

MINISTRY OF EMERGENCY MANAGEMENT AND CLIMATE READINESS INFORMATION BRIEFING NOTE

PREPARED FOR: Tara Richards, Deputy Minister

ISSUE: Emergency & Disaster Management Act: consultation and cooperation implementation

BACKGROUND:

- Under the Emergency & Disaster Management Act (EDMA), regulated entities will be required to consult and cooperate (C&C) with Indigenous governing bodies in relation to various actions.
 - Preparation and mitigation-related C&C obligations for government ministers, public sector agencies, local authorities, and critical infrastructure owners will come into effect at different points when regulations are made to bring the respective planning rules into force for these different types of regulated entities.
 - Response and recovery-related C&C obligations for the Province and local authorities will be in force¹ immediately upon royal assent.
- For response and recovery-related C&C obligations to be operative,¹ agreement² must be reached with Indigenous governing bodies (IGBs) concerning land-based areas for C&C. s.16

¹ "In force" means the provisions that create these obligations will be in force immediately upon royal assent. It does not mean that the provisions are functional. "Operative" means that the provisions are functional.

² EDMA does not prescribe any specific form or requirements for the agreements concerning land-based areas for C&C.

s.14; s.16

- There is a transition rule in EDMA that requires local authorities, as soon as practicable following royal assent, to make reasonable efforts to reach such agreements. When agreements are reached under that rule, the particulars of the agreements would also be used for both local authority and provincial C&C obligations.
- In contrast to response and recovery-related C&C obligations, preparation and mitigation-related C&C obligations are not technically dependent upon agreements.

s.13; s.16

- The appendix to this note provides section references and a temporal analysis of how the response and recovery-related C&C obligations will function under EDMA.

DISCUSSION:

- s.16

- s.13; s.16

- s.13; s.16

s.13; s.16

• s.13; s.16

s.13; s.16

- s.13; s.16

INDIGENOUS PEOPLES CONSIDERATIONS:

- See above.

OTHER MINISTRIES IMPACTED/CONSULTED:

- None

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APPROVED BY:

	Initials	Date
DM	TR	12/07/2023
A.DM	TD	10/07/2023
EL	GH	05/07/2023

ATTACHMENT:

- Appendix 1: Section references and temporal analysis of C&C obligations

Appendix 1: Section references and temporal analysis of C&C obligations

Transition rule – obligation to reach agreement concerning areas: s. 179(7)

- Effective on royal assent.
- Requires a local authority to, “as soon as practicable after [royal assent], make reasonable efforts to reach agreement respecting areas to be described in the local authority’s emergency management plan for the purposes of section 120...with each Indigenous governing body that is authorized to act on behalf of Indigenous peoples whose traditional territory or treaty area includes an area that is within the jurisdiction of the local authority.”
- Means that on day one, local authorities need to seek agreement concerning land-based areas for C&C.
- EMCR will instruct local authorities to share the particulars of their agreements and will use these particulars for the purposes of the Province’s own obligations.

Permanent local authority rule – obligation to reach agreement concerning areas: s. 55(1)(e)

- In force, but not effective, on royal assent: relies on s. 47 (local authority obligations to prepare and maintain emergency management plans) to be in force to be effective, and s. 47 will be brought into force at the same time as regulations pertaining to local authorities are made.
- Requires a local authority, when preparing or maintaining an emergency management plan, to “make reasonable efforts to reach agreement respecting areas to be described in the plan for the purposes of section 120...with each Indigenous governing body that is authorized to act on behalf of Indigenous peoples whose traditional territory or treaty area includes an area that is within the jurisdiction of a local authority.”
- Means that once s. 47 is brought into force by regulation, the permanent rule will do the work done up to that point by the transition rule at s. 179(7).
- Local authorities that reach agreement under s. 55(1)(e) are required to provide the provincial administrator with “a description of each area agreed to and the Indigenous governing body that is specified in the agreement in relation to each area”; these particulars will be used for the purposes of the Province’s own obligations.

Permanent local authority rule – obligation for emergency management plan to include area described for C&C: s. 52(3)(b)

- Effective on royal assent.
- Requires a local authority to “include a description of each area, if any, that is described for the purposes of section 120” in an agreement made under s. 55(1)(e) [not effective on royal assent] or “any other agreement with an Indigenous governing body” [e.g., an agreement made under the transition rule at s. 179(7)].

Permanent local authority rule – obligation to C&C in relation to certain response and recovery actions: s. 120

- Effective on royal assent.
- Requires a local authority to C&C:
 - with an IGB that is described in the local authority's emergency management plan [i.e., as a result of reaching agreement under s. 179(7) or s. 55(1)(e)] or under another agreement made under EDMA with an IGB; or,
 - if no agreement has been reached, with an IGB described in a provincial emergency management plan.

Permanent provincial rule – obligation to reach agreement concerning areas: s. 41(1)(d)

- Effective by regulation.
 - Requires the provincial administrator, when preparing or maintaining an emergency management plan, to “make reasonable efforts to reach agreement respecting areas to be described in the plan for the purposes of section 90...with each Indigenous governing body that is authorized to act on behalf of Indigenous peoples whose traditional territory or treaty area includes an area that is included in the emergency management plan.”
 - Requirement does not apply if a local authority has already reached an agreement under s. 55(1)(e) or s. 179(7) – if such an agreement has been reached, the particulars of that agreement will be included in the emergency management plan prepared or maintained by the provincial administrator.
 - Means that once s. 41 is brought into force by regulation, EMCR will be required to make efforts to fill in any gaps left by local authorities not reaching agreements under s. 179(7) or s. 55(1)(e).
 - **s.12; s.13; s.16**
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- If and when the provincial administrator reaches agreements through s. 41(1)(d), the particulars of those agreements would be fed back to local authorities. Through s. 120, local authorities would be required to C&C with IGBs in accordance with the particulars of any agreement reached by the provincial administrator under s. 41(1)(d).

Permanent provincial rule – obligation for emergency management plan to include area described for C&C: s. 39(2)

- In force, but partially effective, on royal assent: relies on s. 41 (provincial obligations to reach agreement concerning areas) and s. 55(1)(e) to operate to be fully effective.
- Requires the provincial administrator to “include a description of each area, if any, that is described for the purposes of [section 90 in an agreement made under s. 41(1)(d) *or any other agreement made with an Indigenous governing*

body] or [section 120 in an agreement made under section 55(1)(e)]. (Italics indicate where this provision *is* operative on royal assent.)

Permanent provincial rule – obligation to C&C in relation to certain response and recovery actions: s. 90

- Effective on royal assent.
- Requires the Province to C&C with an IGB “that is specified in the emergency management plan or agreement, as applicable, in relation to the area.”

Temporal analysis:

s.12; s.13; s.16

s.13; s.14; s.16

MINISTRY OF EMERGENCY MANAGEMENT AND CLIMATE READINESS DECISION BRIEFING NOTE

PREPARED FOR: Tara Richards, Deputy Minister

ISSUE: *Emergency and Disaster Management Act*: Proposed funding approach to support Indigenous Engagement Requirements (IER) and agreements under modernized legislation.

BACKGROUND:

- The proposed *Emergency and Disaster Management Act* (EDMA) emphasizes the importance of consultation, cooperation, engagement and collaboration with Indigenous peoples, and includes an agreements framework that supports reconciliation, self-determination and self-government, and decision-making.
- Consultation and cooperation (C&C) with Indigenous Governing Bodies (IGB) will be required by the Province and local authorities in all phases of emergency management, and other engagement opportunities are encouraged.
- The Ministry is developing materials to support all parties in implementing IER, including C&C, and a strategy to support implementation of the agreement framework, including funding considerations for these implementation priorities.

DISCUSSION:

- The EDMA does not speak to funding for implementation of IER or agreements.
- IER includes C&C requirements ^{s.13; s.16} to incorporate Indigenous knowledge and cultural safety into emergency management. There will be an expectation from local authorities that the Province supports their engagement as the Province sets new duties for municipalities and regional districts.
- ^{s.13} Agreements are intended to support implementation of IER, and to advance the principles in the *Declaration Act*.
- Proposals for funding IER and agreements consider other potential funding sources to avoid duplication.
- ^{s.12; s.13}

Funding for Indigenous Engagement Requirements:

- EMCR proposes short-term implementation funding to support all local authorities and First Nations to support IER. At this time, a strategy for delivering one-time funding is proposed, with a flat rate of funding recommended for all First Nations and a tiered approach for local authorities that reflects the number of First Nations that the local authority is required to engage with.
- Funding provided to all local authorities and IGBs to support IER may be used for:
 - First Nations to establish an IGB for purposes of emergency management;
 - general readiness to meet C&C requirements;
 - coming to agreement on areas to be included in emergency management plans, or processes to meet C&C requirements;
 - implementation of cultural safety and Indigenous knowledge;
 - discussion about C&C requirements with local authorities and other parties, and
 - meeting annually to review effectiveness of agreements.

s.12; s.13; s.16; s.17

s.12; s.13; s.16; s.17

Resourcing and Accountability:

- EMCR is preparing guidance documents to support all parties with implementation of IER, including supports to help local authorities understand which First Nations they should start engaging with.
- For IER funding, grant letters to local authorities and rights holders or IGB will be developed with a low barrier approach but will include a simple report back mechanism to help EMCR evaluate needs and further potential funding decisions.
- For agreements, funding will be delivered by grant letter or contribution agreement, with opportunity to include report back mechanism.
- s.12; s.13

s.12; s.13; s.16; s.17

INDIGENOUS PEOPLES CONSIDERATIONS:

- The EDMA is a product of a co-development process. The IER and agreement opportunities stemming from EDMA are opportunities to advance reconciliation and are consistent with the minister's mandate letter and the *Declaration Act* Action Plan.

OTHER MINISTRIES IMPACTED/CONSULTED:

- MUNI has been engaged in policy discussion.
- s.16

s.12; s.13; s.16; s.17

s.12; s.13; s.16; s.17

ATTACHMENT(S):

Appendix 1 – Existing Funding Sources and Policy

s.12; s.13; s.16; s.17

s.12; s.13; s.16

APPROVED / NOT APPROVED

(Circle One)

OPTION 1

(Note Approved Option Above)



Tara Richards
Deputy Minister

July 31, 2023

DATE APPROVED

PREPARED BY:

Monica Cox
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APPROVED BY:

	Initials	Date
DM	TR	31/07/2023
EL	MC	27/07/2023
ED	KP&DR	25/07/2023

Page 14 of 30

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Page 15 of 30

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Page 16 of 30

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Page 17 of 30

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Page 18 of 30

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Page 19 of 30

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Page 20 of 30

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Page 21 of 30

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Page 22 of 30

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Page 23 of 30

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Page 24 of 30

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Page 25 of 30

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Page 26 of 30

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Page 27 of 30

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Page 28 of 30

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s.12 ; s.13 ; s.16 ; s.17

Appendix 1: Existing Funding Sources and Policy

Funding proposals to support implementation of Indigenous Engagement Requirements and the agreement framework are drafted with consideration of new and evolving funding sources and policy.

Declaration Act Engagement Fund

In April 2023, the Province committed \$200M in funding to establish the First Nations Declaration Act Engagement Fund.¹ The fund will be administered by New Relationship Trust and allow for one-time grants to support First Nations engagement with the province on *Declaration Act* Action Plan priorities and aligning laws with the Declaration.

While engagement on regulation and policy development may be in scope for this fund, direct negotiations support is out of scope.

Community to Community Program

UBCM administers funding provided by MUNI, under the Community-to-Community Program².

This program supports First Nations and local governments in advancing reconciliation and relationship building through various types of agreements, joint plans or strategies, and joint review of bylaws or policy. In 2023, the program will support forums with funding available for events (up to \$10,000).

Community Emergency Preparedness Fund (CEPF)

UBMC administers funding provided by the provincial government, under the CEPF, for purposes of supporting work under the following streams:

- Disaster Risk Reduction-Climate Adaptation
- Emergency Operations Centres Equipment and Training
- Emergency Support Services Equipment and Training
- Extreme Temperatures Risk Mapping, Assessment and Planning
- Flood Risk Assessment, Flood Mapping and Flood Mitigation Planning
- Indigenous Cultural Safety and Cultural Humility Training
- Public Notification and Evacuation Route Planning
- Structural Flood Mitigation
- Volunteer and Composite Fire Departments Equipment and Training³

¹ Announcement: [ReleaseReport \(gov.bc.ca\)](https://www2.gov.bc.ca/gov/content/speical/indigenous/declaration-act-engagement-fund)

² UBCM Program: [Community to Community Program | Union of BC Municipalities \(ubcm.ca\)](https://ubcm.ca/community-to-community-program)

³ UBCM Program: [Community Emergency Preparedness Fund | Union of BC Municipalities \(ubcm.ca\)](https://ubcm.ca/community-emergency-preparedness-fund)

Page 30 of 30

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