



hisiikcumyin: Pathway Agreement

Dated for reference October 14, 2021

(“Understanding”)

BETWEEN:

Tla-o-qui-aht (łaʔuukʷiʔath) First Nation on behalf of itself and musčim (people)

as represented by Tla-o-qui-aht Chief and Council and ɥawiiɥ

(“Tla-o-qui-aht First Nation”)

AND:

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA as represented by
the Minister of Indigenous Relations and Reconciliation

(“British Columbia”)

(Collectively, the “Parties”)



Whereas:

- A. Tla-o-qui-aht First Nation asserts it has unceded Aboriginal title, responsibilities and rights to land, waters and (life, essence, resources) in the ɬaɬuuti (ha-houlth-ee) of the ɬaʔuukwiʔaɬ ɬaʔiiɬ. This assertion is based on Tla-o-qui-aht First Nation's ongoing relationship with the ɬaɬuuti (ha-houlth-ee) of the ɬaʔuukwiʔaɬ ɬaʔiiɬ and the laws of nature.
- B. Tla-o-qui-aht First Nation has governed itself since time immemorial, in accordance with its own inherent laws, jurisdiction, governance and responsibilities. For generations, the Tla-o-qui-aht people have vigorously protected their culture, their homeland, and their right to self-determination as Indigenous Peoples.
- C. The Tla-o-qui-aht people have maintained their unique culture and identity through their oral traditions, spiritual beliefs, language and relationship to land and resources in spite of adversity, which is a testament to the strength and resiliency of the Tla-o-qui-aht people.
- D. British Columbia has called for a renewed, nation-to-nation relationship with Indigenous Peoples, based on recognition of rights, respect, co-operation and partnership.
- E. British Columbia has fully endorsed and is committed to the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* through the *Declaration on the Rights of Indigenous Peoples Act* (SBC, 2019 c. 44) (the "Declaration Act").
- F. The Parties acknowledge that on November 28, 2019 the Declaration Act was given royal assent and came into effect as a law of British Columbia, the purposes of which are to affirm the application of UNDRIP to the laws of British Columbia and to contribute to the implementation of UNDRIP.
- G. Tla-o-qui-aht First Nation and British Columbia acknowledge that Tla-o-qui-aht First Nation title, rights and inherent jurisdiction is a matter of self-determination, within the framework of Section 35 of the *Constitution Act, 1982*, to be determined by the Tla-o-qui-aht First Nation rights holders through their laws, protocols, and internal processes.
- H. The courts have stated that reconciliation of the prior presence of Aboriginal people and the assertion of sovereignty by the Crown is best achieved through negotiation and agreement rather than through litigation.
- I. While the Parties agree that they may have significant differences, they acknowledge ɬiʂukniʂ ɕawaak (His-shuk-nish-tsa-waak) - we are all one - and are willing to explore new



ways to move forward in their relationship for the benefit and health of ʔaʔuukwíʔaṭṭṭ homeland and future generations.

- J. The Parties intend to continue building this relationship through the exploratory negotiations conducted pursuant to this Understanding.
- K. The Parties recognize that they have mutual priorities that are best advanced at a bilateral table, and therefore confirm that they have established a bilateral table to support negotiations on longstanding issues with a renewed commitment to resolution of matters within a recognition and affirmation of rights and title approach.
- L. The Parties wish to move beyond historic legacies of Crown denial, unilateralism, colonialism, and the doctrine of discovery to a new relationship based on the implementation of Tla-o-qui-aht Title Lands. By implementing Tla-o-qui-aht First Nation's title and inherent right of self-government, Tla-o-qui-aht First Nation will maintain and strengthen its inalienable spiritual relationship to its lands, waters and tiičmis in the ʔaḥuuti (ha-houlth-ee) of the ʔaʔuukwíʔaṭṭṭ ʔawiiḥ, and uphold its responsibilities to future generations.

Now therefore the Parties confirm the following understandings:

1. INTERPRETATION:

- 1.1. Schedule A – Reconciliation work plan (the work plan)
- 1.2. Schedule B - Tla-o-qui-aht Land Vision
- 1.3. Definitions:
 - 1.3.1. “ʔawiiḥ” means hereditary chiefs who hold their positions in accordance with Tla-o-qui-aht First Nation's custom and law;
 - 1.3.2. “ʔawiiḥ ʔaḥuuti” means traditional sovereign lands, watersheds, marine areas, resources, flora and fauna, medicinal plants, rivers and waters, names, songs, dances, regalia etc. of the ʔaʔuukwíʔaṭṭṭ ʔawiiḥ;
 - 1.3.3. “Tla-o-qui-aht Chief and Council” means elected leaders of the Tla-o-qui-aht First Nation;



1.3.4. “musčim” means all Tla-o-qui-aht community members. Conceptually it means all relations and family of the Tla-o-qui-aht people.

1.3.5. “Hisiikcumyin” means the way we need to go.

2. PURPOSE

2.1. The purpose of this Understanding is to:

2.1.1. demonstrate tangible measures of reconciliation between the Parties; and,

2.1.2. establish a long-term and evolving relationship between the Parties through which substantial progress based on reconciliation, consistent with section 35(1) of the *Constitution Act, 1982* and guided by UNDRIP will be advanced.

3. PRINCIPLES

3.1. The Parties will at all times work under this Understanding in good faith and in a collaborative manner, and will apply innovative, and solutions-orientated approaches to the discussions and negotiations, including:

3.1.1. Collaborating in decision-making with respect to resources within łaʔuukʷiʔaṭṭ unceded territory;

3.1.2. Considering the rights and interests of other First Nations, including using łaʔuukʷiʔaṭṭ traditional customs, laws and practices which are based on Nuuchah-nulth culture; and,

3.1.3. The parties affirm that implementation of łaʔuukʷiʔaṭṭ rights and title can evolve over time.

4. TRIPARTITE ACCORD

4.1. The Parties are making best efforts, in conjunction with Canada to negotiate the *Nuppiilcik Accord for the Implementation of łaʔuukʷiʔaṭṭ (Tla-o-qui-aht) Title, Rights and Self-Determination* (the “Accord”). This Reconciliation Tripartite Accord be should be negotiated within the calendar year of 2021.

4.2. The Accord will set out a shared vision, mutual aspirations, joint priorities and coordinated structures to negotiate incremental, evolving and lasting relationship



between the Tla-o-qui-aht First Nation, Canada and British Columbia, based on reconciliation.

- 4.3. The Parties agree that many matters related to governance, implementation of Tla-o-qui-aht First Nation's rights and title, community infrastructure, fisheries and marine resources, and other foundational topics related to reconciliation are most effectively addressed in a tripartite forum.

5. WORK PLAN AND PRIORITY TOPIC AREAS

- 5.1. The Parties have jointly developed the work plan which sets out the key components and parameters for additional agreements on priority topics, that they will negotiate and attempt to reach agreement on utilizing principles in 3 – 3.1.3 in this Understanding.
- 5.2. The work plan is informed by, and reflects, the Tla-o-qui-aht First Nation community priorities to start to close the socio-economic gap between Tla-o-qui-aht musčim and settler British Columbians.
- 5.3. The work plan will form the basis for British Columbia to seek mandates to conclude binding agreements or take other steps necessary to implement the government-to-government relationship. The Work Plan will be amended by the Parties as progress is achieved.
- 5.4. The Parties agree that the single most important factor in forging lasting reconciliation is the timely and comprehensive involvement of the Tla-o-qui-aht musčim within the reconciliation process. This timely and comprehensive involvement requires systematic demonstration of progress by achieving tangible measures within the reconciliation process to improve the lives of Tla-o-qui-aht musčim.

6. PRIORITY TOPICS

- 6.1. The priorities identified by łaʔuukʷiʔaṭṭ are the starting point for discussions under this Understanding. The Parties will discuss the following topics and, where there is agreement, including with Canada where necessary, the Parties will identify recommendations to implement the following priority projects:
 - 6.1.1. advance outstanding commitments to łaʔuukʷiʔaṭṭ in Previous agreements with British Columbia and incorporating these commitments into the work plan;
 - 6.1.2. explore tribal parks management and stewardship;



- 6.1.3. create mechanisms for shared management, collaborative governance, and benefit agreements, including but not limited to, carbon credits throughout the ḥaḥuuli (ha-houlth-ee);
- 6.1.4. consider unique opportunities and mechanisms for shared management, collaborative governance, and benefit agreements, including but not limited to, carbon credits for Meares Island and Opitsaht;
- 6.1.5. language preservation and revitalization;
- 6.1.6. identify and foster economic opportunities for Tla-o-qui-aht First Nation;
- 6.1.7. negotiate the Accord, as described in section 4 of this Understanding to recognize and implement Tla-o-qui-aht title, rights and self-determination;
- 6.1.8. transfer and implementation of community and economic development lands (the Lands) described in section 7 of this Understanding; and,
- 6.1.9. recognition and phased implementation of ḥaḥuuli land vision, described in Schedule B of this Understanding.

7. COMMUNITY AND ECONOMIC DEVELOPMENT LANDS

- 7.1. In the spirit of the new relationship between the parties based on reconciliation the Parties confirm their intention to terminate the Tla-o-qui-aht First Nations Incremental Treaty Agreement, dated November 13, 2008, as amended by the Tla-o-qui-aht First Nations Incremental Treaty Amending and Extension Agreement, dated November 16, 2012 (the “ITA”), and to negotiate and attempt to reach an agreement on a subsequent agreement (the “Land Transfer Agreement”) to expediate the transfer of District Lot 120 - Easterly Portion, District Lot 120 - Westerly Portion, and District Lot 121 (the “Lands”) to Tla-o-qui-aht First Nation.
- 7.2. The Parties acknowledge that the transfer of the Lands may take an unspecified amount of time. In the period until the Lands are transferred, the Parties agree that the Parties will engage in collaborative planning and feasibility work to support the transfer of the Lands.
- 7.3. Tla-o-qui-aht acknowledges that the transfer of the Lands is an action of the Province towards reconciliation of Provincial and ḥaḥuuli interests. The transfer of the Lands is part of an ongoing relationship, based on incremental steps to reconciliation,



and may be part of any bilateral or tripartite agreement that may be reached in the future regarding Tla-o-qui-aht's Section 35 rights.

- 7.4. The Lands are subject to provincial and local government laws, including applicable zoning, land use, land development and property tax laws, until agreed upon otherwise by the Parties.
- 7.5. Environmental Condition/Viability of the Lands, Tla-o-qui-aht acknowledges and agrees that any and all of the Lands are acquired "as is".
- 7.6. Conditions precedent for the transfer of the Lands are to be set out in an agreement between the Parties at a later date.
- 7.7. The Parties will work collaboratively and functionally to engage the District regarding the Lands to support Tla-o-qui-aht development aspirations.
- 7.8. For certainty:
 - 7.8.1. the ITA will not be terminated until the Land Transfer Agreement is finalized; and
 - 7.8.2. Tla-o-qui-aht acknowledges and agrees that completion of the Land Transfer Agreement is subject to the Province obtaining all required mandates and approvals.

8. PROCESS

- 8.1. The Parties agree on the importance of a healthy and functioning environment and Tla-o-qui-aht First Nation community. As governments, we strive to support our people in meeting their needs while we balance economy and environment. Finding a path forward that respects our respective connection to the land and responsibility for its stewardship will require a more fulsome role for the Tla-o-qui-aht First Nation. The Parties will collaborate to find practical ways to support a renewed relationship with each other. The Parties intend to seek the involvement of Canada on matters within federal jurisdiction.
- 8.2. The Parties have developed the work plan and identify deliverables and outcomes of the process reflecting the priority given to resolving longstanding matters as identified throughout the ongoing discussions. The work plan will be collaboratively revised as required, and as the negotiations progress.



- 8.3. As a priority, the Parties will focus on completing a list of immediate or near-term measures, milestones and targets for resolving priority topics. This may include interim measures to be implemented during the negotiations process.
- 8.4. Where the Parties agree, the Parties may seek the assistance of a facilitator to support and guide the process and request the facilitator to assist the Parties with the preparation of workplans and provide expert support to promote progress, including maintaining a record of decision and other administrative roles as needed.
- 8.5. Tla-o-qui-aht has established a Reconciliation Working Group comprised of both elected and hereditary leadership. This Reconciliation Working Group has members of Chief and Council and ḥawíiiḥ. It is tasked with guiding and managing the reconciliation agenda on behalf of Tla-o-qui-aht. The Working Group will also deal with any urgent short-term issues that arise between meetings.
- 8.6. The Parties may establish a technical working group comprised of designates of the Tla-o-qui-aht First Nation, and officials from other Provincial ministries and agencies as required. The working groups will hold regular meetings, no less than monthly, and implement agreed to direction from the Tla-o-qui-aht Chief and Council and ḥawíiiḥ.
- 8.7. Negotiations will be conducted virtually or at locations agreed upon by the Parties. Each Party will determine who will represent it at these discussions.
- 8.8. The negotiators will recommend approval of any negotiated agreements to their respective principals.
- 8.9. The representatives will be responsible for the conduct and coordination of negotiations and the establishment of time limited working groups as required.
- 8.10. The results of negotiations and any agreements on a negotiation issue by initialling that agreement will be recorded in a Record of Decision (ROD).

9. FUNDING & RESOURCES

- 9.1. The Parties agree that the commitment of funding and resourcing by British Columbia is essential to the success of this Understanding. The Parties agree to the principle that the costs of implementing this Understanding and any agreements that may be concluded under it should be jointly funded where and when possible.

10. GENERAL PROVISIONS



- 10.1. This Understanding does not create, amend, define, affirm, recognize, abrogate or derogate from any Aboriginal rights or title of the Tla-o-qui-aht Nation which are recognized and affirmed by section 35 (1) of the *Constitution Act, 1982*.
- 10.2. This Understanding and agreements which may flow from it are not intended to constitute a treaty or land claims agreement within the meaning of Sections 25 and 35 of the *Constitution Act, 1982*.
- 10.3. This Understanding does not create, recognize, affirm, deny or amend any legally enforceable rights.
- 10.4. This Understanding is not intended to create any legally binding or enforceable obligation on any Party.
- 10.5. This Understanding does not preclude the Tla-o-qui-aht Nation from accessing any funding, program or initiative that Canada might normally make available to other First Nations.
- 10.6. This Understanding, the negotiations conducted pursuant to this Understanding, and all related documents, are without prejudice to the positions of the Parties in any proceedings before a court or other forum and shall not be construed as admissions of fact or liability.
- 10.7. This Understanding may be amended, in writing, and any amendment will take effect when it has been signed by the appropriate Tla-o-qui-aht First Nation and British Columbia representatives identified below.
- 10.8. This Understanding will be effective on the date signed by the duly authorized representatives of the Parties, subject to paragraph 10.9, will continue in force for five (5) years.
- 10.9. Notwithstanding section 10.8 of this Understanding, any Party may terminate this Understanding upon 90 days written notice to the other Party with a detailed explanation of the reason for termination.
- 10.10. This Understanding may be amended from time to time by the Parties in writing.
- 10.11. If British Columbia or ʔaʔuukʷiʔaṭh provide notice of termination the Parties will make reasonable efforts to resolve the dispute or issue and commit to attending one meeting to explore the possibilities of resolving the issue.



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

**Signed on behalf of the
ł̓aʔuukʷiʔaṭṭ̓ (Tla-o-qui-aht) First Nation**

Chief Moses Martin

Witness

Date

Wiʔaninʔiṣ̓

Witness

Date

Hayuuʔiḥ

Witness

Date

Muuč̓inik

Witness

Date

Ḥiṣ̓kʷiṣinupš̓iṭ

Witness

Date

Sitaqanim

Witness



Date

Nuukmiis

Date

Nak^wiimałni

Date



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

The Honourable Murray Rankin
Minister of Indigenous Relations
and Reconciliation

Date

Witness

Witness

Witness



Schedule A: Work Plan

1. The following topics, in addition to Schedule B of this Understanding constitutes the Reconciliation work plan (the work plan) collaboratively developed by British Columbia and Tla-o-qui-aht First Nation:
 - 1.1. Tla-o-qui-aht First Nation and British Columbia will create outcomes and indicators of success for areas identified in Section 6 of this Understanding to augment this work plan;
 - 1.2. Development of an economic diversification plan and strategy for community-based job creation; identification of opportunities in the forestry, parks management and



servicing, shellfish aquaculture, tourism/hospitality/recreational, education, language and culture, and technology sectors;

- 1.3. Shared local infrastructure, i.e. regional objective to develop a community recreation centre; marketing plan; tourism and diversification feasibility study;
- 1.4. Language preservation and revitalization, seek to take advantage of expanded funding opportunities to develop language/dialect dictionaries, set up youth and adult language training programs.
- 1.5. Tribal parks management and stewardship, in terms of expanding on opportunities to explore existing provincial parks or recreation sites – i.e. Kennedy Lake Provincial Park (boat ramp issue); “Rainbow Beach” campsite; access to Crown land for monumental cedar for canoes and carving;
- 1.6. Research, dialogue, and collective shared vision to breathe life into Tla-o-qui-aht governance as a means to support the integration of elected and hereditary systems as the indigenous governing body of Tla-o-qui-aht.

Schedule B: Tla-o-qui-aht Land Vision

1. The Parties agree that moving to recognize, understand and implement the Tla-o-qui-aht Land Vision in the $\lambda a\eta uuk^w i\eta at\eta$ $\eta a\eta u\eta i$ is an essential element of meaningful reconciliation between the Parties.
2. The Parties recognize the continuing leadership that Tla-o-qui-aht has provided to the development and implementation of models for Indigenous-led conservation in $\lambda a\eta uuk^w i\eta at\eta$ $\eta a\eta u\eta i$.
3. This Understanding will set the foundation for government-to-government discussions between the Parties and will provide a framework for implementing the Tla-o-qui-aht Land Vision. This will be done with the goal of establishing clear, reliable, and efficient tools for



Indigenous led, but shared decision making on land, water and resources. It seeks to bring clarity in regard to land, water and resource management and economic benefits for both Parties. This is the Parties' shared responsibility.

4. The Parties envision this Understanding as establishing a viable means for meaningful engagement, bringing a common understanding of each Party's respective interests, including sustainability of ʔaʔuukʷiʔath ʔawiih ʔaʔuuli, shared interests and promotion of well-informed decision-making. Areas for engagement include the following:
 - a) Land use planning for ʔaʔuukʷiʔath ʔawiih ʔaʔuuli;
 - b) Shared governance of land and water, including riparian and foreshore management;
 - c) Explore opportunities for alignment between the Tla-o-qui-aht Land Vision and the Province's new and proposed legislation, land designations, policy, and land and resource management and planning activities;
 - d) Atmospheric benefit and resource revenue sharing;
 - e) Forest tenure transformation and other economic opportunities;
 - f) Positive transformation of Tla-o-qui-aht socio-economic well-being;
 - g) Effective and efficient land, water, and resource development; and,
 - h) Explore enhanced roles of Tla-o-qui-aht Tribal Park Guardians.
5. The Parties agree to provide measurables to Section 4 of Schedule A of this Understanding, including but not limited to the following:
 - 5.1. Partnership opportunities including coordination of economic development initiatives and community-based infrastructure with local and regional government(s);
 - 5.2. To support incremental steps towards implementing the Land Vision, the Parties agree to establish a technical working group to design a methodology and initiate a phased approach to assess the social, economic, administrative, and ecological implications of aligning the Land Vision with land and resource management, and planning within the Province's jurisdiction.
 - 5.3. The technical working group, identified in Section 5.2 of Schedule A would consider the following:
 - 5.3.1. The existing Clayoquot Sound Watershed Plans, previous initiatives under the Clayoquot Sound Interim Measures Understanding, and the UNESCO Biosphere Reserve;
 - 5.3.2. Existing protected areas, resource tenures;



5.3.3. Focusing efforts on two sub-regions or watersheds outside of the Pacific Rim National Park Reserve; and

5.3.4. Comparing the management intent, objectives, as well as allowed and prohibited activities, regarding current land and resource management under provincial jurisdiction and the Tla-o-qui-aht Land Vision.