

AMENDED TOQUAHT NATION FORESHORE AGREEMENT

THIS AGREEMENT dated: December 3rd, 2013

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA, as represented
by the Minister of Aboriginal Relations and Reconciliation
("British Columbia")**

AND:

**TOQUAHT NATION, as represented by Toquaht Nation Government
("Toquaht Nation")

(collectively the "Parties")**

WHEREAS:

- A. The Toquaht Nation is a member of the Maa-nulth First Nations;
- B. The Maa-nulth First Nations, British Columbia and Her Majesty the Queen in right of Canada have entered into a treaty and land claims agreement (the "Final Agreement");
- C. The Final Agreement includes provisions for the delegation to the Toquaht Nation of law-making authority over certain foreshore areas adjacent to its Maa-nulth First Nation Lands;
- D. Pursuant to 13.10.4 and 14.5.0 of the Final Agreement, the parties wish to record their agreement to delegate certain law-making authority in relation to the Foreshore Area (hereinafter defined) to the Toquaht Nation;
- E. A foreshore agreement was entered into between the Parties on April 1, 2011 (the "Toquaht Nation Foreshore Agreement"); and

- F. Pursuant to 6.08 of the Toquaht Nation Foreshore Agreement, the Parties have reviewed that agreement and have determined that they wish to make certain amendments to the Toquaht Nation Foreshore Agreement.

NOW THEREFORE the parties agree to the following:

PART 1 - DEFINITIONS

Definitions

1.1 In this Agreement:

“Agreement” means this Agreement between Toquaht Nation and British Columbia including every Schedule to this Agreement.

“Conflict” means actual conflict in operation or operational incompatibility.

“Effective Date” means the date upon which the Final Agreement takes effect.

“Existing Interests” means all existing estates, interests, charges, mineral claims, encumbrances, licences, permits and approvals granted or issued by British Columbia or the Port Alberni Port Authority, as applicable, including those listed in Schedule “C” to this Agreement.

“Federal Law” includes federal statutes, regulations, ordinances, Orders-in-Council and the common law.

“Foreshore Area” means those provincial Crown lands shown hatched on the plans attached as Schedule “A” and Schedule “D” to this Agreement and also includes Submerged Lands wholly contained within the outer boundaries of the Maa-nulth First Nation Lands of the Toquaht Nation that are provincial Crown land.

“Local Government” means “local government” as defined in the *Local Government Act*.

“Log Handling and Storage Area” means those provincial Crown lands shown outlined in red on the plans attached as Schedule “D” to this Agreement.

“Maa-nulth First Nation Area” has the same meaning as in the Final Agreement.

“Municipality” means “municipality” as defined in the *Community Charter*.

“Parties” means each of Toquaht Nation and British Columbia and **“Party”** means either one of them.

“Potential Foreshore Additions” means, in relation to a parcel of land identified as a potential addition to the Maa-nulth First Nation lands of Toquaht Nation in Appendix F of the Final Agreement, those adjacent Provincial Crown lands shown as cross-hatched on the plans attached as Schedule “B” and Schedule “D” to this Agreement.

“Provincial Law” includes provincial statutes, regulations, ordinances, Orders-in-Council, by-laws and the common law.

“**Schedule**” means a schedule to this Agreement.

“**Submerged Lands**” means lands below the “natural boundary” as defined in the *Land Act*.

“**Toquaht Nation**” means that Maa-nulth First Nation referred to as the “Toquaht Nation” established as a legal entity in accordance with the Final Agreement.

“**Toquaht Nation Government**” means the government of the Toquaht Nation as referred to in 13.1.2 of the Final Agreement.

“**Wildlife**” has the same meaning as in the *Wildlife Act* Designation and Exemption Regulation, B.C. Reg. 168/90.

Other Words and Expressions

- 1.2** Words and expressions not defined in this Agreement but defined in the Final Agreement have the meanings ascribed to them in the Final Agreement.

PART 2 - NATURE OF AGREEMENT

Nature of Agreement

- 2.1** This Agreement is not a treaty or land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

PART 3 - LAW MAKING AUTHORITY

General Delegation of Law-Making Authority

- 3.1** (a) British Columbia hereby delegates to the Toquaht Nation Government the authority to make and enforce laws in relation to the Foreshore Area which regulate, prohibit and impose requirements in relation to the following:
- (i) land use, planning, zoning and development;
 - (ii) public places where the Toquaht Nation Government holds an Interest;
 - (iii) activities, works and facilities undertaken or provided by or on behalf of the Toquaht Nation Government;
 - (iv) fireworks, firecrackers and other explosives;
 - (v) bows and arrows, knives and other weapons not referred to in subsection (d) where such laws relate to public safety;
 - (vi) services provided by the Toquaht Nation Government in the Foreshore Areas under section 3.3 [public health];
 - (vii) health, safety and the protection of persons or property in relation to the following:

- (A) emergency exits in places to which the public is invited;
 - (B) smoke alarms, to the extent that any standards established under this authority do not exceed those established by the British Columbia Building Code;
 - (C) any matter within the scope of the *Fire Services Act*;
 - (D) camping grounds; and
 - (E) rental units and residential property, as those are defined in the *Residential Tenancy Act*, that are subject to a tenancy agreement, as defined in that Act, to the extent that any standard established under this authority does not exceed those established by the British Columbia Building Code;
- (viii) the protection and enhancement of the well-being of its community in relation to the following matters:
- (A) nuisances;
 - (B) noise, vibration, odour, dust, illumination or any other matter that is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;
 - (C) the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia that is liable to foul or contaminate the atmosphere;
 - (D) refuse, garbage or other material that is noxious, offensive or unwholesome;
 - (E) the use of waste disposal and recycling services;
 - (F) unsanitary conditions on property;
 - (G) the carrying on of a noxious or offensive business activity;
 - (H) graffiti and unsightly conditions on property; and
 - (I) indecency and profane, blasphemous or grossly insulting language;

in accordance with this Agreement.

- (b) British Columbia hereby delegates to the Toquaht Nation Government the authority to make and enforce laws in relation to the Foreshore Area which regulate and impose requirements in relation to signs and other advertising in accordance with this Agreement.

- (c) British Columbia hereby delegates to the Toquaht Nation Government the authority to make and enforce laws in relation to the Foreshore Area which regulate in relation to business in accordance with this Agreement.
- (d) British Columbia hereby delegates to the Toquaht Nation Government the authority to make and enforce laws in relation to the Foreshore Area which regulate and prohibit in relation to the discharge of firearms in accordance with this Agreement insofar as those laws relate to public safety.

Scope of Law-Making Authority

- 3.2** (a) If a law has been enacted by the Toquaht Nation Government in accordance with section 3.1(a)(i) and the minister responsible for the Maa-nulth First Nations Final Agreement Act (British Columbia) believes that all or part of the law is contrary to the public interest of British Columbia, the minister may notify the Toquaht Nation Government:
- (i) of the minister's objections to the law; and
 - (ii) that the Toquaht Nation Government must, within 90 days after receipt of the notice, alter the law accordingly.
- (b) If the Toquaht Nation Government does not alter the law in accordance with the notice, the minister may, with the prior approval of the Lieutenant Governor in Council, order the law to be altered in accordance with the notice.
- (c) On the date of an order of the minister under subsection (a)(ii), the law is conclusively deemed to be altered in accordance with the notice.
- (d) An order of the minister under subsection (a)(ii) is final and binding.
- (e) The exercise of the authorities under sections 3.1(a)(v) and 3.1(d) of this Agreement is subject to the condition that the laws must exempt a person who is engaging in hunting or trapping wildlife in accordance with the *Wildlife Act* and its regulations from their application.

Delegation of Law-Making Authority – Public Health

- 3.3** British Columbia hereby delegates to the Toquaht Nation Government the authority to make and enforce laws in relation to the Foreshore Area which regulate, prohibit and impose requirements in respect of public health.

Scope of Law-Making Authority – Public Health

- 3.4** (a) Laws made by an Toquaht Nation Government under section 3.3 in relation to the following matters are subject to the restrictions and conditions set out in subsection (b):
- (i) the protection, promotion or preservation of the health of individuals;

- (ii) the maintenance of sanitary conditions in the Foreshore Area;
 - (iii) the restriction, or potential restriction, of any individual's access to health services; and
 - (iv) any matter that may affect the personnel, financial or other resources of a regional health board, the Toquaht Nation or the Provincial Health Services Authority.
- (b) Subject to subsection (c), the following restrictions and conditions apply to the authority of Toquaht Nation Government to make laws under section 3.3:
 - (i) Toquaht Nation Government may not adopt a law in relation to a matter referred to only in subsection (a)(i) or (a)(ii) unless the law or a copy of it is deposited with the minister;
 - (ii) Toquaht Nation Government may not adopt a law in relation to a matter referred to only in subsection (a)(iii) or (a)(iv) unless the law is approved by the minister; and
 - (iii) before adopting a law in relation to matters referred to in subsection (a)(i), (a)(ii), (a)(iii) or (a)(iv), Toquaht Nation Government must consult with:
 - (A) the regional health board; or
 - (B) the medical health officer
- responsible for public health matters within the Foreshore Area.
- (c) A law in relation to a matter referred to in both:
 - (i) subsection (a)(i) or (a)(ii); and
 - (ii) subsection (a)(iii) or (a)(iv)is subject to subsection (b)(ii).
- (d) In this section, minister means the minister responsible for administration of the *Public Health Act*.

Delegation of Law-Making Authority – Buildings and Other Structures

- 3.5** British Columbia hereby delegates to the Toquaht Nation Government the authority to make and enforce laws in relation to the Foreshore Area in respect of the regulation of building and other structures.

Scope of Law-Making Authority – Buildings and Other Structures

- 3.6** (a) Subject to subsection (b), laws made by Toquaht Nation Government under section 3.5 *[buildings and other structures]* must not establish standards for buildings or structures to which the British Columbia Building Code applies, which are additional to or different from the standards established by the British Columbia Building Code.
- (b) At the request of the Toquaht Nation Government, British Columbia and the Toquaht Nation Government will negotiate and attempt to reach agreement to enable the Toquaht Nation Government to establish standards for buildings and structures under its Toquaht Nation Law which are additional to or different from the standards established by the British Columbia Building Code.

Delegation of Law-Making Authority – Natural Environment, Wildlife and Animals

- 3.7** British Columbia hereby delegates to the Toquaht Nation Government the authority to make and enforce laws in relation to the Foreshore Area which regulate, prohibit and impose requirements in respect of:
- (a) protection of the natural environment;
- (b) wildlife; and
- (c) animals, other than wildlife.

Scope of Law-Making Authority – Natural Environment, Wildlife and Animals

- 3.8** (a) Recognizing the Provincial interest in matters dealt with by laws referred to in sections 3.7(a) and 3.7(b), Toquaht Nation Government may not adopt a law to which this section applies unless the law is approved by the minister responsible, unless otherwise set out in this Agreement.
- (b) Notwithstanding subsection (a), laws made by Toquaht Nation Government under section 3.7 *[protection of the natural environment, animals]* in relation to the following matters do not require the approval of the Minister:
- (i) under section 3.7(a), regulating, prohibiting and imposing requirements in relation to polluting or obstructing, or impeding the flow of, a stream, creek, waterway, watercourse, waterworks, ditch, drain or sewer, whether or not it is located on private property;
- (ii) regulating, prohibiting and imposing requirements in relation to:
- (A) under section 3.7(a), the sale of wild flowers;
- (B) subject to subsection (c) and under section 3.7(a), the application of pesticides, except excluded pesticides, for the purpose of maintaining outdoor trees, shrubs, flowers, other ornamental plants and turf on a

- parcel or a part of a parcel if the parcel or part is used for residential purposes, or on land in which a Maa-nulth First Nation holds an Interest;
- (C) under sections 3.7(a) and 3.7(b), the control and eradication of alien invasive species, as defined in the Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation, B.C. Reg. 144/2004; and
 - (D) under section 3.7(b), the control of wildlife species listed in Schedule B or C to the Designation and Exemption Regulation, B.C. Reg. 168/90; and
- (iii) under section 3.7(b), regulating, prohibiting and imposing requirements respecting the feeding or attracting of dangerous wildlife as defined in the Wildlife Act or members of the family Cervidae.
- (c) Toquaht Nation Government may not exercise the authority under subsection (b)(ii)(B) of this Agreement in relation to the application of pesticides:
 - (i) for the management of pests that transmit human diseases or impact agriculture or forestry;
 - (ii) on the residential areas of farms;
 - (iii) to buildings or inside buildings; or
 - (iv) on land used for agriculture, forestry, transportation, public utilities or pipelines unless the public utility or pipeline is vested in the Toquaht Nation.
 - (d) Any laws of Toquaht Nation made under the authority of this Agreement, and which regulate, prohibit or impose requirements regarding any method or form of trap or snare for wildlife, are invalid to the extent that those laws are inconsistent the provisions of the *Wildlife Act* and its regulations regarding permissible and prohibited methods and forms of trap or snare.
 - (e) The exercise of the authority under subsection (b)(iii) of this Agreement is subject to the condition that the law must exempt from its application all the following:
 - (i) a person who is engaging in hunting or trapping wildlife in accordance with the Wildlife Act and its regulations;
 - (ii) a farm operation, as defined in section 1 of the Farm Practices Protection (Right to Farm) Act, that:
 - (A) is conducted on, in or over land, and
 - (B) meets the requirements set out in section 2 (2) (a) and (c) of that Act; or
 - (iii) a facility for the disposal of waste that is operated in accordance with the Environmental Management Act by an Toquaht Nation Government, Toquaht

Nation Public Institution or Toquaht Nation Corporation that has as an object the disposal of sewage or refuse or the provision of a system for the disposal of sewage or refuse.

- (f) In this section, minister means the minister responsible for administration of the *Environmental Management Act* in respect of laws pertaining to section 3.7(a) and means the minister responsible for administration of the *Wildlife Act* in respect of laws pertaining to section 3.7(b).

Extent of authority and process

- 3.9** (a) The Toquaht Nation Government may exercise the law-making authority delegated to it under this Agreement to the same extent, and subject to the same conditions, requirements and restrictions, as a Municipality may in exercising law-making authority under Provincial Law.
- (b) For clarity, the law-making processes used by the Toquaht Nation Government in respect of laws affecting the Foreshore Area must be the same law-making processes that it uses in respect of the Maa-nulth First Nation Area over which the Toquaht Nation Government has law-making authority.
- (c) The Toquaht Nation Government may, by a law, delegate its powers, duties and functions, to the extent provided, to a Maa-nulth First Nation Public Institution established by a law of a Maa-nulth First Nation Government.
- (d) Despite subsection (c), the Toquaht Nation Government may not delegate the following:
- (i) the making of a law;
 - (ii) a power or duty exercisable only by law;
 - (iii) a power or duty established by an enactment that the Toquaht Nation Government give its approval or consent to, recommendations on, or acceptance of an action, decision or other matter;
 - (iv) a power or duty established by an enactment that the Toquaht Nation Government hear an appeal or reconsider an action, decision or other matter;
 - (v) a power or duty to terminate the appointment of an officer; or
 - (vi) the power to impose a remedial action requirement in respect of a hazardous condition, a declared nuisance or harm to a dike or drainage area.
- (e) Despite subsection (c), Toquaht Nation Government may only delegate a power or duty to appoint or suspend an officer to its chief administrative officer.
- (f) In exercising its powers under subsection (c), Toquaht Nation Government may establish any terms and conditions it considers appropriate.

Application of Provincial and Federal Law

- 3.10** All Provincial Law from time to time in force in British Columbia and Federal Law from time to time in force in Canada will continue to apply in respect of the Foreshore Area. Federal Law or Provincial Law will prevail to the extent of a Conflict with a law made by the Toquaht Nation under this Agreement.

Enforcement of Laws

- 3.11**
- (a) The Toquaht Nation Government is responsible for enforcement of laws under section 3.1, section 3.3, section 3.5 and section 3.7.
 - (b) Subject to subsections (c) and (d), the Toquaht Nation Government may enforce the laws for which law-making authority is delegated to it under this Agreement using the powers and procedures provided for in the Final Agreement in relation to the enforcement of its Maa-nulth First Nation Laws.
 - (c) The Toquaht Nation Government may provide for penalties in accordance with 13.31.1 of the Final Agreement provided that such penalties do not exceed fines of up to \$10,000 or imprisonment for up to 6 months or both for offences adjudicated under 13.33.1 of the Final Agreement.
 - (d) If a person is convicted of an offence by the process described in 13.33.1 of the Final Agreement, then in addition to the penalties that may be provided for in subsection (c):
 - (i) the Toquaht Nation Government may apply to a court for an order that the convicted person shall pay restitution for any damages or loss sustained by the Toquaht Nation Government or another person because of the commission of the offence, provided such restitution may not exceed the monetary limit specified under the Small Claims Act;
 - (ii) the Toquaht Nation Government may apply to a court for an order for recovery of costs incurred by Toquaht Nation Government in investigating and prosecuting the person in accordance with the schedule of costs prescribed under section 132 (2) (h) of the Offence Act (British Columbia); and
 - (iii) the Toquaht Nation Government may apply to a court for an order:
 - (A) prohibiting the person from doing any act or engaging in any activity that may, in the court's opinion, result in the continuation or repetition of the offence; and
 - (B) directing the person to take any action the court considers appropriate to remedy the harm that resulted from the commission of the offence.

Extension of Service Contract Provisions to the Foreshore Area

- 3.12** The provisions of article 14.1.5 of the Final Agreement shall apply to the Foreshore Area.

Heritage Protection

- 3.13** (a) The Toquaht Nation Government may request that British Columbia protect any property in the Foreshore Area that is owned by or is under the administration and control of British Columbia. Once such a request has been received by the minister responsible for the *Heritage Conservation Act*, the property for which protection was requested is subject to temporary protection in accordance with section 965 of the *Local Government Act* until the earlier of the following:
- (i) the end of 30 days after the request was received;
 - (ii) the minister responsible for the *Heritage Conservation Act* notifies the Toquaht Nation Government in writing that the temporary protection is ended.
- (b) No more than one request may be made under subsection (a) with respect to any particular property during any one 10 year period.

Extension of Emergency Provisions to the Foreshore Area

- 3.14** (a) The provisions of articles 13.26.0, 22.4.0 and 22.5.0 of the Final Agreement, including all the rights, powers, duties and obligations of the Toquaht Nation Government set out in those articles, shall apply to the Foreshore Area.
- (b) The provisions of article 13.26.0 of the Final Agreement are not restricted to Federal Law or Provincial Law as they stand at the date this Agreement comes into effect, but shall continue to apply to the Foreshore Area in respect of any new or amended Federal Law or Provincial Law.
- (c) The powers, duties and obligations of a municipality under the *Environmental Management Act* shall apply with equal force and authority to the Toquaht Nation Government.

Extension of Provisions for Individuals who are Non-Members to the Foreshore Area

- 3.15** (a) The Toquaht Nation Government will discuss any decision to enact or repeal any law enacted under section 3.1, section 3.3, section 3.5 or section 3.7, or any decision made under those laws, with any persons, including Local Governments and other authorities and organizations, that may be directly and significantly affected by that decision.
- (b) The Toquaht Nation Government will Consult with individuals ordinarily resident in the Foreshore Area concerning decisions to enact or repeal any law under section 3.1, section 3.3, section 3.5 or section 3.7 or any decision made under those laws that may directly and significantly affect those individuals.
- (c) In addition to the requirement under (b), where the activities of the Maa-nulth Public Institution directly and significantly affect those individuals ordinarily resident in Foreshore Area, the Toquaht Nation Government will provide those individuals with an opportunity to participate in the decision-making processes of a Maa-nulth Public Institution as a Non-Member under article 13.6.0 of the Final Agreement.

- (d) The Toquaht Nation Government will provide those individuals ordinarily resident on the Foreshore Area with access to appeal and review processes in respect of administrative decisions arising from laws made under section 3.1, section 3.3, section 3.5 and section 3.7 in the same manner as a Non-Member under article 13.6.0 of the Final Agreement.

Existing Interests

- 3.16** (a) The Toquaht Nation Government's law-making authority in relation to the Foreshore Area is subject to all Existing Interests approved, created, granted or issued and existing as of the Effective Date. The Toquaht Nation Government may, subject to section 3.2, exercise the law-making authority delegated to it under this Agreement to regulate an activity carried out pursuant to an Existing Interest in the Foreshore Area provided that such laws do not unreasonably interfere with the exercise of rights granted under the Existing Interests.

Consistency of Laws

- 3.17** (a) A law passed by the Toquaht Nation Government in relation to the Foreshore Area that is inconsistent or in Conflict with this Agreement is of no force or effect to the extent of the inconsistency or Conflict.

Registry of Laws

- 3.18** (a) The Toquaht Nation Government will, in the manner and to the extent provided for in the Final Agreement in relation to its Maa-nulth First Nation Laws, include in the public registry of its Maa-nulth First Nation Laws all laws made pursuant to this Agreement and provide British Columbia with copies of such laws and, on request, provide Canada with copies of such laws.

Log Handling and Storage Areas

- 3.19** (a) The Toquaht Nation Government acknowledges that British Columbia may authorize and manage log handling and storage operations in the Log Handling and Storage Areas in accordance with Provincial Law.
- (b) The Parties acknowledge their mutual interest in:
- (i) avoiding land use conflicts in the Foreshore Area; and
 - (ii) working collaboratively in a pro-active manner to meet their respective interests.
- (c) The Toquaht Nation Government will not exercise the law-making authority delegated to it under the Foreshore Agreement to prohibit or restrict the use of the Log Handling and Storage Areas for log handling and storage operations within 25 years of the date of the execution of this agreement, unless British Columbia agrees otherwise.

- (d) Subject to subsection (c), if the Toquaht Nations Government wishes to exercise the law-making authority provided under this Agreement to prohibit or restrict the use of the Log Handling and Storage Areas for log handling or storage operations, the Toquaht Nations Government will:
 - (i) provide at least twelve months' notice to British Columbia of its intention to exercise the law-making authority under this Agreement;
 - (ii) upon request, meet with British Columbia to discuss the proposed prohibition or restriction of log handling or storage operations in the Log Handling and Storage Areas, and the Parties will work collaboratively to attempt to meet their respective interests; and
 - (iii) prohibit or restrict log handling or storage operations in relation to the smallest portion of the Log Handling and Storage Areas reasonably necessary.
- (e) British Columbia will give a full and fair consideration to any requests to amend or alter the log handling and storage areas, if:
 - (i) Toquaht Nations Government requests an amendment of the area or boundaries of a log handling and storage area; and if
 - (ii) any licensee or lessee in that log handling and storage area requests an amendment to his or her tenure area that corresponds to the requested amendment in paragraph (i).
- (f) If British Columbia approves the request or requests under subsection (e), the applicable mapsheet in Schedule "D" is deemed to be amended.

PART 4 - AMENDMENT TO FORESHORE AREA

Deemed Additions to Foreshore Area

- 4.1** If a parcel of land identified in Schedule "B" of this Agreement is added to the Maa-nulth First Nation Lands of the Toquaht Nation pursuant to 2.10.10, 2.10.19 or 2.10.25 of the Final Agreement:
- (a) the Potential Foreshore Addition applicable to that parcel of land as shown in Schedule "B" of this Agreement will form part of the Foreshore Area and Schedule "A" and Schedule "D" to this Agreement is deemed to be amended accordingly; and
 - (b) that Potential Foreshore Addition continues to be subject to any Interest existing immediately before the Potential Foreshore Addition becomes part of the Foreshore Area and that Interest is considered to be an "Existing Interest" and Schedule "C" to this Agreement is deemed to be amended to include that Interest.

Other Additions to Foreshore Area

- 4.2** If a parcel of land adjoining Submerged Lands is added to the Maa-nulth First Nation Lands of the Toquaht Nation pursuant to 2.10.6 of the Final Agreement, then, at the request of either Party, the Parties will meet and consider amending this Agreement by deleting Schedule “A” attached hereto and replacing it with a new plan of the Foreshore Area which includes the area of foreshore immediately adjacent to the parcel of land added to the Maa-nulth First Nation Lands of the Toquaht Nation as part of the Foreshore Area and amending Schedule “C” to this Agreement by adding any Interest that such new addition to the Foreshore Area may be subject to as an “Existing Interest” and amending Schedule “D” to identify any new Log Handling and Storage Areas within the new addition to the Foreshore Area.

Deletions to Foreshore Area

- 4.3** If a parcel of Maa-nulth First Nation Lands of the Toquaht Nation immediately adjacent to the Foreshore Area ceases to be Maa-nulth First Nation Lands of the Toquaht Nation in accordance with the Final Agreement, the portion of Foreshore Area immediately adjacent to the parcel of lands ceasing to be Maa-nulth First Nation Lands of the Toquaht Nation ceases to form part of the Foreshore Area and this Agreement will be amended by deleting Schedule “A” attached hereto and replacing it with a new plan of the Foreshore Area which does not include the area immediately adjacent to the parcel of land deleted from the Maa-nulth First Nation Lands of the Toquaht Nation and amending Schedule “D”, if required, to reflect the change in the Foreshore Area. If a dispute arises as to the size or location of the portion of the Submerged Lands which should be deleted from the Foreshore Area, the matter will be finally determined by arbitration in accordance with Chapter 25 Dispute Resolution of the Final Agreement.

PART 5 - NOTICE

Methods of Delivery

- 5.1** Unless otherwise set out in this Agreement, a communication between the Parties under this Agreement must be:
- (a) delivered personally or by courier;
 - (b) transmitted by fax; or
 - (c) mailed by prepaid registered post in Canada.

Receipt of Notice

- 5.2** A communication will be considered to have been given, made or delivered, and received:
- (a) if delivered personally or by courier, at the start of business on the next business day after the business day on which it was received by the addressee or a responsible representative of the addressee;
 - (b) if transmitted by fax and the sender receives confirmation of the transmission, at the start of business on the business day following the day on which it was transmitted; or

- (c) if mailed by prepaid registered post in Canada, when the postal receipt is acknowledged by the addressee.

Alternate Methods of Delivery

- 5.3** The Parties may agree to give, make or deliver a communication by means other than those provided in section 5.1.

Addresses

- 5.4** (a) The Parties will provide to each other addresses for delivery of communications under this Agreement and, subject to subsection (c), will deliver a communication to the address provided by each other Party.
- (b) A Party may change its address or fax number by giving notice of the change to the other Party.
- (c) If no other address for delivery of a particular communication has been provided by a Party, a communication will be delivered, mailed to the address or transmitted to the fax number of the intended recipient as set out below:

For:	British Columbia
Attention:	Minister of Aboriginal Relations and Reconciliation
Personal or courier delivery:	Parliament Buildings Victoria, British Columbia
Facsimile transmission:	(250) 953-4856
Postal delivery:	PO Box 9100 STN PROV GOVT Victoria, British Columbia V8W 9B1

For:	
Toquaht Nation	
Attention:	Tyee Ha' wilth
Facsimile transmission:	(250) 726 4403
Postal Delivery:	Toquaht Nation PO Box 759 Ucluelet, British Columbia VOR 3A0

PART 6 - MISCELLANEOUS

Term and Termination

- 6.1** (a) This Agreement comes into force on repeal of section 795.5 of the *Local Government Act* and the enactment of section 13.2 of the *Maa-nulth First Nation Final Agreement Act*, or such other date as agreed to by the Parties, and terminates on a date agreed to

by the Parties or, if there is no such agreement, one calendar year after the date which a Party notifies the other it wants this Agreement to terminate.

- (b) At least six months prior to the date that this Agreement is to terminate in accordance with a notice provided under subsection (a) the Parties will negotiate and attempt to reach agreement on a new Foreshore Agreement.

Legislative References

6.2 Citations of legislation refer to legislation as amended from time to time.

Amendment

6.3 This Agreement may be amended only by an instrument in writing signed by each of the Parties hereto.

Entire Agreement

6.4 This Agreement together with the Final Agreement is the entire agreement between the Parties in respect of the subject matter of this Agreement and, except as set out in this Agreement and the Final Agreement, there is no representation, warranty, collateral agreement, condition, right or obligation affecting this Agreement.

Enurement

6.5 This Agreement extends to, is binding upon and enures to the benefit of the Parties, their successors and permitted assigns.

Presumptions

6.6 The provisions of this Agreement are not presumed to be interpreted in favour of any Party.

Interpretation

6.7 In this Agreement, unless it is otherwise clear from the context:

- (a) the applicable interpretation provisions set out in section 1.15.7 of the General Provisions Chapter of the Final Agreement apply to this Agreement, with necessary changes in the details; and
- (b) unless it is otherwise clear from the context, a reference to an “article”, “section”, “subsection” or “Schedule” means an article, section, subsection or schedule, respectively, of this Agreement.

Review of Agreement

6.8 As soon as practicable after a request to do so from either Party after the fifth anniversary of the Effective Date, British Columbia and the Toquaht Nation will conduct a review of this Agreement to:

- (a) consider the practicability and effectiveness of the processes established by the Parties in accordance with this Agreement;
- (b) determine whether further law-making or service delivery authorities should be delegated to the Toquaht Nation Government in order to achieve effective and efficient governance arrangements in the Foreshore Area, including the potential delegation of all or substantially all of the law-making authorities and service delivery authorities exercised by a Municipality under Provincial Law; and
- (c) consider such other matters in respect of the implementation of this Agreement as may be agreed to.

Dispute Resolution

- 6.9** If any issue arises with respect to the interpretation of this Agreement, the Parties agree to use the dispute resolution procedures established in accordance with Chapter 25 Dispute Resolution of the Final Agreement. For greater certainty, unless specifically provided for in this Agreement, no Party is obligated to proceed to Stage Three of the Chapter 25 Dispute Resolution process in relation to any dispute regarding the interpretation of this Agreement.

Assignment

- 6.10** This Agreement may not be assigned in whole or in part by the Toquaht Nation without the express written consent of British Columbia.

Foreshore Area in Provincial Protected Areas

- 6.11** (a) The Parties acknowledge that the Foreshore Area adjacent to certain Maa-nulth First Nation Lands of the Toquaht Nation extends approximately 50 metres perpendicularly from the natural boundary in those circumstances where the Foreshore Area is bounded by a Provincial Protected Area, whereas the Foreshore Area adjacent to the Maa-nulth First Nation Lands of the Toquaht Nation not bounded by a Provincial Protected Area typically extends approximately 200 metres perpendicularly from the natural boundary. As such, if:
- (i) Toquaht Nation Government wishes to exercise the law-making authority provided under this Agreement to enable the use or development of the Foreshore Area for commercial tourism operations and such use or development reasonably requires that an area of Submerged Land within a Provincial Protected Area be included within the Foreshore Area in order to facilitate such use or development, as soon as practicable after a request to do so, British Columbia and Toquaht Nation will meet to discuss amending this Agreement to extend the Foreshore Area to approximately 200 metres perpendicularly from the natural boundary of the adjacent Maa-nulth First Nation Lands of the Toquaht Nation; and
 - (ii) British Columbia determines that any Submerged Lands within a Provincial Protected Area adjacent to the Foreshore Area is no longer to be designated as provincial park, ecological reserve, conservancy or protected area under

Execution in Counterparts

Federal Land

EXECUTED in the presence of:

)
)
) John Rustad
)

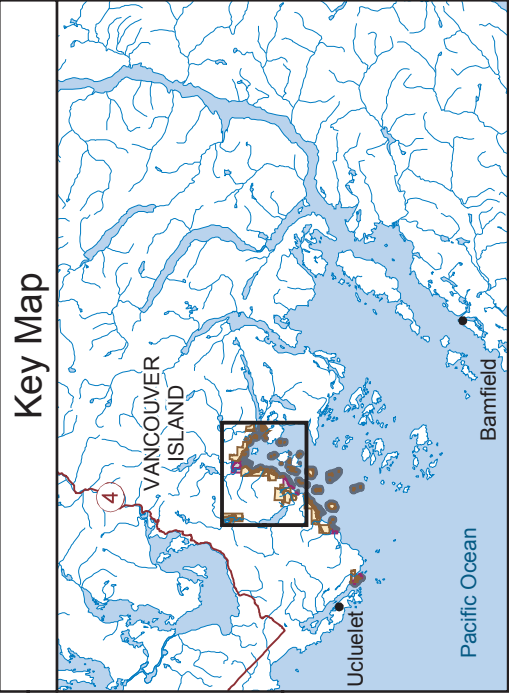
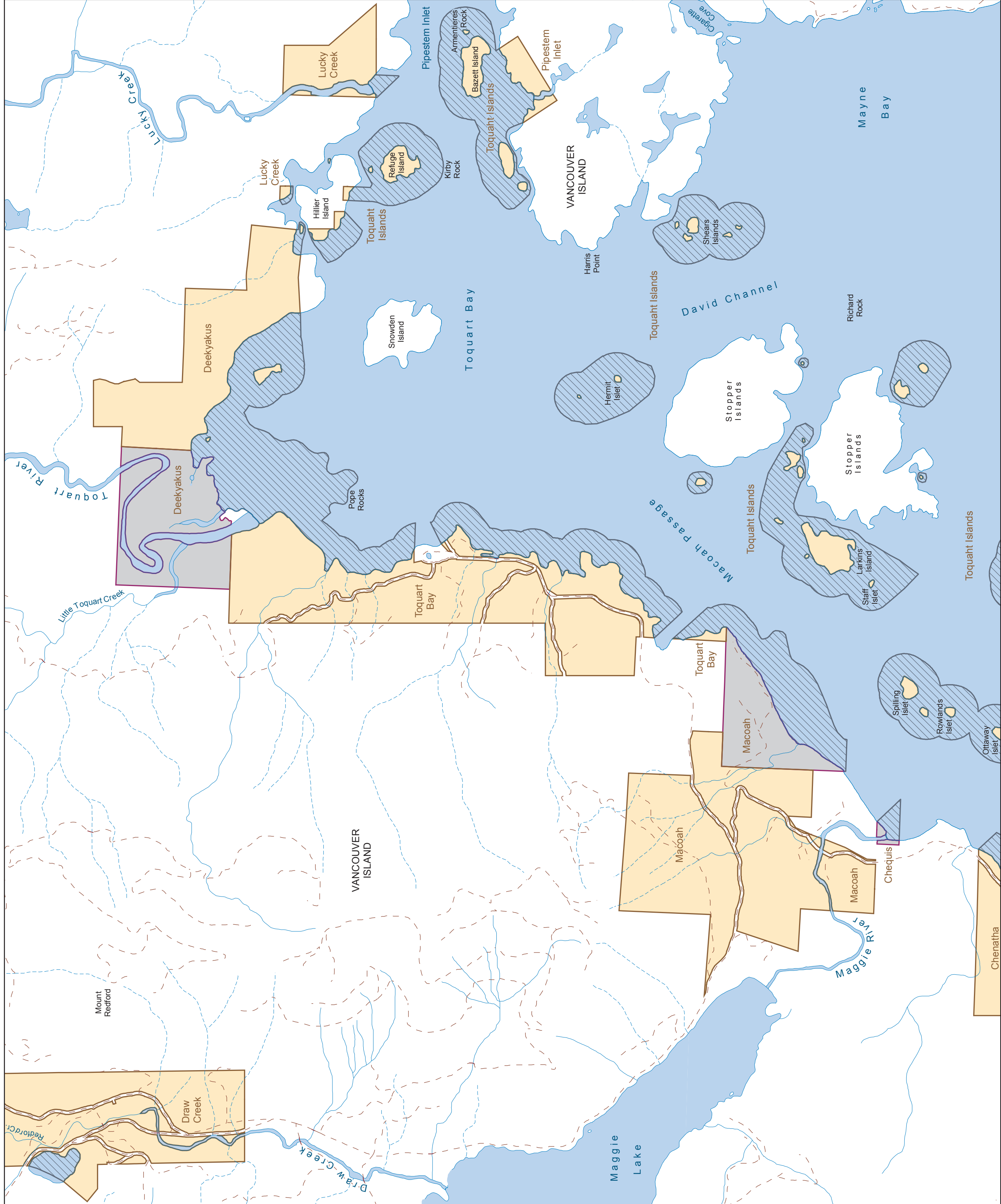
-) Per: Minister of Aboriginal Relations and Reconciliation

EXECUTED in the presence of:

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Anne Mack

) Per: Anne Mack, Tyee Ha'wilt

SCHEDULE "A"
FORESHORE AREA

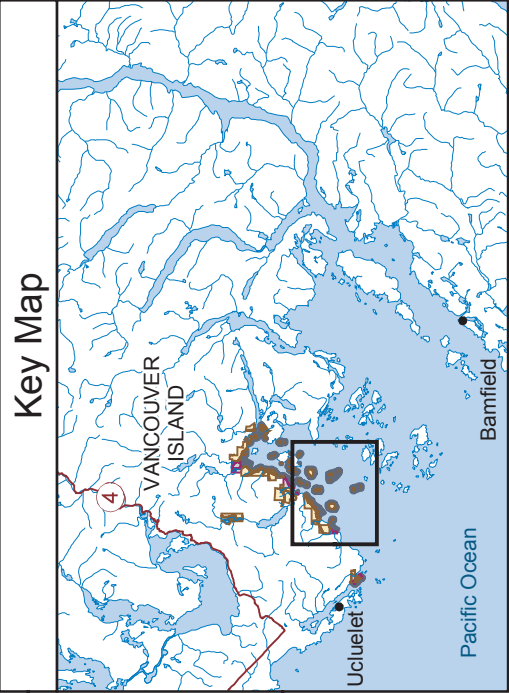
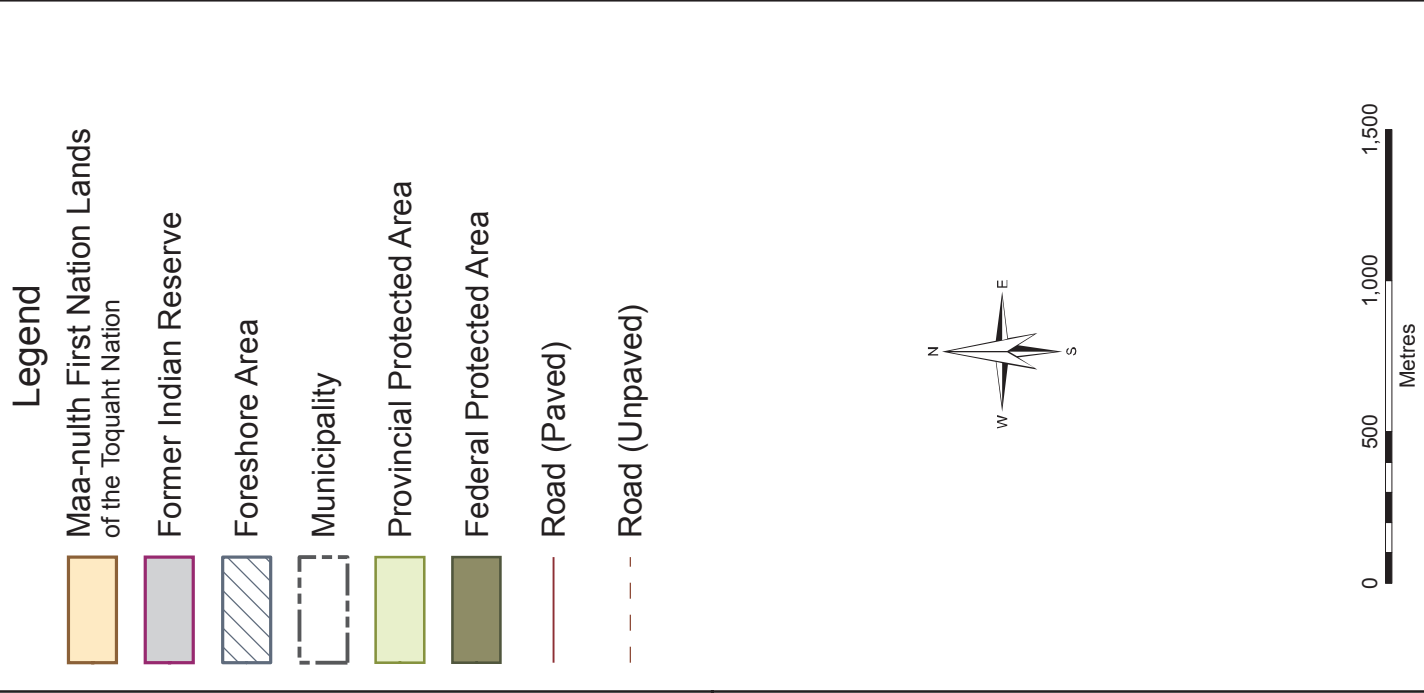


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Date: September 12, 2013

Schedule A
Foreshore Areas
of Maa-nulth First Nation Lands of the Toquaht Nation
Plan 1



Maa-nulth First Nation Lands
of the Toquaht Nation

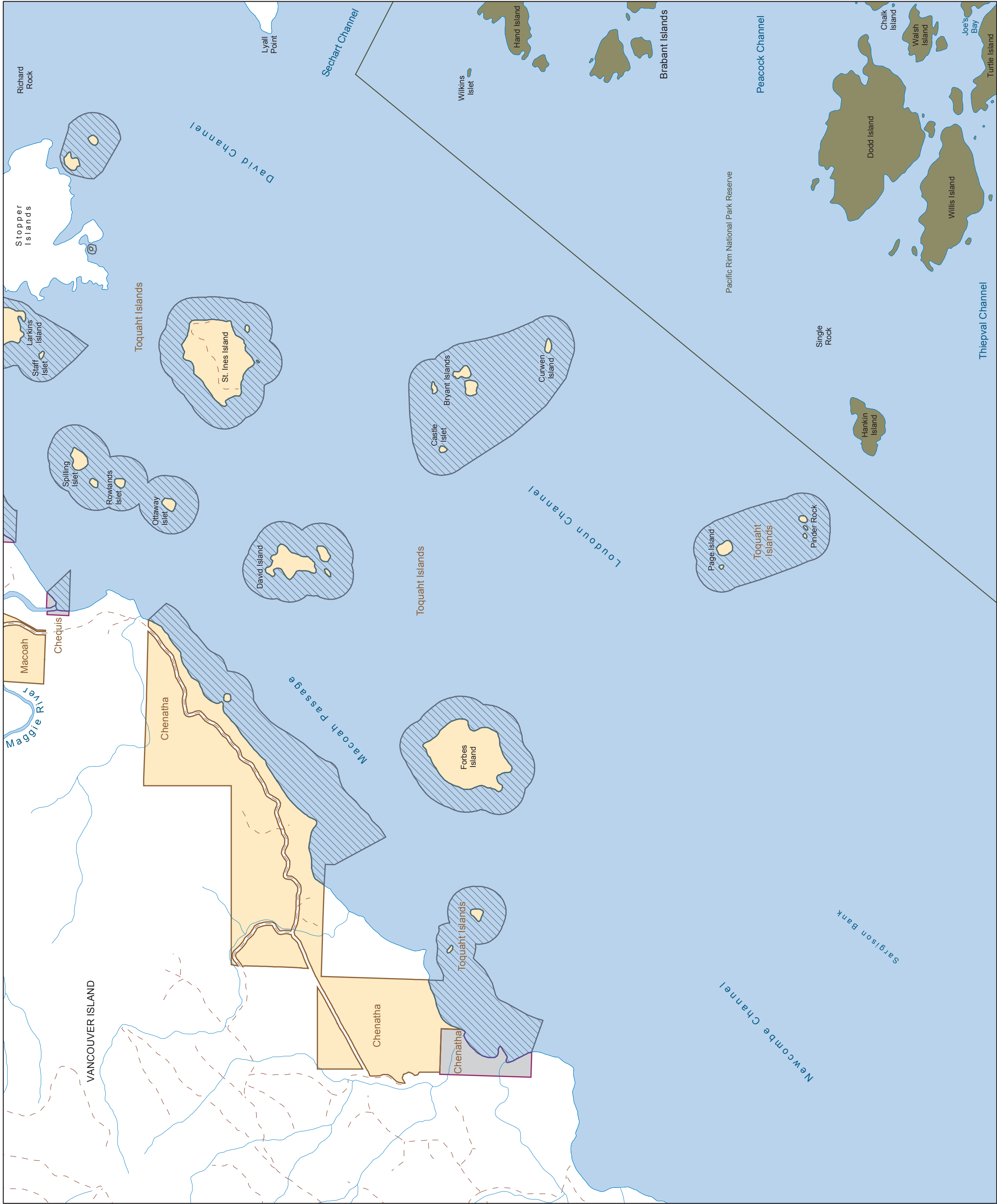


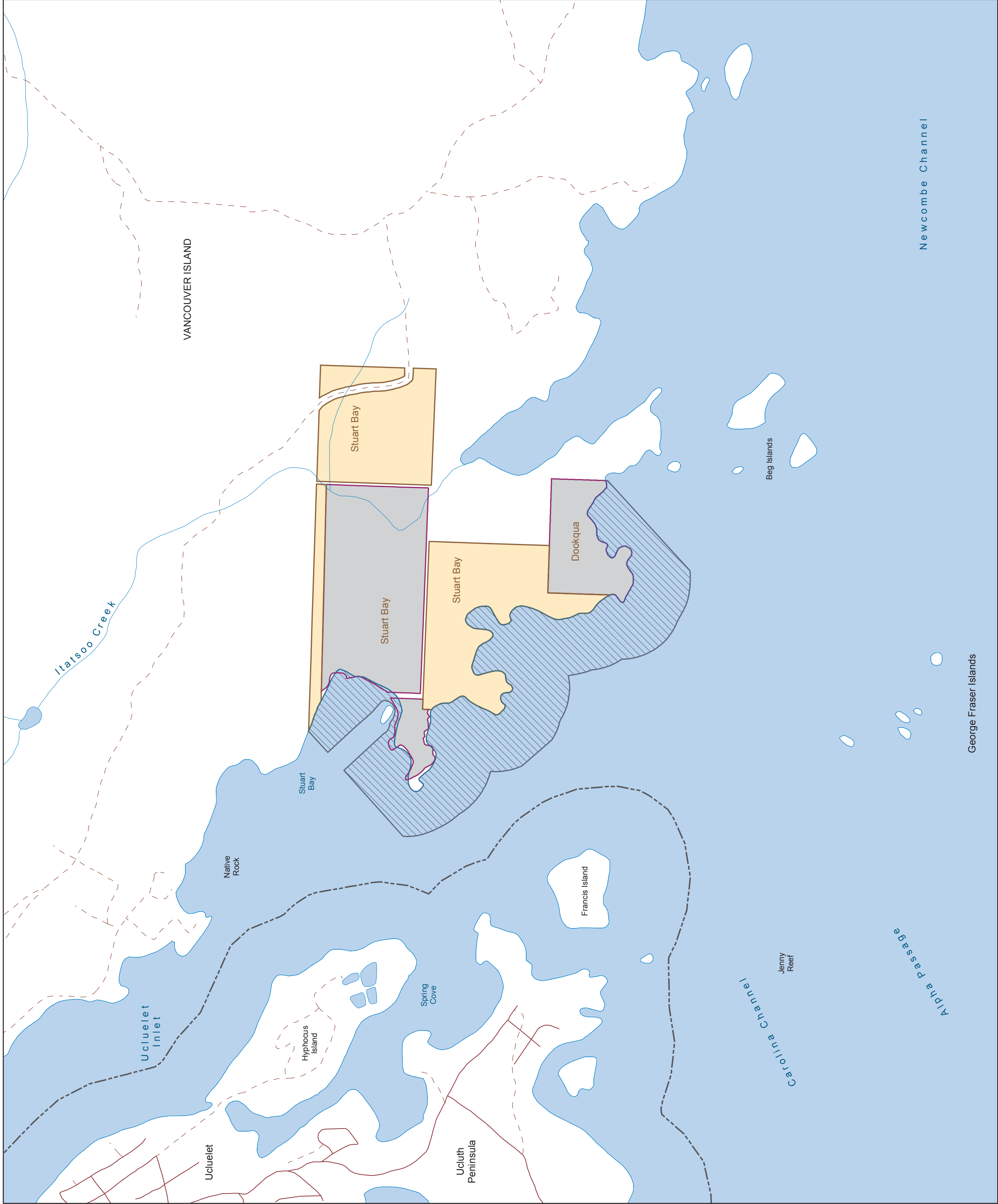
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Schedule A
Foreshore Areas
of Maa-nulth First Nation Lands of the Toquaht Nation
Plan 2



Figure 1: Map of Maa-nulth First Nation Lands of the Toquaht Nation

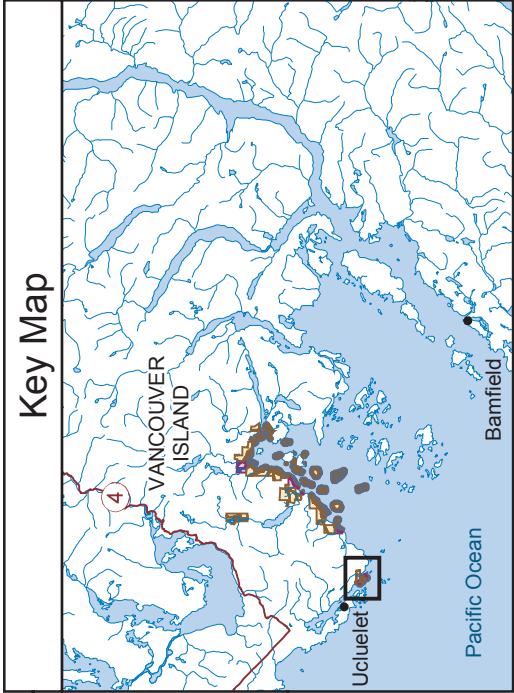




Maa-nulth First Nation Lands
of the Toquaht Nation

Legend

- Maa-nulth First Nation Lands of the Toquaht Nation
- Former Indian Reserve
- Foreshore Area
- Municipality
- Provincial Protected Area
- Federal Protected Area
- Road (Paved)
- Road (Unpaved)



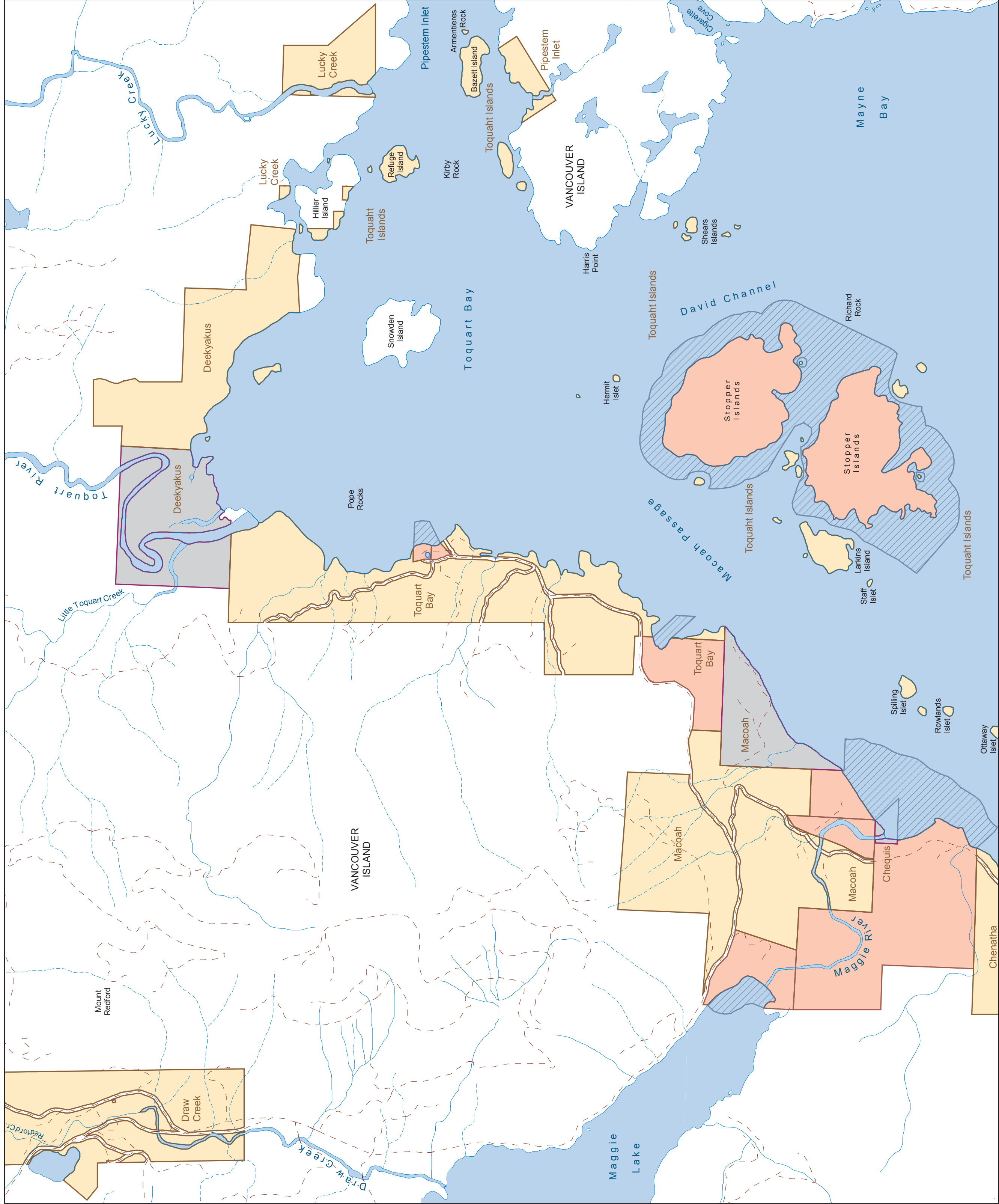
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Date: September 12, 2013

Schedule A
Foreshore Areas
of Maa-nulth First Nation Lands of the Toquaht Nation
Plan 3

Ministry of
Aboriginal Relations
and Reconciliation

Figure 1: Map of Maa-nulth First Nation Lands of the Toquaht Nation, Schedule A, Plan 3

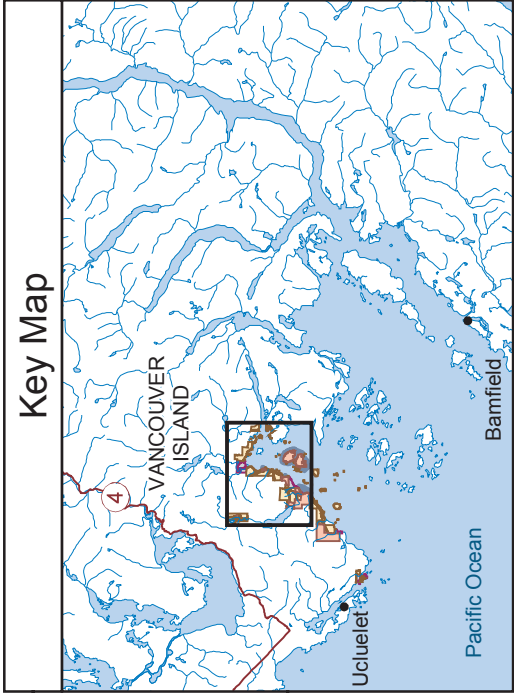
SCHEDULE "B"
POTENTIAL FORESHORE ADDITIONS OF MAA-NULTH
FIRST NATION LANDS OF TOQUAHT NATION



Maa-nulth First Nation Lands
of the Toquaht Nation

Legend

- Maa-nulth First Nation Lands of the Toquaht Nation
- Former Indian Reserve
- Potential Addition to Maa-nulth First Nation Lands of the Toquaht Nation
- Potential Foreshore Addition
- Municipality
- Provincial Protected Area
- Federal Protected Area
- Road (Paved)
- Road (Unpaved)



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Schedule B
Potential Foreshore Additions
of Maa-nulth First Nation Lands of the Toquaht Nation
Plan 1

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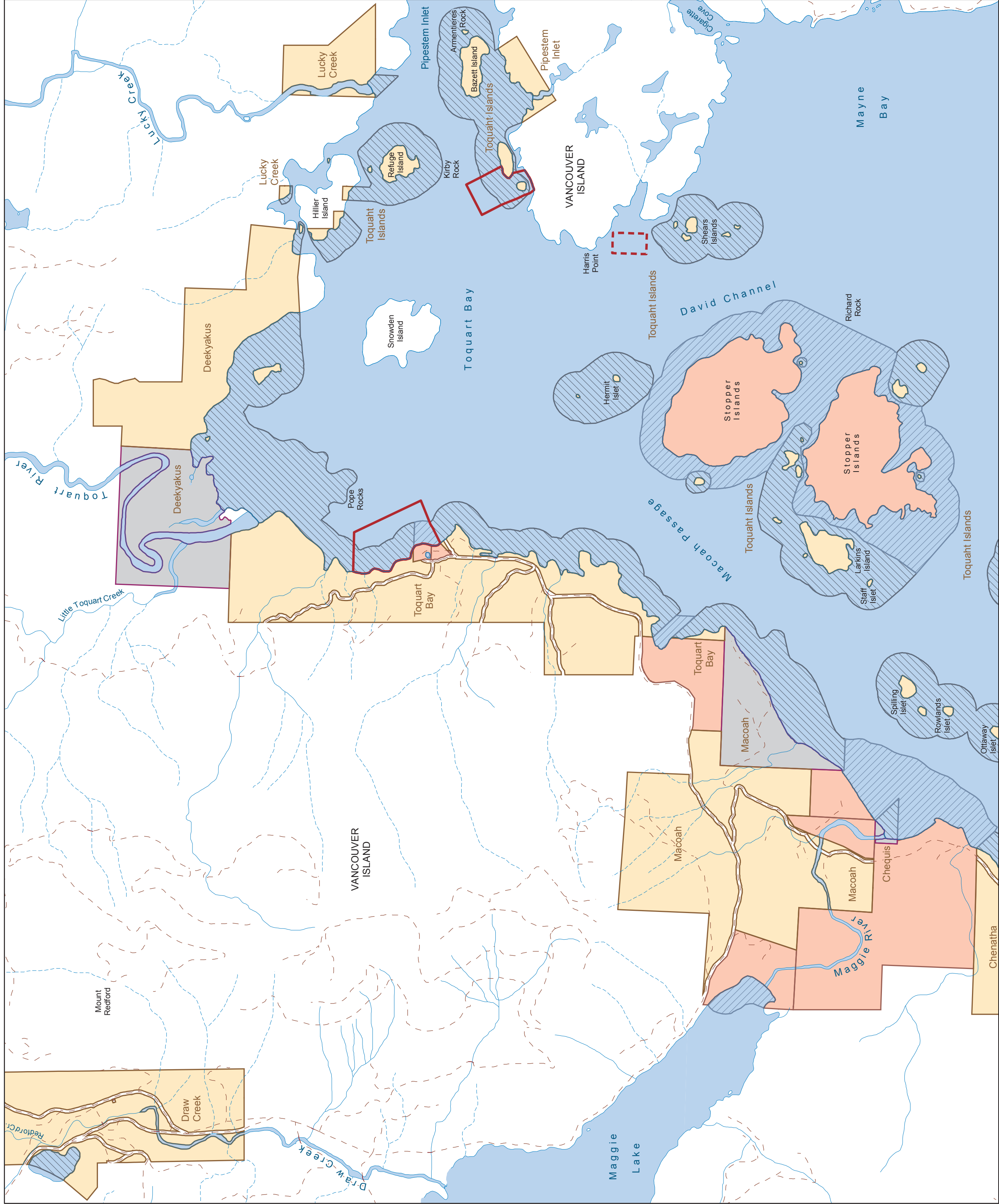
Figure 1: Maa-nulth First Nation Lands of the Toquaht Nation, Schedule B, Potential Foreshore Additions, Plan 1

SCHEDULE "C"
EXISTING INTERESTS

General Location	Interest Holder	Tenure Type	File No.
Appendix B-3, Part 2(a), Plan 10	Anne Mack	Licence of Occupation – Aquaculture	1409669
Appendix B-3, Part 2(a), Plan 6	Anne Mack	Licence of Occupation – Aquaculture	1409671
Appendix B-3, Part 2(a), Plan 4	Coulson Forest Products Limited	Standard Lease – Log Handling/Storage	157780
Appendix F-2, Part 3, Plan 3	Krzystof Wieteska	Licence of Occupation – Aquaculture	1409661
Appendix B-3, Part 2(a), Plan 1	The District of Ucluelet	Licence of Occupation – Sewer Line	1409029
Appendix B-3, Part 2(a), Plan 5	Toquaht Nation	Licence of Occupation – Aquaculture	1411099
Appendix B-3, Part 2(a), Plan 3	Toquaht Nation	Licence of Occupation – Aquaculture	1411086
Appendix B-3, Part 2(a), Plan 4	Toquaht Nation	Licence of Occupation – Marina	1412509
Appendix B-3, Part 2(a), Plan 4	Toquaht Nation	Licence of Occupation – Private Moorage	1403575

SCHEDULE "D"

MAP OF FORESHORE AREAS WHERE LICENSES, PERMITS AND APPROVALS ASSOCIATED WITH LOG HANDLING AND STORAGE OPERATIONS MAY BE AUTHORIZED BY BRITISH COLUMBIA FROM TIME TO TIME.



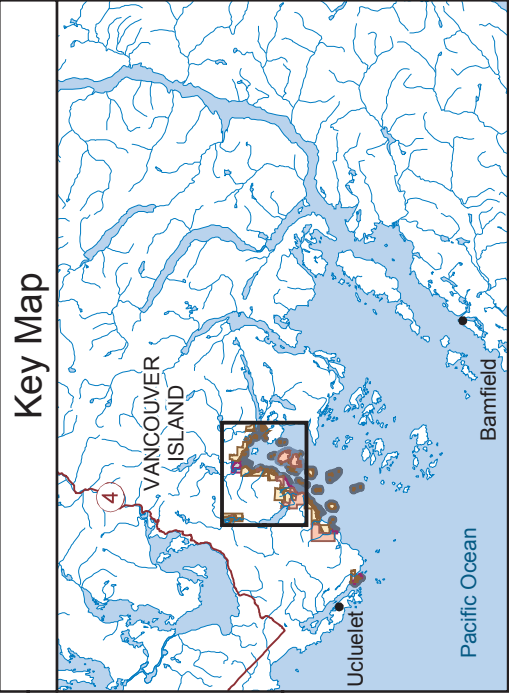
Maa-nulth First Nation Lands of the Toquaht Nation

Legend

- Maa-nulth First Nation Lands of the Toquaht Nation
- Former Indian Reserve
- Potential Addition to Maa-nulth First Nation Lands of the Toquaht Nation
- Foreshore Area
- Potential Foreshore Addition
- Log Handling and Storage Area
- log handling and storage area outside of foreshore area
- Municipality
- Provincial Protected Area
- Federal Protected Area
- Road (Paved)
- Road (Unpaved)

0 500 1,000 1,500 Metres

N
W E S



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Schedule D
 Log Handling and Storage Sites
 within or near Foreshore Areas and Potential Foreshore Additions
 of Maa-nulth First Nation Lands of the Toquaht Nation
Plan 1

BRITISH COLUMBIA

Ministry of
Aboriginal Relations
and Reconciliation