation in and to
- (i) all property of the Toquaht Housing Authority Corporation, real or personal, of every kind and wherever located owned or held by the Toquaht Housing Authority Corporation, if any,
 - (ii) all debts, accounts, claims, demands and money now due or owing or accruing due or which may afterwards become due or owing to the Toquaht Housing Authority Corporation, if any,
 - (iii) all contracts or agreements of any kind, including rental agreements, and all other rights, benefits and privileges now or afterwards taken, vested in or held by the Toquaht Housing Authority Corporation, and
 - (iv) all rights of action, claims or demands which the Toquaht Housing Authority Corporation now has or may at any time afterwards have against any person.
- (c) The Toquaht government will assume, pay, discharge, perform and be responsible for all obligations, liabilities and claims of any nature, accruing, arising out of, or relating to the Toquaht Housing Authority Corporation and its business, whether actual or contingent, matured or unmatured, liquidated or unliquidated, or known or unknown.

Commencement

- 6.7** (a) Subject to subsections (b) to (e), this Act comes into force by Order of the Executive.
- (b) An Order of the Executive under subsection (a) must not be made until
- (i) notice of that Order and a copy of this Act have been posted in accordance with Toquaht law for at least 30 days, and
- (ii) notice of that Order has been published in accordance with Toquaht law.
- (c) A notice under subsection (b) must provide an opportunity for at least 30 days to persons affected by this Act to make representations to the Executive concerning this Act.
- (d) The Executive must give full and fair consideration to any representations received in accordance with subsection (c) and may, by regulation, make necessary amendments to the Act to address any concern raised by a representation received in accordance with subsection (c).
- (e) Section 6.6 comes into force on the date this Act is enacted.

*Confidential Draft
for Discussion Purposes Only*

TOQUAHT NATION GOVERNMENT

**GOODS AND SERVICES TAX ACT
REPEAL ACT**

TNS ◆/2023



This law enacted on _____, 2023

Signed _____
Anne Mack, taayii ḥawil of the Toquaht Nation

DEPOSITED IN THE
REGISTRY OF LAWS AND
OFFICIAL RECORDS

ON ____/____/____

Signature of Law Clerk

TOQUAHT NATION GOVERNMENT
GOODS AND SERVICES TAX ACT REPEAL ACT TNS ♦/2023
CONFIDENTIAL DRAFT FOR DISCUSSION PURPOSES ONLY

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TOQUAHT NATION GOVERNMENT
GOODS AND SERVICES TAX ACT REPEAL ACT TNS ♦/2023
CONFIDENTIAL DRAFT FOR DISCUSSION PURPOSES ONLY

Short title

1.1 This Act may be cited as the Goods and Services Tax Act Repeal Act.

Repeal

1.2 The Goods and Services Tax Act, TNS 1/2020, is repealed.

Commencement

1.3 This Act comes into force by resolution of Executive.



TO: MAA-NULTH TREATY SOCIETY BOARD OF DIRECTORS (THE “BOARD”)
FROM: R. BRENT LEHMANN
DATE: JULY 19, 2023
FILE: 11-0713-115

Briefing Note GST Framework Termination

INTRODUCTION

The amendments to the Maa-nulth Treaty to reinstate the *Indian Act* s.87 tax exemption came into effect on June 23, 2023. Unlike other Transactional Taxes, the reinstatement of the exemption from paying the federal Goods and Services Tax (“GST”) by eligible Maa-nulth-aht is not automatic because of the tax framework put in place by each Maa-nulth First Nation when that exemption ended in 2019. The Board asked for an outline of what is required to reinstate the exemption from paying GST by eligible Maa-nulth-aht.

GST FRAMEWORK

Unlike the Provincial Sales Tax for which British Columbia only shares its tax revenues, Canada vacated its tax authority (“tax room”) when the GST exemption expired for Maa-nulth-aht. That tax room was occupied by each Maa-nulth First Nation when it imposed a similar First Nations Goods and Services Tax (“FNGST”) on its Maa-nulth-aht when it enacted its own First Nations Goods and Services Tax Act (“FNGST Act”). Coincident with the enactment of the FNGST Act, each Maa-nulth First Nation entered into a First Nations Goods and Services Tax Administration Agreement (the “Tax Administration Agreement”) with Canada under which the Canada Revenue Agency administered the FNGST for each Maa-nulth First Nation with the federal GST. This framework has been, and continues to be, in place since 2019.

TERMINATING THE GST FRAMEWORK

As long as the GST framework described above is in place for a Maa-nulth First Nation, the Maa-nulth-aht of that Maa-nulth First Nation will continue to be obligated to pay GST. In order for that obligation to end, that GST framework must be terminated. That termination requires two parallel steps that must be coincidental to each other.

Termination of the Tax Administration Agreement

One step is the termination of the Tax Administration Agreement. That agreement can be terminated unilaterally by a Maa-nulth First Nation (section 54) or Canada (section 55) on six month’s written notice or mutually at an agreed upon time (section 53).

At the request of a Maa-nulth First Nation, I reached out to my contacts within the Government of Canada that I have been working with on the amendments to the Maa-nulth Treaty to see if Canada is open to mutually terminating the Tax Administration Agreement on September 30, 2023. There is some appeal to this date, as it is the end of a fiscal quarter, which has relevance for the administration of the FNGST. Their response is set out here:

“Regarding the proposed timeline of September 30, 2023, we have reached out to the CRA to confirm the feasibility of being able to do all of their requirements (e.g., notices to retailers, publications, etc..) within that timeframe. We’ll reach out as soon as we hear back.”

As soon as I hear back from Canada, I will let you know.

Repeal of the FNGST Act

The other step, coincident with the termination of the Tax Administration Agreement, is a Maa-nulth First Nation must repeal its FNGST Act. The repeal of an Act requires an Act to be enacted that states the FNGST Act is repealed (the “Repealing Act”). The Repealing Act must be enacted in accordance with the usual enactment processes of that Maa-nulth First Nation for other Acts (such as three readings, and perhaps referral to a standing committee or consultation with the People’s Assembly, if those are requirements for their fiscal enactments).

RECOMMENDATION

There is an advantage to the Maa-nulth First Nations coordinating the termination of their respective GST frameworks at the same time. Termination of the various GST frameworks at different times will be more prone to creating confusion amongst retailers and will likely be resisted by Canada. Coordinating the termination of the respective GST frameworks therefore has the advantage of reducing confusion, increasing the incentive for Canada to agree to doing it sooner. Further, the termination of the Tax Administration Agreement and the repeal of each FNGST Act will likely require substantively the same, reasonably simple, document preparation for each Maa-nulth First Nation. Having that documentation centrally developed will likely result in cost savings. Finally, two of the Maa-nulth First Nations have already asked me to work with them on the termination of their GST framework, so this work has already begun.

For the above reasons, legal counsel recommends that **the Board approve a collective project administered by the Maa-nulth Treaty Society for the termination of each Maa-nulth First Nation’s GST framework; the cost of that work be absorbed within the existing Treaty Amendment Project (Project 115) budget; and that legal counsel work with the designated representatives of each Maa-nulth First Nation to implement the termination of the GST framework as directed by those representatives as soon as is reasonably practicable.**

TOQUAHT NATION GOVERNMENT

LAND ACT

TNS 12/2011



OFFICIAL CONSOLIDATION – CURRENT TO ♦

This is a certified true copy of the consolidated Land Act TNS 12/2011, Current to ♦

Date: _____

Signed: _____
Law Clerk

**CONFIDENTIAL DRAFT FOR DISCUSSION PURPOSES ONLY
TOQUAHT NATION GOVERNMENT
LAND ACT TNS 12/2011
OFFICIAL CONSOLIDATION – CURRENT TO ♦**

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PREAMBLE

The Toquaht Nation asserts that we have occupied, benefited from and governed our traditional territory, lands, waters and resources since time immemorial.

The traditional territory of the Toquaht Nation has in the past provided the resources necessary to sustain the Toquaht Nation and we honour our connection to the lands, waters and resources of our traditional territory which provide for our physical and spiritual needs.

Through our inherent right to self-government, the Toquaht Nation has preserved and protected our traditional territory and we accept the obligations and responsibilities inherent in governing Toquaht Lands and pledge to protect Toquaht lands for future generations of our Toquaht citizens.

It is the desire of the Toquaht Nation that we promote a healthy and prosperous future that ensures the continued existence of the Toquaht Nation as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant people.

The Toquaht Nation values the need to respect, protect and promote our heritage, culture and traditions which form the basis of its success and our destiny while understanding that these practices may change and require contemporary expression.

It is the desire of the Toquaht Nation that our Toquaht lands continue to provide the resources necessary to sustain us, preserve our traditional ways and culture, encourage self-sufficiency and security through economic development and growth and to provide a home for the Toquaht people forever.

The Toquaht Nation adopts this Act based on these values.

**CONFIDENTIAL DRAFT FOR DISCUSSION PURPOSES ONLY
TOQUAHT NATION GOVERNMENT
LAND ACT TNS 12/2011
OFFICIAL CONSOLIDATION – CURRENT TO ♦**

PART 1 - GENERAL PROVISIONS

Short title

1.1 This Act may be cited as the Land Act, TNS 12/2011.

Executive oversight

1.2 The member of the Executive holding the lands, public works and environmental protection portfolio is responsible for the Executive oversight of this Act.

Application

1.3 Unless otherwise provided in this Act, this Act applies to all Toquaht lands.

Definitions

1.4 In this Act,

“acquire” means obtain by any method and includes accept, receive, purchase, be vested with, lease, take possession, control or occupation of, and agree to do any of those things, but does not include expropriate;

“applicant” means a person applying for a disposition under section 4.16;

“approving officer” means the director;

“appurtenant lands” or “lands appurtenant to” means, in relation to an existing or proposed interest in, or licence in relation to, Toquaht lands, the Toquaht lands that are or are proposed to be subject to the interest or licence, and includes any part of those lands less than the whole;

“community lands” means Toquaht lands that are not

(a) Toquaht titled lands, the owner of which is a person other than the Toquaht Nation, or

(b) subject to a lease;

“community purpose” means a purpose the achievement of which will directly or indirectly benefit the Toquaht Nation, Toquaht citizens or persons residing on Toquaht lands;

“community works” means works, the establishment or continuation of which will directly or indirectly benefit the Toquaht Nation, Toquaht citizens or persons residing on Toquaht lands;

“construction purpose” includes the building of a road, berm, foundation or wall;

“conventional boundary” means a boundary consisting of a straight line or a series of straight lines of fixed direction and length conforming as nearly as possible to the natural boundary, but eliminating minor sinuosities;

“director” means the director of lands, public works and resources;

“dispose” and “disposition” mean to grant an interest in, or licence in relation to, Toquaht lands as contemplated in Part 4;

“eligible person” means the Toquaht Nation or a person eligible to hold an estate in fee simple under section 7.1;

“equity” means, when used in the phrase “law or equity”, the system of law designed to furnish remedies for wrongs which were not legally recognized under the common law of England or for which no adequate remedy was provided by the common law as inherited and modified by the Supreme Court;

“expropriate” means, in relation to an interest in, or licence in relation to, Toquaht lands, to take without the consent of the holder;

“fee simple grant” means a grant of an estate in fee simple in Toquaht lands;

“holder” means, in relation to an interest in, or licence in relation to, Toquaht lands,

- (a) the person registered in the land title office as the holder of the interest or licence, or
- (b) if the interest or licence is not registered in the land title office, the person legally entitled to hold the interest or licence;

“immediate family” means, in relation to an individual, the spouse, sons, daughters, siblings and parents of the individual;

“information meeting” means a meeting referred to in section 6.2 of the Referendum Act, TNS 9/2011;

“instrument” means any written document, certificate, conveyance, deed, mortgage, encumbrance or plan relating to the transfer, charging or otherwise dealing with or affecting an interest in, or licence in relation to, land, or evidencing ownership to it, including a will, grant of probate or administration and an enactment;

“interest” includes, in relation to Toquaht lands, a privilege, right, title or estate in that land;

“land authority” means a person referred to in section 2.7;

“licence” means, in relation to Toquaht lands, a licence of occupation, natural resource licence or utility licence;

“licence of occupation” means a licence for a primary purpose other than extracting or harvesting a natural resource or providing utility services;

“natural resource licence” means a licence for the primary purpose of extracting or harvesting a natural resource;

“provincial Crown land registry” means the registry continued under section 7 of the Land Act (British Columbia);

“public utility” means a person who owns or operates equipment or facilities for utility services;

“railway corporation” means a corporation authorized to construct or operate a railway under federal or provincial law;

“ratification meeting” means a meeting referred to in section 6.3 of the Referendum Act, TNS 9/2011;

“referendum” means a referendum held in accordance with the Referendum Act, TNS 9/2011;

“registrar” means the office established under section 2.11 or the individual appointed to hold that office;

“road” means land designated or indicated as a road or lane in an instrument, map or plan made under this Act, whether or not a road or lane is constructed, and includes a road allowance or walkway allowance established under section 11.22;

“statutory right of way” means an easement without a dominant tenement, necessary for the operation and maintenance of the grantee’s undertaking;

“Toquaht titled lands” means Toquaht lands, the indefeasible title to which is registered under the Land Title Act (British Columbia) in accordance with Chapter 3 Land Title of the Maa-nulth Treaty;

“utility licence” means a licence for the primary purpose of providing utility services to owners or occupiers of Toquaht lands;

“utility services” means services relating to

- (a) the production, gathering, processing, generation, storage, transmission, sale, supply, distribution, delivery or provision of petroleum (including petroleum products and bi-products), gas (including natural gas, natural gas liquids and

propane), electricity, steam or any other agent for the production of light, heat, cold or power,

- (b) the emission, transmission, or reception of information, messages or communication by guided or unguided electromagnetic waves, including systems of cable, microwave, optical fibre or radio communications,
- (c) the collection, disposal or treatment of garbage, solid waste, sewage or waste water, or
- (d) the diversion, development, pumping, impoundment, distribution or furnishing of water.

Conflict between Land Act and other Toquaht law

- 1.5**
- (a) Subject to the Constitution, in the event of any inconsistency or conflict between this Act and any other Toquaht law, this Act prevails to the extent of the inconsistency or conflict.
 - (b) For the purposes of subsection (a), a Toquaht law is not inconsistent with this Act merely because it addresses a subject also addressed in this Act.

PART 2 - ADMINISTRATION OF TOQUAHT LANDS

Department of Lands, Public Works and Resources established

2.1 The Department of Lands, Public Works and Resources is established as a division of the Toquaht administration.

Mandate

- 2.2 (a) The mandate of the Department of Lands, Public Works and Resources is to perform the following duties and exercise the following powers:
- (i) manage and administer Toquaht lands as required
 - (A) under this or any other Toquaht land enactment, or
 - (B) by the Executive;
 - (ii) maintain and protect records relating to Toquaht lands and Toquaht land enactments;
 - (iii) prepare forms and instruments to be used in relation to Toquaht lands and Toquaht land enactments;
 - (iv) provide administrative support to the Executive, the director of operations, other departments and land authorities as required
 - (A) under this or any other Toquaht enactment, or
 - (B) by the director of operations; and
 - (v) any additional functions assigned to the Department of Lands, Public Works and Resources
 - (A) in accordance with this or any other Toquaht enactment, or
 - (B) by the director of operations.
- (b) The director of operations may
- (i) establish and fill such positions within the Toquaht administration, in addition to the position of director, as the director of operations considers advisable to manage and administer Toquaht lands and money derived from Toquaht lands or to otherwise give effect to this Act or any other Toquaht land enactment,

- (ii) assign to a member of the Toquaht administration or a land authority duties and powers in addition to those assigned in accordance with this or any other Toquaht land enactment, and
- (iii) subject to section 5.1 of the Integrity Act, TNS 4/2011 appoint the same person to, or designate the same person to act in, two or more positions within the Department of Lands, Public Works and Resources.

Director of lands, public works and resources

- 2.3**
- (a) The office of the director of lands, public works and resources is established.
 - (b) The Executive must appoint an individual to hold the office of director.
 - (c) The director reports to the director of operations.

Duties of the director

- 2.4** The director must perform the following duties and may exercise the following powers:
- (a) manage the Department of Lands, Public Works and Resources;
 - (b) ensure that Toquaht government employees within the Department of Lands, Public Works and Resources perform the duties assigned to them
 - (i) under this or any other Toquaht enactment,
 - (ii) by the director of operations, or
 - (iii) by the director;
 - (c) report, as required by the director of operations, to the Executive on the Department of Lands, Public Works and Resources and its activities;
 - (d) act as the approving officer under this Act and section 77.21 of the Land Title Act (British Columbia); and
 - (e) perform any additional duties or exercise any additional powers assigned to the director
 - (i) under this or any other Toquaht enactment, or
 - (ii) by the director of operations.

Delegation authority

- 2.5** (a) Upon the approval of the director of operations, the director may delegate, in writing, the performance of any of the director's duties or the exercise of any of the director's powers to
- (i) another Toquaht director,
 - (ii) a Toquaht government employee, or
 - (iii) an independent contractor of the Toquaht Nation.
- (b) Despite the delegation of any duties or powers under subsection (a), the director remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

Powers retained by the Executive

- 2.6** (a) Unless otherwise specifically provided in this or another Toquaht enactment, the Executive retains for itself all power to dispose of or approve an interest in, or licence in relation to, Toquaht lands.
- (b) The Executive may only exercise the powers and perform the duties referred to in subsection (a) in accordance with this Act and all other applicable laws.
- (c) Subject to this Act, the Executive retains for itself all power for and in the name of the Toquaht Nation to, and the Executive may,
- (i) enter into any agreement it considers necessary or advisable for the purpose of
 - (A) managing or administering Toquaht lands or money derived from Toquaht lands, and
 - (B) otherwise giving effect to this Act or any other Toquaht land enactment,
 - (ii) authorize a Toquaht official to enter into any such agreement or class of such agreements for or in the name of the Toquaht Nation, and
 - (iii) establish restrictions or conditions on any authority to enter into agreements or classes of agreements given under paragraph (ii).

Land authorities

- 2.7** The Executive may

- (a) establish Toquaht public institutions under Toquaht law, and
- (b) incorporate entities under federal or provincial laws,

to manage, administer, or assist the Department of Lands, Public Works and Resources in the management or administration of, Toquaht lands.

Delegation authority

- 2.8**
- (a) Subject to subsection (b), the Executive may, by regulation, delegate to any body or persons, including a land authority, any duty or power of the Department of Lands, Public Works and Resources relating to the management or administration of Toquaht lands.
 - (b) Despite subsection (a), the Executive may not delegate to any body or person any of the following duties or powers of the Executive:
 - (i) to dispose of or approve an interest in Toquaht lands;
 - (ii) to call an information meeting, ratification meeting or referendum;
 - (iii) to enact a Toquaht enactment; or
 - (iv) to delegate a duty or power of the Executive under this or any other Toquaht enactment.
 - (c) For certainty, a delegation by the Executive to a body or person under subsection (a)
 - (i) may include all or any part of a duty or power of the Department of Lands, Public Works and Resources relating to the management or administration of Toquaht lands,
 - (ii) may pertain to all or a specified area of Toquaht lands,
 - (iii) is subject to any terms or conditions established by the Executive under the regulation making the delegation, and
 - (iv) does not restrict the Executive from delegating any additional duties or powers of the Department of Lands, Public Works and Resources to the body or person under another regulation.
 - (d) A body or person to which the Executive delegates a duty or power under subsection (a) may only perform the duty or exercise the power in accordance with this Act, the regulation making the delegation and all other applicable laws.

Lands registry office

2.9 The lands registry office is established as an office of the Department of Lands, Public Works and Resources.

Mandate

2.10 The mandate of the lands registry office is to maintain

- (a) an inventory of Toquaht lands, and
- (b) the lands register,

in accordance with this or any other Toquaht enactment or as required by the director.

Office of the registrar established

2.11 (a) The office of the lands registrar is established.

(b) The director of operations must appoint an individual to hold the office of the registrar.

(c) The registrar reports to the director.

Duties of the lands registrar

2.12 (a) The registrar must perform the following duties and may exercise the following powers:

- (i) manage the lands registry office;
 - (ii) record entries and amendments to entries in the lands register required under this or another Toquaht enactment; and
 - (iii) provide for the security and maintenance of the lands register.
- (b) The registrar and staff of the lands registry office must not
- (i) directly or indirectly act as the agent of a person investing money in or taking security in Toquaht lands,
 - (ii) advise for a fee, reward or otherwise on interests in, or licences in relation to, Toquaht lands, or
 - (iii) practice as a lawyer, notary public or conveyancer in relation to Toquaht lands.

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PART 3 - LANDS REGISTER

Lands register

- 3.1** The registrar must maintain a lands register that records
- (a) any disposition or transfer by or with authorization from the Toquaht Nation of
 - (i) a licence,
 - (ii) an interest in Toquaht titled lands that is not registered in the land title office, or
 - (iii) an interest in Toquaht lands that are not Toquaht titled lands, and
 - (b) any other information the director requests, in writing, to be registered in the lands register.

Interests in Toquaht titled lands

- 3.2** For certainty, the Land Title Act (British Columbia) applies in respect of registration of
- (a) an estate in fee simple to Toquaht lands, and
 - (b) an interest in the land title office.

Registration of dispositions and transfers

- 3.3** The registrar must register in the lands register a disposition or transfer under section 3.1(a) if the instrument purporting to dispose of or transfer the appurtenant lands
- (a) is in the prescribed form,
 - (b) has been authorized by the Executive in accordance with this Act, and
 - (c) has been fully executed, with each execution witnessed by a third-party, to the satisfaction of the registrar.

Record keeping and maintenance

- 3.4** (a) Upon registering in the lands registry a disposition or transfer under section 3.1(a), the registrar must
- (i) assign a registration number to the interest or licence being registered, and
 - (ii) store in the records of the lands registry office
 - (A) the registration number,

- (B) the original or a duplicate of the instrument purporting to dispose of or transfer the appurtenant lands, and
 - (C) the name of the holder of the interest or licence being registered.
- (b) The registrar may cause a record in the lands registry to be repaired or copied if
 - (i) the record, from use or age, is becoming unfit for future use, or
 - (ii) in the opinion of the registrar, convenience of reference requires.
- (c) The registrar may, on any evidence the registrar considers sufficient, correct clerical or typographical errors in the records of the land registry, subject to the following:
 - (i) the registrar must not destroy, erase or render illegible the original entry; and
 - (ii) the registrar must sign and date the corrected entry.

Effect of registration

- 3.5** (a) A holder of
- (i) an interest in Toquaht lands that are not Toquaht titled lands, or
 - (ii) a licence in relation to community lands,
- is entitled to that interest or licence regardless of whether it is registered in the lands register.
- (b) The priority of
- (i) interests in Toquaht lands that are not Toquaht titled lands, and
 - (ii) licences in relation to community lands,
- as between or among themselves, is not affected by registration in the lands register.
- (c) Registration in the lands register lands is not a determination by the registrar that the interest or licence being registered is enforceable or otherwise creates or evidences an interest in, or licence in relation to, Toquaht lands.

Accuracy

- 3.6** Toquaht Nation makes no representation as to the accuracy or completeness of the records of the lands register and a person may not recover from the Toquaht Nation any loss or damage that the person suffers by reliance on the records of the lands register.

Inspection

- 3.7** (a) During regular business hours, any person may examine and inspect the records of the lands register
- (i) after completing an application in the form that the registrar requires, and
 - (ii) on the conditions that the registrar imposes.
- (b) The registrar must provide to any person who completes an application in the form that the registrar requires, a copy of the lands register records for a parcel of Toquaht lands.

Transition

- 3.8** An interest in, and a licence in relation to, Toquaht lands referred to in section 4.2(a) is deemed to be registered in the lands register as of the Maa-nulth Treaty effective date on the terms provided for in the Maa-nulth Treaty.

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PART 4 - DISPOSITIONS

Acquisition of interests

- 4.1 (a) No person may acquire an interest in, or licence in relation to, Toquaht lands except under this or another Toquaht enactment.
- (b) A disposition under this Act is not binding on the Toquaht Nation until the instrument is executed by the Executive under this Act.
- (c) Negotiations or arrangements, whether in writing or otherwise, before the execution of an instrument by the Executive under this Act, are not binding on and do not commit the Toquaht Nation to perform or complete a disposition.

Existing interests and licences

- 4.2 (a) Despite section 4.1 and subject to subsection (b), interests in, and licences in relation to, Toquaht lands that are listed in
- (i) Appendix E-3 of the Maa-nulth Treaty, or
- (ii) Appendix E-13 of the Maa-nulth Treaty,
- continue in accordance with their terms and conditions until they expire, terminate, are surrendered or otherwise come to an end in accordance with their terms and conditions or otherwise in accordance with law or equity.
- (b) An existing and valid interest in Toquaht lands referred to in subsection (a) must be registered concurrently when title to the applicable parcel of Toquaht lands is raised under the Land Title Act (British Columbia) in accordance with section 12.1.1.
- (c) As of the Maa-nulth Treaty effective date, the Executive may exercise any power and carry out any function in relation to the interests and licences referred to in subsections (a)(i) and (a)(ii) that, prior to the Maa-nulth Treaty effective date, was a power or function of Canada or British Columbia as grantor.

Dispositions by the Executive

- 4.3 (a) Subject to this Act, the Executive may make a disposition to an applicant who satisfies the eligibility requirements in section 4.16 if the Executive considers the disposition to be in the interest of the Toquaht Nation.
- (b) For purposes of subsection (a), the Executive may
- (i) make a fee simple grant in accordance with section 7.1,

- (ii) grant a lease for up to 99 years,
 - (iii) grant a statutory right of way for so long as required,
 - (iv) grant an easement for so long as required,
 - (v) grant a utility licence for so long as required,
 - (vi) grant a licence of occupation for up to 10 years,
 - (vii) grant a public purpose licence of occupation for so long as required,
 - (viii) grant a natural resource licence for up to 50 years,
 - (ix) grant a mortgage of lease for the term of the lease, and
 - (x) grant a mortgage of Toquaht titled lands registered in the name of the Toquaht Nation for up to 35 years.
- (c) In a disposition under this section, the Executive may impose the terms, covenants and stipulations it considers advisable, including the following:
- (i) payment by the applicant of the cost of a survey of the Toquaht lands completed under the direction of the director;
 - (ii) personal residence on the Toquaht lands by the applicant for a period set by the Executive; or
 - (iii) permanent improvement of the Toquaht lands by and at the cost of the applicant on the conditions specified by the Executive.
- (d) A disposition under this section must be made in the applicant's name only.

No transfer of estate in fee simple

4.4 For certainty, no estate in fee simple or indefeasible title to Toquaht lands may be granted except in accordance with this Act.

Dispositions must be in writing

- 4.5**
- (a) An interest in, or licence in relation to, Toquaht lands may only be disposed of by an instrument in writing and in accordance with this Act.
 - (b) If the Toquaht Nation in its own name is proposed to be a party to an instrument referred to in subsection (a), the instrument must not be executed on behalf of the Toquaht Nation without the prior approval of the Executive.

Limit on area of interest

4.6 The Executive may ~~not, under section 4.3,~~only make a disposition with a surface area greater than five ha at any one time or on any one application ~~without~~ if the proposed disposition is first publicized at an information meeting.

~~(a) — first being publicized at an information meeting held under the Referendum Act, TNS 9/2011, and~~

~~(b) — first being approved by Council.~~

Amendment of area under application

4.7 Subject to section 4.6, the Executive may under section 4.3 make a disposition with

- (a) a surface area reduced or expanded from the surface area stated in the application, and
- (b) boundaries varied from the boundaries described in the application.

Amendments to instruments

4.8 (a) This section applies to an instrument disposing of an interest in, or licence in relation to, Toquaht lands,

- (i) if the Toquaht Nation is a party to the instrument and the interest or licence has been granted under this Act, or
 - (ii) if the Toquaht Nation is proposed to be a party to the instrument, the interest or licence is proposed to be granted under this Act and the proposed disposition has been publicized at an information meeting and approved by vote at a ratification meeting or by referendum.
- (b) Subject to subsection (c), the Executive may approve an amendment to an instrument referred to in subsection (a) without holding an information meeting, ratification meeting or a referendum only if
- (i) under Part 7 the Executive could grant the interest or licence on the amended terms without holding information meeting, ratification meeting or a referendum, or
 - (ii) the Executive considers that the amendment is
 - (A) necessary to rectify an error or omission in the instrument, or
 - (B) advisable to better protect or advance the interests of the Toquaht Nation.

-
- (c) The Executive may not approve an amendment to an instrument referred to in subsection (a) if the amendment would extend the term of the interest or licence granted by the instrument, unless
- (i) under Part 7 the Executive could grant the interest or licence with that extended term without the disposition being first publicized at an information meeting and approved by vote at a ratification meeting or by a referendum, or
 - (ii) the proposed amendment is first publicized at an information meeting and approved by vote at a ratification meeting or by a referendum, as the case may be, as would be required under Part 7 before the Executive could grant the interest or licence with that extended term.

Conditions, provisos, restrictions, exceptions and reservations

- 4.9** (a) A disposition under this or another Toquaht enactment
- (i) excepts and reserves a right in the Toquaht Nation, or any person acting for it or under its authority,
 - (A) to resume any part of the land that is deemed to be necessary by the Executive for making roads, canals, bridges or other public works, but not more than one-twentieth part of the whole of the land, and no resumption may be made of any land on which a building has been erected, or that may be in use as a garden,
 - (B) to enter any part of the land, and to raise and get out of it any mineral resources that may be found in, on or under the land, and to use and enjoy any and every part of the land, and its easements and privileges, for the purpose of the raising and getting, and every other purpose connected with them, paying reasonable compensation for the raising and getting,
 - (C) to enter any part of the land, and to harvest, replenish or protect forest resources that may from time to time be found on, in or under the land, and to use and enjoy any part of the land for any purpose connected with the harvesting, replenishing or protecting of forest resources, and to provide access on and through the land for the harvesting, replenishing or protecting of forest resources on or off the land,
 - (D) to take and occupy water privileges and to have and enjoy the rights of carrying water over, through or under any part of the land, as may be reasonably required for mining or agricultural purposes

in the vicinity of the land, paying a reasonable compensation to the grantee, the grantee's successors and assigns, and

(E) to take from any part of the land, without compensation, gravel, sand, stone, lime, timber or other material that may be required in the construction, maintenance or repair of a road, ferry, bridge or other public work, and

(ii) conveys no interest in

(A) mineral resources that may be found in, on or under the land,

(B) forest resources that may from time to time be found in, on or under the land, or

(C) roads on, over or through the land,

unless otherwise specifically provided in the instrument.

- (b) Subsection (a) applies whether or not express words are used in the instrument, but is subject to subsection (c).
- (c) A disposition under another Toquaht enactment that expressly authorizes a disposition on terms different from those referred to in subsection (a) may be made on those terms.
- (d) A disposition may, by express words, except or reserve to the Toquaht Nation interests more extensive than those referred to in subsection (a).
- (e) For all purposes, every disposition is conclusively deemed to contain express words making the exceptions and reservations referred to in subsection (a), except to the extent that the disposition is made on different terms under subsection (c).
- (f) The power under subsection (d) to except and reserve interests includes a power to create a statutory right of way, and if this is done
- (i) the Toquaht Nation is, in relation to the statutory right of way, a grantee, and
- (ii) the statutory right of way is conclusively deemed to be necessary for the operation and maintenance of the Toquaht Nation's undertaking.

Deletion of conditions

- 4.10** (a) If, after a disposition, other than a fee simple grant, has been made under this or any other Toquaht enactment, the Executive finds that a condition, proviso, restriction, exception or reservation in the disposition is no longer required in the

interest of the Toquaht Nation, the Executive may, by directive, direct that the condition, proviso, restriction, exception or reservation be deleted from the disposition.

- (b) If, under subsection (a), the Executive directs the deletion of a condition, proviso, restriction, exception or reservation in a disposition that is registered under Part 3,
 - (i) the Executive must deposit a copy of the directive in the lands registry office, and
 - (ii) the registrar must make an entry in the lands register to describe the directive.

Bodies of water

4.11 If Toquaht lands bordering on a lake, river, stream or other body of water is the subject of a disposition under this or any other Toquaht enactment, no interest in the bed or shore of the body of water below its natural boundary passes to the person receiving the disposition.

Roads

4.12 Unless a contrary intention is expressly stated in an instrument, map or plan made under this Act, a road is deemed to be 20 m in width, being 10 m on each side of the centre line of the traveled portion of the road.

Date of disposition

- 4.13** A disposition of a licence, a lease or rental agreement not exceeding three years, or an interest in Toquaht lands that are not Toquaht titled lands, under section 4.3 is effective as against the Toquaht Nation
- (a) if a survey is not required, on the date that the instrument states, which must not be more than 60 days after the date on which the Executive executes the instrument, or
 - (b) if a survey is required, on the later of
 - (i) the date on which the Executive executes the instrument, and
 - (ii) the date on which the director confirms the survey under section 11.23.

Withdrawal from availability

4.14 (a) The Executive may, by Order, for any purpose it consider advisable

- (i) withdraw Toquaht lands from availability for disposition under this Act, and
 - (ii) amend or cancel a withdrawal made under paragraph (i).
- (b) Land withdrawn from availability for disposition under subsection (a) may not be the subject of a disposition under this Act.

Designation for use or purpose

- 4.15** (a) The Executive may, by Order, if it considers advisable
- (i) designate Toquaht lands for a particular use or for the conservation of natural or heritage resources, and
 - (ii) amend or cancel a designation made under paragraph (i).
- (b) Toquaht lands designated under subsection (a) may not be the subject of a disposition under this Act if, in the opinion of the Executive, the disposition is not compatible with the use or purpose for which the land has been designated.

Applications for disposition

- 4.16** (a) Subject to this Act, an individual who is at least 19 years old, a corporation, treaty first nation, Canada or British Columbia may apply for a disposition described in section 4.3(b) but excluding section 4.3(b)(x).
- (b) Nothing in this Act obliges the Toquaht Nation to consider an application for a disposition, or to make a disposition on an application.
- (c) An applicant does not obtain an interest in, or licence in relation to, Toquaht lands, or a priority to acquire an interest in, or licence in relation to, Toquaht lands, by applying for a disposition.

Application procedure for dispositions

- 4.17** (a) An application under section 4.16(a) must
- (i) be made to the director in the form specified by the director, and
 - (ii) be accompanied by any prescribed application fee.
- (b) If the Toquaht lands that are the subject of an application under section 4.16(a) are unsurveyed or if no evidence of survey is available, the applicant must, along with the application and at the applicant's expense, provide a map indicating the location of the proposed interest in the form required by the director.

Public notice

- 4.18** (a) The director must, at the applicant's expense, post, in accordance with Toquaht law, a notice of an application under section 4.16(a).
- (b) The notice under subsection (a) must
- (i) be headed "Land Act: Notice of Intention to Apply for a Disposition",
 - (ii) state the applicant's name,
 - (iii) state whether the application is for a fee simple grant, lease, right of way, easement, or licence,
 - (iv) state the location and approximate surface area of the Toquaht lands that are the subject of the application,
 - (v) state the purpose for which the interest is required, and
 - (vi) be signed by the applicant or their agent.
- (c) The director must provide to the Executive proof of posting of the notice satisfactory to the Executive.
- (d) For certainty, the requirement in subsection (a) to "post in accordance with Toquaht law" is satisfied if the requirements of section 3.11 of the Interpretation Act, TNS 17/2011 have been satisfied.

Register of applications

- 4.19** (a) The director must keep a register of applications for a disposition under section 4.16(a), including, for each application, a copy of the notice posted in accordance with section 4.18.
- (b) During regular business hours, any person may examine and inspect the register of applications
- (i) after completing an application in the form that the director requires, and
 - (ii) on the conditions that the director imposes.
- (c) The Toquaht Nation makes no representation as to the accuracy or completeness of the register of applications and a person may not recover from the Toquaht Nation any loss or damage that the person suffers by reliance on the register of applications.

Feasibility studies and costs

- 4.20** (a) The director may require an applicant to obtain and file with the director, at the applicant's expense,
- (i) feasibility studies,
 - (ii) environmental assessments,
 - (iii) timber cruises,
 - (iv) land valuation appraisals, or
 - (v) any other information about the application required by the director or the Executive.
- (b) If an application is made under section 4.16(a), the director may
- (i) estimate the cost
 - (A) to assess the impact of the disposition, or
 - (B) to monitor compliance with terms of the disposition, and
 - (ii) require the applicant to pay to the Toquaht Nation all or part of that estimated cost before the application is considered or the disposition made.

Security may be required

- 4.21** (a) The director may require an applicant to deposit with the Toquaht Nation a bond or other form of security for the performance and completion by the applicant of all the obligations and requirements specified by the director under this Act.
- (b) The bond or other form of security required under subsection (a) must be payable to the Toquaht Nation for the amount and on the terms required by the director.

Affidavit may be required

- 4.22** The director may require an applicant to provide proof, by affidavit or otherwise, of any matter connected with the application, including the applicant's financial capacity.

Disposition of interest or licence

- 4.23** (a) A person who acquires an interest in, or licence in relation to, Toquaht lands, other than Toquaht titled lands, by a disposition under section 4.3 or by an allowable disposition under this section, must not dispose of or otherwise deal

with that interest or licence, unless the disposing or other dealing is expressly allowed or approved by

- (i) this or any other Toquaht enactment,
 - (ii) the instrument, or
 - (iii) the Executive.
- (b) An intended disposition of or other dealing with an interest in, or licence in relation to, Toquaht lands, other than Toquaht titled lands, in contravention of this section is void.
- (c) As a condition precedent to an approval under subsection (a), the Executive may require the person to agree to and observe or perform, in relation to the Toquaht lands, additional terms, covenants or stipulations.

Certificate of transfer under the Land Title Act (British Columbia)

- 4.24** (a) Toquaht titled lands must not be registered in a name other than the Toquaht Nation without a certificate of transfer in the prescribed form issued by the Executive on behalf of the Toquaht Nation in accordance with this section.
- (b) For certainty, a transfer of the ownership of a parcel of Toquaht titled lands in contravention of this section is void.
- (c) The registered owner of an indefeasible title to a parcel of Toquaht titled lands may apply to the Executive for a certificate of transfer.
- (d) An application made under subsection (c) must
- (i) be made to the Executive in the prescribed form,
 - (ii) set out
 - (A) the parcel's land title office parcel identification number and legal description,
 - (B) the parcel's civic address, if any,
 - (C) the full legal name and occupation of the applicant,
 - (D) the full legal name and occupation of the proposed transferee,
 - (E) the intended use of the parcel by the proposed transferee, and
 - (iii) be accompanied by any prescribed application fee.

- (e) Nothing in this Act obliges the Executive to consider an application made under subsection (c) or to make any decision on that application and, for certainty, the Executive may refuse to consider or decide an application made under subsection for any reason it decides.
- (f) In considering an application made under subsection (c), the Executive may consider, among other things, the following matters in reaching a decision on the application:
 - (i) the current use of the parcel identified in the application;
 - (ii) the proposed use of that parcel;
 - (iii) the stated use of that parcel, if any, that was indicated in the application under section 4.16 for the fee simple grant of that parcel;
 - (iv) whether or not the proposed transferee is an eligible person;
 - (v) any matters relating to the proposed transferee the Executive decides are relevant; and
 - (vi) any other matters the Executive decides are relevant.
- (g) If an application made under subsection (c) is approved, the Executive must issue to the applicant a certificate of transfer stating
 - (i) the certificate of transfer is issued in accordance with Toquaht law, and
 - (ii) the person named in the certificate as transferee of the parcel is a permitted transferee under Toquaht law.

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PART 5 - [REPEALED]

PART 6 - [REPEALED]

PART 7 - COMMUNITY LANDS

Fee simple grants

- 7.1 (a) The Executive may grant or transfer an estate in fee simple to community lands in accordance with this section.
- (b) The Executive may grant or transfer an estate in fee simple to community lands designated as Homelands in the Official Community Plan Act, TNS 1/2016 to
- (i) a Toquaht citizen, or
- (ii) a Toquaht citizen and the spouse of a Toquaht citizen
- without first publicizing at information meetings and without approval by referendum or by vote at a ratification meeting.
- (c) The Executive may
- (i) by regulation, designate certain community lands as unrestricted fee simple lands if the proposed regulation is first publicized at an information meeting, and
- (ii) grant or transfer an estate in fee simple to lands prescribed under paragraph (i) to any person without ~~first publicizing at~~additional information meetings and without approval by referendum or by vote at a ratification meeting.
- (d) The Executive may grant or transfer an estate in fee simple to community lands to
- (i) a Toquaht public corporation, or
- (ii) a Toquaht public institution
- without approval by referendum or by vote at a ratification meeting if the proposed grant is first publicized at an information meeting ~~and approved by vote at a ratification meeting~~.
- (e) Except as provided in subsections (b) to (d), the Executive may only grant or transfer an estate in fee simple to community lands if the proposed grant is first publicized at two information meetings and approved by a referendum.
- (f) For certainty, the registered owner of an indefeasible title to a parcel of Toquaht titled lands may only transfer his or her estate in fee simple in accordance with section 4.24 and the Land Title Act (British Columbia).

Appraisals

7.2 (a) Despite any other provision of this Act, the Executive may not grant

- (i) an estate in fee simple to Toquaht titled lands under section 7.1 **Error! Reference source not found.**,
- (ii) a lease under section 7.4 or 7.5, or
- (iii) a natural resource licence under section 7.9 or 7.10

unless the Executive first obtains one or more appraisals of the fair market value of the appurtenant lands.

- (b) If Council enacts a law that requires that the Executive first obtain one or more appraisals of the fair market value of the appurtenant lands before granting an interest in, or a licence in relation to, Toquaht lands under sections 7.3, 7.6, 7.7, 7.8, 7.11 and 7.12, the Executive must comply with that requirement before making such a grant.

Leases of 10 years or less

7.3 The Executive may grant a lease of community lands for a term or possible term of 10 years or less only if

- (a) the Executive has not previously granted a lease of those community lands to the grantee or a member of the grantee's immediate family,
- (b) the term or possible term of the proposed lease, when added to the term of all previous leases of those community lands granted by the Executive to the grantee or a member of the grantee's immediate family since the last occasion, if any, on which such a grant was publicized at an information meeting totals 10 years or less, or
- (c) the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Leases of between 10 and 25 years

7.4 The Executive may grant a lease of community lands for a term or possible term of more than 10 years but not more than 25 years only if the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Leases of between 25 and 99 years

7.5 The Executive may grant a lease of community lands for a term or possible term of more than 25 years but not more than 99 years only if the proposed grant is first publicized at two information meetings and approved by a referendum.

Easements and statutory rights-of-way

- 7.6** (a) The Executive may grant an easement over Toquaht lands.
- (b) The Executive may grant or reserve a statutory right-of-way over Toquaht lands to any of the following:
- (i) the Toquaht Nation, a Toquaht public institution or a Toquaht corporation;
 - (ii) Canada, an agency of Canada or a corporation owned by Canada;
 - (iii) British Columbia, an agency of British Columbia or a corporation owned by British Columbia;
 - (iv) a treaty first nation, an agency of a treaty first nation or a corporation owned by a treaty first nation;
 - (v) a local government, an agency of a local government or a corporation owned by a local government;
 - (vi) a public utility;
 - (vii) a strata corporation established under the Strata Property Act (British Columbia);
 - (viii) a homeowner's association incorporated under the Society Act (British Columbia);
 - (ix) a housing cooperative incorporated under the Cooperative Association Act (British Columbia); or
 - (x) a railway corporation.
- (c) The holder of an interest in Toquaht lands may, by grant or otherwise in favour of the Toquaht Nation or a person listed in subsection (b), as grantor encumber the interest with an easement called a statutory right-of-way, without a dominant tenement, for any purpose necessary for the operation and maintenance of the grantee's undertaking, including the right to flood.
- (d) To the extent necessary to give effect to this section, the rule requiring an easement to have a dominant and servient tenement is abrogated.

- (e) The requirement that a statutory right of way be for a purpose necessary for the operation and maintenance of a grantee's undertaking does not apply if the grantee is the Toquaht Nation.
- (f) A statutory right-of-way registrable under this section is binding on the grantor and the grantor's successors in title, even though the instrument or other disposition has not been signed by the grantee.
- (g) No person who enters into a statutory right-of-way under this section is liable for a breach of the statutory right-of-way occurring after the person has ceased to be the owner of the interest in the land encumbered by that statutory right-of-way.

Licences of occupation

- 7.7** (a) The Executive may grant a licence of occupation in relation to community lands for a term or possible term of 10 years or less.
- (b) The Executive may grant a licence of occupation in relation to community lands for a public purpose for a term or possible term greater than 10 years to any of the following:
- (i) the Toquaht Nation, an agency of the Toquaht Nation or a corporation owned by the Toquaht Nation;
 - (ii) Canada, an agency of Canada or a corporation owned by Canada;
 - (iii) British Columbia, an agency of British Columbia or a corporation owned by British Columbia;
 - (iv) a treaty first nation, an agency of a treaty first nation or a corporation owned by a treaty first nation; or
 - (v) a local government, an agency of a local government or a corporation owned by a local government.

Natural resource licences of 10 years or less

- 7.8** The Executive may grant a natural resource licence in relation to community lands for a term or possible term of 10 years or less only if
- (a) the Executive has not previously granted a natural resource licence in relation to those community lands to the grantee or a member of the grantee's immediate family,
 - (b) the term or possible term of the proposed natural resource licence, when added to the term of all previous natural resource licences in relation to those community lands granted by the Executive to the grantee or a member of the grantee's

immediate family since the last occasion, if any, on which such a grant was publicized at information meetings and approved by vote at a ratification meeting, totals 10 years or less, or

- (c) the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Natural resource licences of between 10 and 25 years

- 7.9** The Executive may grant a natural resource licence in relation to community lands for a term or possible term of more than 10 years but not more than 25 years only if the proposed grant is first publicized at an information meeting and approved by vote at a ratification meeting.

Natural resource licences of between 25 and 50 years

- 7.10** The Executive may grant a natural resource licence in relation to community lands for a term or possible term of more than 25 years but not more than 50 years only if the proposed grant is first publicized at two information meetings and approved by a referendum.

Utility licences

- 7.11** The Executive may grant a utility licence in relation to community lands to any of the following:
- (a) the Toquaht Nation, a Toquaht public institution or a Toquaht corporation;
 - (b) Canada, an agency of Canada or a corporation owned by Canada;
 - (c) British Columbia, an agency of British Columbia or a corporation owned by British Columbia;
 - (d) a treaty first nation, an agency of a treaty first nation or a corporation owned by a treaty first nation;
 - (e) a local government, an agency of a local government or a corporation owned by a local government; or
 - (f) a public utility.

Registration of covenant as to use and alienation

- 7.12** (a) A covenant described in subsection (b) in favour of
- (i) the Toquaht Nation, a Toquaht public institution or a Toquaht corporation,

- (ii) Canada, an agency of Canada or a corporation owned by Canada, or
- (iii) British Columbia, an agency of British Columbia or a corporation owned by British Columbia,

as covenantee, may be registered against an interest in the Toquaht lands subject to the covenant and is enforceable against the covenantor and the successors in title of the covenantor even if the covenant is not annexed to Toquaht lands owned by the covenantee.

- (b) A covenant registrable under subsection (a) may be of a negative or positive nature and may include one or more of the following provisions:
 - (i) provisions in relation to
 - (A) the use of Toquaht lands, or
 - (B) the use of a building on or to be erected on Toquaht lands;
 - (ii) that Toquaht lands
 - (A) are to be built on in accordance with the covenant,
 - (B) are not to be built on except in accordance with the covenant, or
 - (C) are not to be built on;
 - (iii) that Toquaht lands
 - (A) are not to be subdivided except in accordance with the covenant, or
 - (B) are not to be subdivided;
 - (iv) that the parcels of Toquaht lands designated in the covenant and registered under one or more registrations are not to be sold or otherwise transferred separately.
- (c) A covenant described in subsection (d) in favour of
 - (i) the Toquaht Nation, a Toquaht public institution or a Toquaht corporation, or
 - (ii) any person designated by the Executive on terms and conditions it determines is proper,

as covenantee, may be registered against an interest in the Toquaht lands subject to the covenant and, subject to subsections (k) and (l), is enforceable against the

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- covenantor and the successors in title of the covenantor even if the covenant is not annexed to Toquaht lands owned by the covenantee.
- (d) A covenant registrable under subsection (c) may be of a negative or positive nature and may include one or more of the following provisions:
- (i) any of the provisions under subsection (b);
 - (ii) that Toquaht lands or a specified amenity in relation to it be protected, preserved, conserved, maintained, enhanced, restored or kept in its natural or existing state in accordance with the covenant and to the extent provided in the covenant.
- (e) For the purpose of subsection (d)(ii), "amenity" includes any natural, historical, heritage, cultural, scientific, architectural, environmental, wildlife or plant life value relating to the Toquaht lands that are subject to the covenant.
- (f) A covenant registrable under this section may include, as an integral part,
- (i) an indemnity of the covenantee against any matter agreed to by the covenantor and covenantee and provision for the just and equitable apportionment of the obligations under the covenant as between the owners of the interest in the Toquaht lands affected, and
 - (ii) a rent charge charging the Toquaht lands affected and payable by the covenantor and the covenantor's successors in title.
- (g) If an instrument contains a covenant registrable under this section, the covenant is binding on the covenantor and the covenantor's successors in title, even though the instrument or other disposition has not been signed by the covenantee.
- (h) No person who enters into a covenant under this section is liable for a breach of the covenant occurring after the person has ceased to be the holder of the interest in the Toquaht lands.
- (i) A covenant registrable under this section may be
- (i) modified by the holder of the charge and the holder of the interest in the Toquaht lands charged, or
 - (ii) discharged by the holder of the charge
- by an agreement or instrument in writing.
- (j) [Repealed]

- (k) On the death or dissolution of an owner of a covenant registrable under subsection (c)(ii), the covenant ceases to be enforceable by any person, including the Toquaht Nation, other than
 - (i) another covenantee named in the instrument creating the covenant, or
 - (ii) an assignee of a covenantee if the assignment has been approved in writing by the Executive.
- (l) If a covenantee or assignee referred to in subsection (k) is a corporation that has been dissolved and subsequently restored into existence, the covenant continues to be enforceable by the restored corporation from the date of its restoration.
- (m) A recital in a covenant that a person "has been designated by the Executive under section 7.12(c)(ii) of the Land Act", or a statement to that effect in the application to register the covenant, is sufficient proof to the registrar of that fact.
- (n) The Executive may only delegate its powers under subsection (c)(ii) and (k)(ii) to the director.

PART 8 - EXPROPRIATIONS

Expropriations for community purposes

- 8.1** (a) Subject to subsections (b) and (c), the Executive may expropriate all or part of an interest in, or licence in relation to, Toquaht lands that in the opinion of the Executive is necessary for community works or community purposes.
- (b) The Executive may not expropriate all or part of an interest in, or licence in relation to, Toquaht Lands until the following conditions, in the order listed, are satisfied:
- (i) notice of the proposed expropriation has been delivered in accordance with Toquaht law to the holder of the interest or licence;
 - (ii) the Executive has attempted in good faith to negotiate an agreement with the holder of the interest or the licence for the transfer of the interest or licence, or the part of the interest or licence, as the case may be; and
 - (iii) the proposed expropriation has been publicized at an information meeting.
- (c) The Executive may not expropriate an interest in Toquaht lands obtained by Canada or British Columbia.

Compensation

- 8.2** (a) If the Executive proposes to take all or a part of an interest in, or licence in relation to, Toquaht lands under section 8.1, the Executive must offer to pay compensation for the proposed taking to the registered holder.
- (b) As all or part of the compensation offered under subsection (a), the Executive may offer to grant to the holder a similar interest or licence under section 4.3.
- (c) If the Executive and the holder agree on the compensation to be paid for the proposed taking, the interest or licence or the part of the interest or licence is deemed to be cancelled when the Toquaht Nation pays that compensation to the holder.
- (d) If the Executive and the holder do not agree on the compensation to be paid for the proposed taking, the Executive may apply to the director for a determination of compensation under section 8.3.
- (e) If under section 8.3 the director determines compensation to be paid for the proposed taking, the interest or licence or the part of the interest or licence is deemed to be cancelled when the Toquaht Nation pays that compensation to the holder.

- (f) The Executive is not obligated to proceed with a proposed taking of an interest or licence after the director determines compensation to be paid for the proposed taking under section 8.3.

Determination of compensation

- 8.3** (a) In this section, “estimated fair market value” means in relation to a proposed taking of an interest in, or licence in relation to, Toquaht lands under section 8.1, the estimated amount that would have been paid for an interest in, or licence in relation to, Toquaht lands in the open market by a willing seller to a willing buyer on the date that the Executive gave written notice of the proposed taking to the holder, without any account of
- (i) the development or other purpose for which the Executive proposes the taking, or
 - (ii) the enactment or amendment by the Toquaht Nation of a zoning or other law in anticipation of the development or other purpose.
- (b) The director must determine the compensation to be paid by the Executive for the proposed taking of the interest or licence, on application by the Executive under section 8.2(d).
- (c) Before making a determination of compensation under this section, the director
- (i) must invite the Executive and the holder to make a written or oral submission to the director on the determination of compensation, and
 - (ii) may require the Executive and the holder to produce any information that the registrar considers relevant to the determination.
- (d) In making a determination of compensation on an application under section 8.2(d), the director may take into account
- (i) the estimated fair market value of the interest or licence,
 - (ii) whether the holder is in actual occupation of the Toquaht lands,
 - (iii) whether the Executive is willing to grant another interest or licence to the holder as all or part of the compensation, and
 - (iv) the costs or expenses that would be reasonably incurred by the holder as a direct result of the proposed taking.
- (e) The director must, on making a determination of compensation under this section, provide written reasons for the determination to the Executive and the holder.

- (f) A person who is affected by a determination of the director under subsection (b) may request a review of that determination under the Administrative Decisions Review Act, TNS 7/2011.
- (g) For certainty, a person that requests a review under subsection (f) may also apply for an order staying the directive in accordance with the Administrative Decisions Review Act, TNS 7/2011.

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PART 9 - DISALLOWANCE, CANCELLATION, AMENDMENT AND ABANDONMENT**Application**

9.1 This Part does not apply to Toquaht titled lands, the owner of which is a person other than the Toquaht Nation.

If approval subject to survey

- 9.2** (a) If an application for a disposition of unsurveyed Toquaht lands has been approved by the Executive subject to completion of a satisfactory survey, the Executive may disallow the application if
- (i) the survey is not completed by the date specified by the director, or
 - (ii) the Executive considers it not to be in the interest of the Toquaht Nation to make the disposition because of information
 - (A) in the completed survey,
 - (B) in a report from the land surveyor who conducted the survey, or
 - (C) received by the Executive from another source.
- (b) If the Executive disallows an application under subsection (a)(ii), the Toquaht Nation must reimburse the applicant for the applicant's survey costs, unless the applicant made a misrepresentation that resulted in the disallowance.

If error in approval or disposition

- 9.3** (a) The Executive may, by directive,
- (i) amend or correct
 - (A) a disposition made under this Act, or
 - (B) an approval of a disposition given under this Act,
 - (ii) disallow an application for a disposition made under this Act, or
 - (iii) cancel a disposition made under this Act,
- if the Executive determines that
- (iv) there is an error in the names or description of the applicant, the description of the Toquaht lands, or any other material part of the approval or disposition,

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- (v) the Toquaht lands are not available for disposition under this Act,
 - (vi) the survey of the Toquaht lands is incorrect, or
 - (vii) information provided by the applicant is incorrect.
- (b) If the Executive amends or corrects a disposition or approval under this section, the amended or corrected disposition or approval is effective as of the date of the original disposition or approval.
- (c) If the Executive disallows an application under this section, the Executive may
- (i) reimburse the applicant for all or part of the money paid on the application,
 - (ii) reimburse the applicant for the applicant's survey costs, and
 - (iii) pay to the applicant any compensation that the Executive considers advisable.
- (d) If the Executive cancels a disposition under this section,
- (i) the disposition holder's interest in, or licence in relation to, the Toquaht lands and the interest of all persons claiming through that holder are terminated,
 - (ii) all improvements to the Toquaht lands become the property of the Toquaht Nation, and
 - (iii) the Executive may
 - (A) reimburse the disposition holder for all or part of the money paid for or under the disposition,
 - (B) reimburse the disposition holder for the disposition holder's survey costs, and
 - (C) pay to the disposition holder any compensation that the Executive considers advisable.
- (e) If a disposition that is amended or cancelled under this section is registered under Part 3,
- (i) the Executive must deposit a copy of the directive in the lands registry office, and

- (ii) the registrar must amend or cancel the registration on receipt of the directive.
- (f) A person who is affected by a directive under subsection (a) may request a review of that directive under the Administrative Decisions Review Act, TNS 7/2011.
- (g) For certainty, a person that requests a review under subsection (f) may also apply for an order staying the directive in accordance with the Administrative Decisions Review Act, TNS 7/2011.

If non-compliance with disposition

- 9.4**
- (a) If a person who holds a disposition under this Act fails or neglects to comply with a term, covenant or stipulation set out in the instrument of disposition or imposed by the Executive in the disposition, the director may deliver in accordance with Toquaht law a notice to the person requiring the person to comply with the term, covenant or stipulation within 60 days after the date the notice is delivered.
 - (b) If the failure or neglect referred to in subsection (a) continues after the 60 day period, the Executive may, by directive, cancel the disposition.
 - (c) If the Executive cancels a disposition under subsection (b),
 - (i) the disposition holder's interest in, or licence in relation to, the land and the interest of all persons claiming through that holder are terminated,
 - (ii) all improvements to the Toquaht lands become the property of the Toquaht Nation, and
 - (iii) any money paid for or under the terms of the disposition is forfeited to the Toquaht Nation.
 - (d) If a disposition that is cancelled under subsection (b) is registered under Part 3,
 - (i) the Executive must deposit a copy of the directive in the lands registry office, and
 - (ii) the registrar must cancel the registration on receipt of the directive.
 - (e) A person who is affected by a directive under subsection (b) may request a review of that directive under the Administrative Decisions Review Act, TNS 7/2011.
 - (f) For certainty, a person that requests a review under subsection (e) may also apply for an order staying the directive in accordance with the Administrative Decisions Review Act, TNS 7/2011.

Abandonment of disposition

- 9.5** (a) A person holding a disposition under this Act may abandon and terminate the disposition by giving written notice to the director.
- (b) On abandonment and termination of a disposition under subsection (a),
- (i) all improvements to the Toquaht lands become the property of the Toquaht Nation, and
- (ii) all money paid for or under the terms of the disposition is forfeited to the Toquaht Nation.
- (c) If a disposition that is abandoned and terminated under subsection (a) is registered under Part 3,
- (i) the director must deposit in the lands registry office a copy of the written notice given to the director under subsection (a), and
- (ii) the registrar must cancel the registration on receipt of the written notice.

Debts payable on cancelled disposition

- 9.6** (a) Unless the Executive otherwise directs, the holder of a disposition that is cancelled under section 9.4 or abandoned and terminated under section 9.5 must pay all money remaining due under the disposition and observe or perform all terms, covenants and stipulations of the disposition.
- (b) Money remaining due to the Toquaht Nation on a cancelled or abandoned and terminated disposition is recoverable by the Toquaht Nation as a debt due to the Toquaht Nation.

PART 10 - [REPEALED]

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PART 11 - SURVEYS

Application of Part

11.1 This Part applies to Toquaht lands that are Toquaht titled lands only to the extent it does not conflict with the Land Title Act (British Columbia), which prevails to the extent of an inconsistency between it and this Act.

Districts

11.2 For the purpose of describing Toquaht lands under this Act, the Executive may, by regulation

- (a) constitute a part of Toquaht lands as a district, and
- (b) amend or cancel a district.

Authorized surveyor

11.3 All surveys required under this Act must be carried out by a British Columbia land surveyor acting under the instruction of the director.

Surveyor to act under director

11.4 The British Columbia land surveyor in charge of a survey under this Part must make the survey and plan under the guidance and instruction of the director.

Power to require survey

11.5 The Executive may require a survey to be made of Toquaht lands.

Method of defining new parcel

11.6 Unless otherwise provided in section 11.20, a new parcel created by subdivision or a parcel for which a new disposition is sought under Part 4 must be defined by a subdivision plan.

Survey costs for Toquaht dispositions

11.7 Unless the Executive otherwise requires, by directive or section 9.2(b) applies, an applicant under section 4.16 must pay the cost of a survey of the Toquaht lands that is required under this Act.

Survey district lots

11.8 (a) Toquaht lands may be surveyed into district lots that are rectangular in shape and bounded by lines running as nearly as may be true north and south and east and west.

- (b) At the discretion of the director, district lots may be polygonal in shape and oriented to conform to topography.
- (c) The natural boundary of a body of water may be adopted as a boundary of a district lot.
- (d) A conventional boundary may be established in a survey of a district lot and land defined by a conventional boundary carries with it the rights and incidents as if it were bounded by the natural boundary.
- (e) District lots must be numbered in a consecutive numbering system for each district constituted under section 11.2.
- (f) Subject to subsection (g), the area of a district lot must not be larger than 300 ha.
- (g) If one of the boundaries of a district lot is a natural boundary, the area of the district lot must not be larger than 320 ha.

Survey instructions by director

- 11.9** (a) If
- (i) an application for a disposition of unsurveyed Toquaht lands has been approved by the Executive subject to completion of a satisfactory survey, and
 - (ii) a land surveyor engaged by the applicant to conduct the survey of the Toquaht Lands makes a request of the director for instructions,
- the director must issue instructions about the survey to the surveyor.
- (b) A survey under subsection (a) must be completed in the time specified in the instructions, and the survey records must be forwarded immediately to the director unless, in special circumstances, the director extends the date for completion.
 - (c) If, for any reason, a survey under subsection (a) is not satisfactory to the director, the director may require a further survey or report.
 - (d) If a survey under subsection (a) is not completed and forwarded by the required date, the surveyor must discontinue the survey and advise the applicant.
 - (e) A surveyor who discontinues a survey under this section must immediately forward to the director the field notes and the results of the surveyor's work up to and including the date the survey was discontinued.

Restrictions on subdivision

- 11.10** (a) Except in compliance with this Part, a person must not subdivide Toquaht lands into smaller parcels than those of which the person is the owner for the purpose of
- (i) transferring it, or
 - (ii) leasing it, or agreeing to lease it, for life or for a term exceeding three years.
- (b) Except in compliance with this Part, a person must not subdivide Toquaht lands for the purpose of a mortgage or other dealing that may be registered under this Act as a charge if the interest conferred on the transferee, mortgagee or other party would entitle the person in law or equity under any circumstances to demand or exercise the right to acquire or transfer the underlying interest in the Toquaht lands.
- (c) Subsection (a) does not apply to a subdivision for the purpose of leasing a building or part of a building.
- (d) An instrument executed by a person in contravention of this section does not confer on the party claiming under it a right to registration of the instrument or a part of it.

Approval of subdivision plan required

- 11.11** A subdivision or reference plan must not be deposited in the lands registry office by the registrar unless it has first been approved by the approving officer.

Requirements as to subdivision and reference plans

- 11.12** A survey plan tendered for deposit in the lands registry office must comply with the following requirements:
- (a) the survey plan must be based on a survey made by a British Columbia land surveyor;
 - (b) the plan must have a title which includes a legal description, in accordance with the requirements of the registrar, of the Toquaht lands;
 - (c) unless otherwise provided by regulation, the survey plan must be accompanied by a machine made transparent copy of a type approved by the director, together with the number of white prints that may be necessary for the purpose of taxing authorities and the director; and
 - (d) the correctness of the survey and plan must be verified by the surveyor by his or her statement in the form approved by the director.

Tender of plan for examination and approval

- 11.13** (a) A subdivision plan must be tendered for examination and approval by the approving officer.
- (b) The subdivision plan must be accompanied by the following:
- (i) the applicable prescribed fees;
 - (ii) a certificate
 - (A) that all taxes assessed on the subdivided land have been paid, and
 - (B) if taxes are payable by installments, that all installments owing at the date of the certificate have been paid;
 - (iii) if the approving officer considers that there is reason to anticipate that the Toquaht lands may be resubdivided and requires this information, a sketch showing that the parcels into which the Toquaht lands are subdivided can conveniently be further subdivided into smaller parcels; and
 - (iv) if the approving officer requires this information, profiles of every new roadway shown on the plan and such necessary topographical details as may indicate engineering problems to be dealt with in opening up the roadways, including environmental impact or planning studies.
- (c) The Executive may prescribe fees for subdivision plan examination by the approving officer, which may vary with the number, size and type of parcels involved in the proposed subdivision.

Plan tendered later than three months after survey

- 11.14** (a) If a subdivision plan is tendered for examination and approval after the expiration of three months after the date the survey is completed, the approving officer may require the surveyor who carried out the survey to inspect the survey and
- (i) satisfy himself or herself that
 - (A) all posts and monuments are in place, and
 - (B) the survey has not been affected by an intervening survey or a registration, deposit or filing under this Act, and
 - (ii) write on the plan "inspected under the Land Act", with the date of the inspection and his or her signature.

- (b) The surveyor may inspect and certify a plan under subsection (a) before the plan is tendered for approval.
- (c) In the event of the death or disability of the surveyor, the director may appoint another British Columbia land surveyor to make the inspection.

Time limit for approval and consideration of public interest

- 11.15** (a) A subdivision plan must be approved or rejected by the approving officer within two months after the date it is tendered for examination and approval or within another prescribed period.
- (b) If, under subsection (a), the approving officer rejects a subdivision plan, the approving officer must as soon as practicable notify in writing the applicant, or the solicitor or agent of the applicant, of the rejection, stating briefly the reason and the approving officer's requirements, if any.
 - (c) In considering an application for subdivision approval in relation to Toquaht lands, the approving officer may refuse to approve the subdivision plan if the approving officer considers that the deposit of the plan is against the public interest.

Principles guiding approving officer

- 11.16** (a) In considering an application for approval of a subdivision under section 11.13, the approving officer must be guided by the principles and requirements set out in this Act and the Planning and Land Use Management Act applicable to the examination of subdivisions made by subdivision plan.
- (b) An application for approval must be accompanied by the prescribed fee.
 - (c) If the approving officer refuses to grant approval, or if approval is not granted within two months after the date the application is tendered to the approving officer for approval, the applicant may request a review of the matter under the Administrative Decisions Review Act, TNS 7/2011.

Signatures of owners to plan

- 11.17** (a) A subdivision plan must be signed by each holder of the interest in the Toquaht lands subdivided.
- (b) All the signatures to the plan must be witnessed in the same manner as is required under section 3.3.

Application for deposit

- 11.18** (a) An application to deposit a subdivision plan in the lands registry office must be

- (i) in the form approved by the registrar,
 - (ii) accompanied by the approved subdivision plan and the reproductions required by the registrar, and
 - (iii) tendered for deposit to the registrar within two months or any other period that may be prescribed after it has been approved by the approving officer, or within a further time the registrar, on application made to the registrar before the expiration of the two months or the other period prescribed, may allow for sufficient cause.
- (b) If the application and plan are not tendered to the registrar within the time allowed, the approval of the plan is deemed to have been revoked.

Serial deposit number

11.19 The registrar must assign a serial number to each reference plan or explanatory plan deposited with the registrar.

Registrar to determine whether description acceptable

- 11.20** (a) The registrar may accept
- (i) a metes and bounds description or an abbreviated description, with or without a reference plan or an explanatory plan, or
 - (ii) a reference plan or an explanatory plan, with or without a metes and bounds description
- in any of the following cases:
- (iii) if a new parcel is created by the subdivision of an existing parcel shown on a deposited subdivision plan;
 - (iv) if the new parcel is created for the purpose of adding it to an already existing adjoining parcel in the same subdivision plan, in which case the new parcel is deemed to be an integral portion of the parcel to which the new parcel is added; or
 - (v) if an easement or a statutory right of way under section 7.6 or covenant under section 7.12 is being created.
- (b) The registrar, before exercising his or her discretion in relation to the matters covered by subsection (a), must require the applicant to provide satisfactory evidence that the approving officer has granted approval of the subdivision.

- (c) In the case of a lease of all or part of a building, the registrar may, on the ground of hardship or economic loss, accept a sketch plan with or without a metes and bounds description or abbreviated description.

New registrations for parcels shown on deposited plan

- 11.21** (a) The registrar must examine the application and plan submitted under section 11.18, and any supporting instrument produced and, if satisfied that they are in order and in compliance with all the requirements of this Act, must deposit the plan under the serial deposit number assigned to the plan on its receipt and register the new interests in Toquaht lands and the holders of the parcels shown on the plan as may be necessary.
- (b) If a new interest in Toquaht lands is registered, the former interest must be cancelled.
 - (c) If a new taxable interest in Toquaht lands under a real property tax law of the Toquaht Nation is registered, a print of the plan must be transmitted to the appropriate authorities.
 - (d) Concurrently with the tender of the plan an application may be made to the registrar to register an instrument dealing with any parcel included in the plan and reference in the instrument to the plan and parcel must be in the manner required by the registrar.

Road and walkway allowances

- 11.22** The Executive may authorize the director to establish or cancel a road allowance or walkway allowance on Toquaht lands.

Surveys to be confirmed

- 11.23** A survey may not be used or adopted for the purpose of this Act until it is confirmed in writing by the director on the official plan.

Deemed deposit of certain plans

- 11.23.1(a)** Subject to subsection (b) and despite any other provision in this Part, any survey plan completed in accordance with 2.5.1 of Chapter 2 Lands of the Maa-nulth Treaty and deposited in the provincial Crown land registry is deemed to be deposited in the lands registry office on the same date and at the same time as that survey plan was deposited in the provincial Crown land registry.
- (b) Despite any other provision in this Part, a survey plan completed in accordance with 2.5.1 of Chapter 2 Lands of the Maa-nulth Treaty and deposited in the provincial Crown land registry prior to April 1, 2011, is deemed to be deposited in the lands registry office at 12:01 AM on April 1, 2011.

- (c) The registrar must assign a serial number to each survey plan deemed to be deposited under this section.
- (d) For each survey plan deemed to be deposited under this section, the registrar must
 - (i) deposit a white print in the lands registry office, and
 - (ii) provide the director the number of white prints that may be necessary for the purpose of taxing authorities and the director.

Director may require resurvey

- 11.24** (a) Subject to subsection (b), the director may, by directive, require a resurvey of Toquaht lands if the director considers that
- (i) a survey of Toquaht lands, on the ground, differs materially from the field notes or plan of that survey confirmed under this Act,
 - (ii) it is advisable to replace a natural boundary confirmed under this Act with a conventional boundary, or
 - (iii) the posts, monuments or boundaries of a survey confirmed under this Act cannot be located.
- (b) If the land requiring a resurvey under subsection (a) is Toquaht titled lands, the director may not require a resurvey of that land under this section unless the director receives an application for a resurvey from a registered owner of the estate in fee simple to the Toquaht titled lands.

Persons likely to be affected by resurvey

- 11.25** If a person applies to the director for a resurvey under section 11.24(b) and the director believes that other persons are likely to be adversely affected by a resurvey, the director must direct the person applying for the resurvey to publish in accordance with Toquaht law a notice of the application.

Decision on application for resurvey

- 11.26** (a) Before deciding an application for resurvey under section 11.24(b), the director may permit any person who the director believes may be affected by the application an opportunity to make a submission to the director on the application.
- (b) After deciding an application for resurvey under section 11.24(b), the director must provide a written decision

- (i) to the applicant for the resurvey, and
- (ii) to any other person who the director believes may be affected by the decision.

Guiding principles

- 11.27** (a) Subject to subsection (b), in making a resurvey under section 11.24, the British Columbia land surveyor must re-establish, as nearly as possible, the existing boundaries.
- (b) The surveyor in subsection (a) may
- (i) depart from existing boundaries in order to establish boundaries in agreement with occupation and improvements, and
 - (ii) distribute any shortage in area within a group of parcels, having regard to occupation and improvements.

Substitute surveyor

- 11.28** After a directive has been issued under section 11.24, the director may
- (a) appoint a substitute British Columbia land surveyor in place of the surveyor previously appointed to make the resurvey,
 - (b) direct the substitute surveyor to adopt and make use of as much of the resurvey as the previously appointed surveyor has completed, and
 - (c) determine how the work of the previously appointed surveyor is to be certified or authenticated.

Plan and report of surveyor

- 11.29** (a) On completion of a resurvey under section 11.24, the British Columbia land surveyor must prepare and apply to file with the director
- (i) the resurvey plan, and
 - (ii) a report that sets out
 - (A) any difficulties encountered during the resurvey,
 - (B) the evidence concerning the re-establishment of original and lost monuments,
 - (C) the system of surveying employed,

- (D) the degree of accuracy obtained,
 - (E) the nature of all monuments erected, and
 - (F) other information bearing on the resurvey as may be of service in the consideration of the report and plan.
- (b) The surveyor must include in a report under subsection (a), in concise and tabulated form,
- (i) a list of all parcels comprised within the limits of the resurvey,
 - (ii) a list of all parcels the boundaries of which appear as altered by the plan, with a statement showing how they are altered, and
 - (iii) a statement of the costs and expenses of the resurvey.

Further work by surveyor

11.30 If, for any reason, the director is not satisfied with a resurvey plan or report that a British Columbia land surveyor has applied to file under section 11.29, the director may

- (a) refuse to file the plan and the report, and
- (b) instruct the surveyor
 - (i) to complete further or remedial work, and
 - (ii) to prepare and apply to file, under section 11.29, a plan and report that includes that further or remedial work.

Notice of plan and report

11.31 On the filing of a resurvey plan and report under section 11.29, the director must

- (a) deliver a copy of the resurvey plan and the report to the Executive, and
- (b) deliver in accordance with Toquaht law a notice to all
 - (i) registered owners of an estate in fee simple in Toquaht titled lands, if any, and
 - (ii) registered holders of an interest in, or licence in relation to, the Toquaht lands

within the limits of the resurvey

- (iii) that the resurvey has been completed,

- (iv) that the resurvey plan and the report may be inspected at the lands registry office, and
- (v) of a date and place at which submissions may be made to the director on the resurvey plan and the report.

Hearing of submissions

- 11.32** (a) At the time and place specified in the notice delivered under section 11.31(b), the director must receive the written or oral submission on the resurvey plan and report of any
- (i) registered owner of an estate in fee simple in Toquaht titled lands, if any, and
 - (ii) registered holder of a interest in, or licence in relation to, the Toquaht lands
- within the limits of the resurvey.
- (b) After receiving any submissions under subsection (a), the director must prepare and deliver to the Executive a report on the submissions received.

Approval of plan

- 11.33** (a) On receipt of the report of the director prepared under section 11.32, the Executive may, by directive,
- (i) approve the resurvey plan, or any part of it, or
 - (ii) reject the resurvey plan.
- (b) If the Executive approves the resurvey plan, or any part of it, under subsection (a)(i), the Executive may by directive
- (i) declare the resurvey plan, or the approved part of it, to be the true and correct survey and plan of the Toquaht lands affected,
 - (ii) declare that all boundaries and lines fixed by the resurvey plan, or the approved part of it, are the true boundaries and lines,
 - (iii) declare, with any reservations that the Executive considers expedient, that the resurvey plan, or the approved part of it, must be substituted for all former surveys and plans of the Toquaht lands affected which have previously been registered, or for the corresponding portions of those former surveys or plans, and

- (iv) vest any interest in the Toquaht lands necessary to implement the resurvey plan, or the approved part of it.
- (c) The Executive must deliver to
 - (i) the registrar, and
 - (ii) the British Columbia surveyor who completed the resurvey,a copy of a directive made under this section.

Registration of directive

- 11.34** (a) On receipt of a directive made under section 11.33 approving a resurvey plan, or a part of it, the registrar must register the directive and the approved resurvey plan or part of the resurvey plan.
- (b) An approved resurvey plan or part of a resurvey plan that is registered under subsection (a) is
- (i) the official plan of the Toquaht lands comprised within the limits of the plan or the approved part of it,
 - (ii) binding on all persons,
 - (iii) deemed, for all purposes, to be the original survey of the Toquaht lands, and
- the boundaries established by any previous survey have no further effect and the notes or plans of the previous survey have no further effect.
- (c) If the land resurveyed is Toquaht titled lands, the director must deposit a copy of the confirmed resurvey plan in the land title office.

Conflicting monuments

- 11.35** On receipt of a directive made under section 11.33 approving a resurvey plan, or a part of it, the British Columbia land surveyor who completed the resurvey must
- (a) remove all survey posts, stakes or monuments that
 - (i) were on the Toquaht lands within the limits of the resurvey prior to the resurvey, and
 - (ii) are liable to lead to confusion in connection with the approved resurvey plan or part of the resurvey plan, and
 - (b) obliterate all marks on any post, stake or monument that

- (i) was on the Toquaht lands within the limits of the resurvey prior to the resurvey, and
- (ii) has been used or adopted by the surveyor as a post, stake or monument of the resurvey,

except the marks placed on it or adopted by the surveyor in the survey.

Resurvey gain or loss of property

- 11.36** (a) If, as a result of a resurvey, a person acquires an interest in Toquaht lands, the person must pay the person from whom the interest in Toquaht lands is taken compensation in an amount the director may, by directive, require.
- (b) An amount that the director requires one person to pay to a second person under subsection (a) is recoverable by the second person as a debt owed to the second person.
 - (c) If either person described in subsection (a) is dissatisfied with the amount of compensation required by the director, the person may request a review of the directive issued under that subsection under the Administrative Decisions Review Act, TNS 7/2011.

Cost of resurvey

- 11.37** (a) Subject to subsection (c), all of the registered holders of an interest in the Toquaht lands contained in the resurvey required by the director under section 11.24 must pay, as determined by the director under subsection (b), a proportion of
- (i) the cost of the resurvey, and
 - (ii) if applicable, other expenses to complete and deposit the resurvey plan in the lands registry office or land title office.
- (b) The director must determine the amount payable by a registered owner or holder of an interest as contemplated in subsection (a) by
- (i) calculating the proportion of the total area of Toquaht lands contained in the resurvey plan that is made up by the registered owner's area or holder's area, and
 - (ii) applying that proportion to the total amount payable under subsection (a).
- (c) On the recommendation of the director, the Executive may exempt the registered owner or holder from paying all or any part of the costs or expenses in subsection (a) and in that event the Toquaht Nation must assume those costs or expenses.

- (d) An amount payable by a registered owner or holder under this section is recoverable by the Toquaht Nation as a debt due to the Toquaht Nation.

PART 12 - GENERAL PROVISIONS

Regulations

12.1 The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.

Application for indefeasible title

- 12.1.1** (a) The Executive may apply, in the name of the Toquaht Nation, under 3.3.1 of Chapter 3 Land Title of the Maa nulth Treaty for the registration of an indefeasible title to a parcel of Toquaht lands for which no indefeasible title is registered at the time of the application.
- (b) Subject to section 7.1, the Executive may apply, in the name of a person contemplated in section 7.1, under 3.3.1 of Chapter 3 Land Title of the Maa-nulth Treaty for the registration of an indefeasible title to a parcel of Toquaht lands for which no indefeasible title is registered at the time of the application.

Cancellation of Toquaht title

- 12.2** (a) If
- (i.1) the Toquaht Nation is the registered owner of Toquaht titled lands, or
- (i) a Toquaht corporation is the registered owner of Toquaht titled lands and that Toquaht corporation has given its consent, and
- (ii) there are no charges registered against the Toquaht titled lands, except charges in favour of the Toquaht Nation,
- the Executive may apply under 3.7.1 of Chapter 3 Land Title of the Maa-nulth Treaty for the cancellation of the registration of the indefeasible title to that land under the Land Title Act (British Columbia).
- (b) On cancellation of the registration of an indefeasible title to Toquaht lands, the land is deemed to no longer be Toquaht titled lands under this Act.

Right of entry

- 12.3** (a) For the purpose of performing their duties under this Act, and subject to subsection (b), the following individuals may, at reasonable times, enter any Toquaht lands and premises on Toquaht lands:
- (i) the director;
- (ii) the registrar; and

- (iii) an authorized Toquaht employee who has identification from the Toquaht Nation for the purpose.
- (b) The Toquaht Nation must provide the occupier of a premises with at least 24 hours' notice prior to entry into that premises by an individual under subsection (a), except where the occupier consents or in case of emergency.

Commencement

12.4 This Act comes into force on the Maa-nulth Treaty effective date.

LEGISLATIVE HISTORY

Land Act TNS 12/2011 enacted April 1, 2011

Amendments

Section	Amendment	In Force
1.2	TNS 3/2012, s.6.4(d)	July 10, 2012
12.1.1	TNS 3/2013, s.2.1(a)	February 15, 2013
12.2(a)(i.1)	TNS 3/2013, s.2.1(b)	February 15, 2013
1.4	TNS 3/2014, s.4.1(a)	March 11, 2014
11.6	TNS 3/2014, s.4.1(b)	March 11, 2014
11.23.1	TNS 3/2014, s.4.1(c)	March 11, 2014
3.25	TNS 8/2014, s. 4.12(a)	June 10, 2014
3.26	TNS 8/2014, s. 4.12(a)	June 10, 2014
6.5(a)	TNS 8/2014, s. 4.12(a)	June 10, 2014
6.6(a)	TNS 8/2014, s. 4.12(a)	June 10, 2014
6.6(b)	TNS 8/2014, s. 4.12(a)	June 10, 2014
6.8	TNS 8/2014, s. 4.12(a)	June 10, 2014
9.3	TNS 8/2014, s. 4.12(a)	June 10, 2014
9.4	TNS 8/2014, s. 4.12(a)	June 10, 2014
11.33	TNS 8/2014, s. 4.12(a)	June 10, 2014
11.34	TNS 8/2014, s. 4.12(a)	June 10, 2014
11.35	TNS 8/2014, s. 4.12(a)	June 10, 2014
3.25	TNS 8/2014, s. 4.12(b)	June 10, 2014
3.26	TNS 8/2014, s. 4.12(b)	June 10, 2014
4.10	TNS 8/2014, s. 4.12(b)	June 10, 2014
6.5(e)(iii)	TNS 8/2014, s. 4.12(b)	June 10, 2014
6.5(h)	TNS 8/2014, s. 4.12(b)	June 10, 2014
6.6(a)	TNS 8/2014, s. 4.12(b)	June 10, 2014
6.6(d)(iv)	TNS 8/2014, s. 4.12(b)	June 10, 2014
6.6(e)	TNS 8/2014, s. 4.12(b)	June 10, 2014
6.6(g)	TNS 8/2014, s. 4.12(b)	June 10, 2014
6.7	TNS 8/2014, s. 4.12(b)	June 10, 2014
9.3	TNS 8/2014, s. 4.12(b)	June 10, 2014
9.4	TNS 8/2014, s. 4.12(b)	June 10, 2014
11.33	TNS 8/2014, s. 4.12(b)	June 10, 2014
11.34	TNS 8/2014, s. 4.12(b)	June 10, 2014
11.35	TNS 8/2014, s. 4.12(b)	June 10, 2014
4.14	TNS 8/2014, s. 4.12(c)	June 10, 2014
4.15	TNS 8/2014, s. 4.12(d)	June 10, 2014
4.23(a)(iii)	TNS 8/2014, s. 4.12(e)	June 10, 2014

6.5(c)(vi)	TNS 8/2014, s. 4.12(f)	June 10, 2014
6.5(d)	TNS 8/2014, s. 4.12(g)	June 10, 2014
6.5(e)	TNS 8/2014, s. 4.12(h)	June 10, 2014
6.5(e)(i)	TNS 8/2014, s. 4.12(i)	June 10, 2014
6.5(f)	TNS 8/2014, s. 4.12(j)	June 10, 2014
6.5(j)	TNS 8/2014, s. 4.12(k)	June 10, 2014
6.6	TNS 8/2014, s. 4.12(l)	June 10, 2014
6.6(c)	TNS 8/2014, s. 4.12(m)	June 10, 2014
6.6(d)	TNS 8/2014, s. 4.12(n)	June 10, 2014
6.6(d)(i)	TNS 8/2014, s. 4.12(o)	June 10, 2014
6.6(d)(ii)	TNS 8/2014, s. 4.12(o)	June 10, 2014
6.6(f)	TNS 8/2014, s. 4.12(p)	June 10, 2014
11.5	TNS 8/2014, s. 4.12(q)	June 10, 2014
11.7	TNS 8/2014, s. 4.12(r)	June 10, 2014
11.24(a)	TNS 8/2014, s. 4.12(s)	June 10, 2014
11.24	TNS 8/2014, s. 4.12(t)	June 10, 2014
11.28	TNS 8/2014, s. 4.12(u)	June 10, 2014
11.36(a)	TNS 8/2014, s. 4.12(v)	June 10, 2014
11.36(b)	TNS 8/2014, s. 4.12(w)	June 10, 2014
11.36(c)	TNS 8/2014, s. 4.12(x)	June 10, 2014
11.37(a)	TNS 8/2014, s. 4.12(y)	June 10, 2014
7.8	TNS 4/2015, s. 4.3	September 16, 2015
4.24(f)(iv)(E)	TNS 4/2016, s. 2.1(a)	June 14, 2016
7.1	TNS 4/2016, s. 2.2(b)	June 14, 2016
7.3(b)	TNS 5/2018, s. 2.1(a)	August 14, 2018
10	TNS 4/2019, s. 7.3	May 14, 2019

Amending Acts:

TNS 3/2012 Economic Development Act enacted July 10, 2012
 TNS 3/2013 Land Act Amendment Act enacted February 15, 2013
 TNS 3/2014 Miscellaneous Amendments Act enacted March 11, 2014
 TNS 8/2014 Enforcement Framework Amendment Act No. 2 enacted June 10, 2014
 TNS 4/2015 Miscellaneous Amendments Act No. 2 enacted September 16, 2015
 TNS 4/2016 Land Act (Fee Simple) Amendment Act enacted June 14, 2016
 TNS 5/2018 Land Act Amendment Act enacted August 14, 2018
 TNS 4/2019 Trespass and Community Safety Act enacted May 14, 2019.

Regulations enacted under this Act:

TNR 6/2011 Lands Registry Forms Regulation enacted April 1, 2011

To whom it may concern:

June 16, 2023

Hello and good greetings. My name is Stanley John Bob the third of the Tla-o-qui-aht first nations, status number 6600067601, Date of Birth – January 27, 1982. I am writing in regards with the hopes of transferring from Tla-o-qui-aht First Nations to Toquaht Nation as I have seen, experienced and heard nothing but great and positive things from everyone associated within your nation and have never heard one bad thing. It is very admirable how the community is always considered and kept up to date on events while surrounding it with healthy activities and lessons by administrators etc.

My mother, Noreen Frank, is a happy citizen of Toquaht which has had a big impact on one of the reasons I seek a transfer over as she had been met with open arms while maintaining a beautiful and kind relationship with one another.

Therefore, I would like to request assistance or guidance on pursuing the proper procedure for applying to be part of your Nation.

I appreciate the time taken to address such a big request and look forward to working on whichever endeavors need be to get this ball rolling. I can be reached through the email listed below.

Sincerely with warm regards,

Stanley John Bob

lostmonk73@yahoo.com

250.534.9090

Council Committee of the Whole Meeting

Wednesday August 23rd, 2023

Virtual Zoom

DRAFT Meeting Minutes

Present:

Call-In: Kevin Mack, Anne Mack, Kirsten Johnsen, Naomi Mack, Noah Plonka

Absent:

Chair: Kirsten Johnsen

Guest: Kathy Waddell, Kristy Pozniak

Recorder: Naomi Mack

Convened 6:00 p.m.

Approval of minutes from

- May 13, 2019, approved by consensus
- January 14, 2020, approved by consensus
- March 28, 2020 approved by consensus

AGENDA

1) REQUEST FOR DECISION AND LEGISLATION

a) Request for decision

- i) Committee of the whole to review the Land Act Amendment Act

<p>MOVED: Noah Plonka SECONDED: Kevin Mack THAT the Council committee of the whole approve Parts 1,2 and 3. YES: 5 NO: 0</p>	<p>Motion Carried</p>
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<p>MOVED: Anne Mack SECONDED: Naomi Mack THAT the Council committee of the whole approve the title Land Act Amendment Act TNS 3/2023. YES: 5 NO: 0</p>	<p>Motion Carried</p>
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<p>MOVED: Kevin Mack SECONDED: Noah Plonka THAT the Committee of the Whole recommend the Land Act Amendment Act as amended to Council for enactment. YES: 5 NO: 0</p>	<p>Motion Carried</p>
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Adjourn and reconvene as the Council

7:20 p.m.

Council Committee of the Whole Meeting

Wednesday August 23rd, 2023

Virtual Zoom

DRAFT Meeting Minutes

Minutes prepared by Naomi Mack

Chairperson

Law Clerk

Date

DRAFT

**Qacca Settlement Trust
Minutes of Trustee Meeting**

Meeting Date: **March 29, 2023**

Start Time: 10:30 a.m.

Location: Canet & Co. Office or (via Zoom)

Attendees: Carla Halvorsen, trustee
Gary Johnsen, trustee
Eli Horton, advisor
Nicole Nicolaye, trustee
Kelly Johnsen, trustee
Gail Magee, auditor

Absent: Scott Coulson, trustee
Cynthia Blackstone, trustee

Chair: Eli Horton

Meeting called to order at 10:41 am

1. Adoption of agenda

Motion to adopt the agenda.

Moved by Kelly, seconded by Nicole

Motion carried

2. Review of 2022 audited financial statements and 2022 T3 trust income tax return

Gail Magee of Sabo, Jang & Co. reviewed with the trustees the audited financial statements and T3 trust income tax return for the year ended December 31, 2022.

Motion to:

Approve and sign representation letter

Approve and sign engagement letter

Approve, sign and forward to the Legislatures the trust's audited financial statements for the year ended December 31, 2022

Approve, sign and authorize Gail Magee to file the trust's T3 trust income tax return for the year ended December 31, 2022 with Canada Revenue Agency.

Moved by Gary, seconded by Carla

Motion carried

3. Approval of minutes of trustee meetings

Motion to approve the minutes of the February 8, 2023 trustee meeting, as previously distributed and approved via email.

Moved by Nicole, seconded by Gary Motion carried

4. 2022 annual report to Legislatures

Motion to approve and forward the final report to the legislatures as required in 5.2(f) of the Trust Agreement.

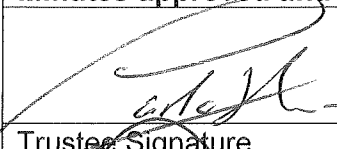
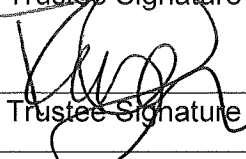
Moved by Carla, seconded by Nicole Motion carried

5. Adjournment

Motion to adjourn.

Moved by Gary, seconded by Nicole Motion carried

Meeting adjourned at 11:03 am

Minutes approved and certified as a true copy:		
	Carca Halverson	May 25/23
Trustee Signature	Name	Date
	Kelly Johnson	May 30/23
Trustee Signature	Name	Date

**Qacca Settlement Trust
Minutes of Trustee Meeting**

Meeting Date: **May 24, 2023**

Start Time: 2:00 p.m.

Location: Canet & Co. Office or (via Zoom)

Attendees: Carla Halverson, trustee Gary Johnsen, trustee
 Kelly Johnsen, trustee Nicole Nicolaye, trustee
 Eli Horton, advisor Daren Atkinson, LW advisor

Absent: Scott Coulson, trustee
 Cynthia Blackstone, trustee

Chair: Eli Horton

Meeting called to order at 2:08 pm

1. Adoption of agenda

Motion to adopt the agenda.

Moved by Nicole, seconded by Gary Motion carried

2. Approval of minutes of trustee meetings

Motion to approve the minutes of the March 29, 2023 trustee meeting, as previously distributed and approved via email.

Moved by Nicole, seconded by Carla Motion carried

3. Review of March 31, 2023 Leith Wheeler quarterly investment report

Daren Atkinson distributed and reviewed a presentation of the investment portfolio results for the first quarter of 2023.

Motion to receive and file the March 31, 2023 quarterly investment report.

Moved by Gary, seconded by Carla Motion carried

4. Review of March 31, 2023 internal quarterly financial statements

Motion to approve the March 31, 2023 quarterly internal financial statements reviewed by the trustees and to direct that the approved statements be forwarded to the legislative clerks of each Nation in accordance with the trustees' reporting requirements.

Moved by Nicole, seconded by Kelly Motion carried

5. Approval of Canet invoice – March 2023

Motion to authorize invoice as distributed

Moved by Carla, seconded by Gary Motion carried

6. Approval of Sabo, Jang and Co. invoice

Motion to authorize invoice as distributed

Moved by Kelly, seconded by Carla Motion carried

7. Authorize transfer of \$12,000 from the investment portfolio to the Trust's bank for operating expenses

Motion to authorize the execution of a request to Leith Wheeler to transfer \$12,000.00 from the investment portfolios to the trust's bank account to cover future trust operating expenses

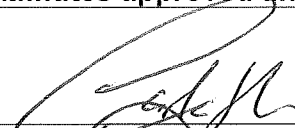
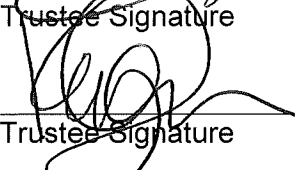
Moved by Nicole, seconded by Kelly Motion carried

8. Adjournment

Motion to adjourn.

Moved by Kelly, seconded by Carla Motion carried

Meeting adjourned at 2:34 pm

Minutes approved and certified as a true copy:		
	Corra Hauersen	May 25/23
Trustee Signature	Name	Date
	Kelly Johnson	May 30/23
Trustee Signature	Name	Date

Qacca Settlement Trust
Comparative Income Statement - period ended 30/06/2023
(Prepared for Management Purposes Only)

	Actual		
REVENUE			
Investment Revenue			
Investment income	\$ 976,595.52		
Interest income	25,605.99		
Gain on dispositions	105,719.49		
Exchange gain (loss)	<u>(69,761.13)</u>		
Total Investment Revenue	<u>1,038,159.87</u>		
TOTAL REVENUE	<u>1,038,159.87</u>		
EXPENSE		Annual Budget	Budget Remaining
General & Administrative Expenses			
Audit	6,075.00	6,400.00	5.1%
Advisory & administration services	5,202.75	11,340.00	54.1%
Investment management fees	99,141.10	184,373.00	46.2%
Insurance	5,891.00	6,200.00	5.0%
Interest & bank charges	17.50	130.00	86.5%
Legal and professional services	0.00	12,500.00	100.0%
Office supplies	0.00	300.00	100.0%
Workshops & training	0.00	1,500.00	100.0%
Total General & Admin. Expenses	<u>116,327.35</u>	<u>222,743.00</u>	<u>47.8%</u>
TOTAL EXPENSE	<u>116,327.35</u>	<u>222,743.00</u>	<u>47.8%</u>
NET INCOME	<u><u>\$ 921,832.52</u></u>		

Qacca Settlement Trust
Balance Sheet As at 30/06/2023

(Prepared for Management Purposes Only)

ASSETS

Chequing account	\$ 6,461.73
Investments - KCFN	27,572,789.83
Investments - Toquaht	8,389,709.87
Investments - Uchucklesaht	9,011,235.80
Loans - KCFN	3,150,787.24
Prepaid expenses	1,194.34

FMV of

Investments

29,120,856.68
8,868,127.01
9,591,605.76

TOTAL ASSETS

48,132,178.81

LIABILITIES

Accounts payable	<u>52,254.99</u>
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EQUITY

Trust Equity

Equity - previous year	47,158,091.30
Distributions to Nations	-
Contributions from Nations	-
Current earnings (loss)	921,832.52

Total Equity

48,079,923.82

KCFN

TN

UT

\$ 30,123,146.45 \$ 8,214,337.88 \$ 8,820,606.97

572,956.03

167,116.80

181,759.69

30,696,102.48

8,381,454.68

9,002,366.66

TOTAL LIABILITIES & EQUITY

\$ 48,132,178.81