



Declaration Act Secretariat

## TRANSITION BINDER

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## MINISTRY PROFILE

**Ministry:** Declaration Act Secretariat

### **Ministry Mandate:**

The mandate of the Declaration Act Secretariat (DAS) is to ensure provincial legislation is consistent with the UN Declaration on the Rights of Indigenous Peoples and is developed in consultation and cooperation with Indigenous Peoples, as per section 3 of the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act):

*Measures to align laws with Declaration*

*"In consultation and cooperation with the Indigenous peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration."*

DAS serves as a dedicated central agency supporting the province in its legislative efforts to establish true, lasting reconciliation with First Nations and Indigenous Peoples in British Columbia. The Secretariat falls under the responsibility of the Minister of Indigenous Relations and Reconciliation but, to create clear lines of accountability to political decision-makers, and to position DAS as an entity with the capacity and influence to be effective in supporting the implementation of the Declaration Act, it is separate and distinct from the Ministry of Indigenous Relations and Reconciliation (IRR). Although DAS and IRR work closely to ensure the Minister has comprehensive support on all sections of the Declaration Act, components of the Declaration Act outside section 3, such as the section 4/5 Action Plan and Annual Report or section 6/7 agreements, remain the responsibility of IRR.

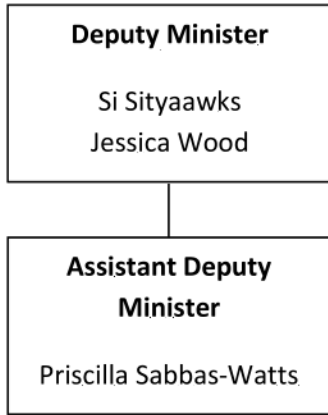
The Secretariat's core functions are to:

- develop processes and measures to support alignment of laws;
- assist ministries in advancing legislative initiatives in alignment with the UN Declaration and in meeting legislative alignment obligations;
- provide guidance to ministries on undertaking consultation and cooperation;
- work with Indigenous Partners to inform government's legislative agenda and help set legislative priorities; and
- serve in an interlocutor role for the Province and Indigenous partners.

Examples of amendments on which the Secretariat has provided advice and guidance include the School Amendment Act; Anti-Racism Act; Emergency and Disaster Management Act; Adoption Amendment Act; Interpretation Act; Forest and Range Practices Act; FOIPPA; Emergency Program Act; Indigenous Self-Government in Child and Family Services Act; and development of the Anti-Racism Data Act. Additionally, through internal learning processes since the passage of the Declaration Act, as well as work with Indigenous partners, the Secretariat co-developed guidance for ministries on involving Indigenous Peoples in policy and legislation, which was released in fall 2022 as the "Interim Approach".

**Full Time Equivalent (FTEs): 21**

**Executive Organizational Chart:**



**Budget:**

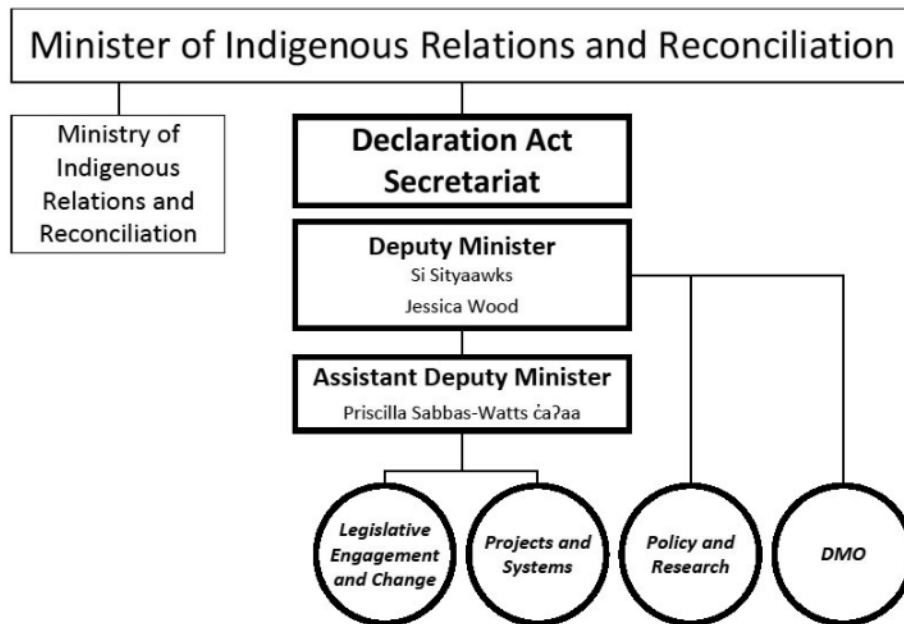
<b>(\$000s)</b>	<b>2023/24 Restated Estimates<sup>1</sup></b>	<b>2024/25 Estimates</b>	<b>2025/26 Plan</b>	<b>2026/27 Plan</b>
<b>Operating Expenses</b>				
Declaration Act Secretariat	4,431	4,567	4,567	4,567
<b>Total</b>	<b>4,431</b>	<b>4,567</b>	<b>4,567</b>	<b>4,567</b>



## DAS OVERVIEW

### Reporting and organizational structure

The Declaration Act Secretariat (the Secretariat) falls under the responsibility of the Minister of Indigenous Relations and Reconciliation and operates as a central agency (unlike MIRR a resource sector ministry) to create clear lines of accountability to political decision-makers, and to position the Secretariat as an entity with the capacity and influence to be effective in supporting the implementation of section 3 of the Declaration Act. It is separate and distinct from the Ministry of Indigenous Relations and Reconciliation (IRR).



Graphic: organizational structure and executive leadership

The Secretariat and IRR work closely to ensure the Minister has comprehensive support on all sections of the Declaration Act. The Secretariat is responsible for supporting section 3 (the alignment of laws) and IRR is responsible for supporting sections 4-7 (action plan, annual reporting, and decision-making agreements).

### Profile and mandate

The Secretariat's mandate is to coordinate and assist the cross-government effort to ensure provincial legislation is consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration; **Appendix P**) and is developed in consultation and cooperation with Indigenous Peoples, in accordance with section 3 of the *Declaration on the Rights of Indigenous Peoples Act*<sup>1</sup> (Declaration Act; **Appendix O**):

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<sup>1</sup> The *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act) was unanimously passed by the Legislative Assembly in 2019. It provides the framework for implementing the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) in B.C.

*Measures to align laws with Declaration:*

(Section 3). *In consultation and cooperation with the Indigenous peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration.*

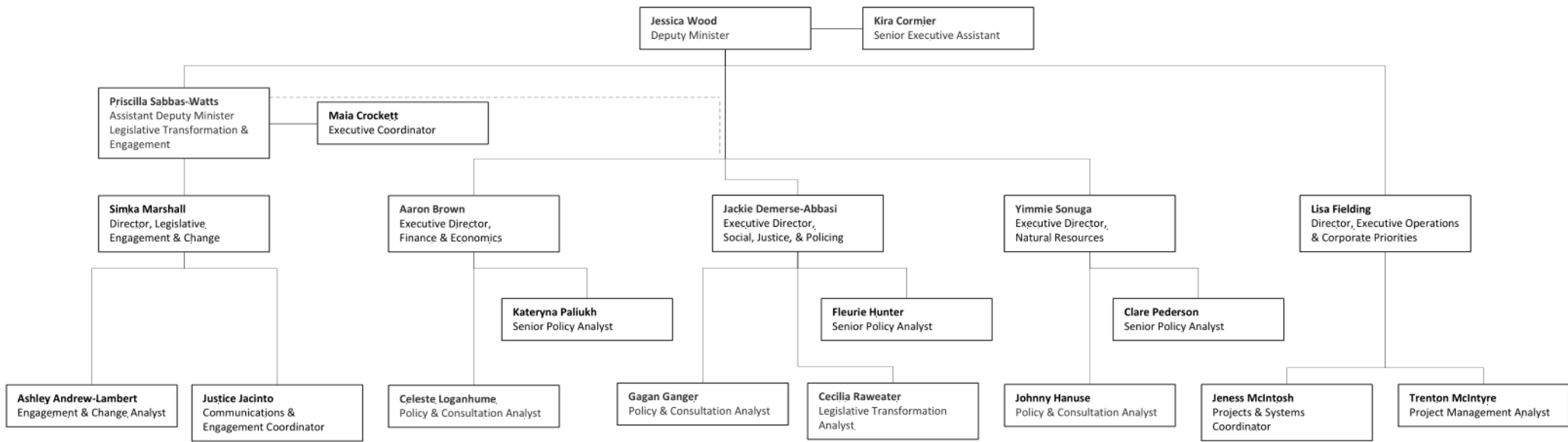
Full implementation of section 3 of the Declaration Act is an essential pathway for recognizing and affirming title and rights, including treaty rights, and for the survival, dignity and well-being of Indigenous peoples as protected under section 35(1) of the *Constitution Act, 1982*. The Province has made progress to date in implementing section 3. However, continued effort is required to more fully meet its statutory obligations.

The Secretariat provides unique value in the following ways:

1. *Dedicated, ongoing focus and support:*
  - The Secretariat provides focused, consistent, and careful attention in support of the effective implementation of section 3 of the Declaration Act; which is essential given the relative newness of the statutory obligation.
  - The Secretariat is structured to provide tailored advice and guidance through 1:1 support for all ministries. This approach:
    - o ensures a consistent understanding of the UN Declaration, across government, and assists ministries in moving through the consultation and cooperation process with Indigenous Peoples.
    - o Enables the Secretariat to gather information and insight into common and unique challenges ministries and Indigenous partners encounter in implementing alignment laws work.
2. *Unique line of sight to identify and remove barriers:*
  - As the standalone central agency dedicated to supporting the Province in meeting its statutory obligations under section 3 of the Declaration Act, the Secretariat is well positioned to:
    - o support the evolving nature of the work as it progresses,
    - o support the implementation of cross-government systemic changes required for the successful alignment of B.C.'s laws with the UN Declaration; and,
    - o ensure alignment of laws obligations remain an integral part of the legislative process.
  - Meeting section 3 obligations require significant shifts in how the Province has historically undertaken law-making.
    - o The Secretariat is in a unique position to support the required cross-government cultural shifts to effectively transition to a new approach to working, in partnership, with Indigenous Peoples to ensure B.C.'s laws align with the UN Declaration.
3. *Key relationship holder with Indigenous Partners:*
  - The Secretariat provides support as an interlocutor, ensuring priorities and challenges expressed by Indigenous Peoples are understood, communicated and considered during the development of the legislative agenda and throughout the development of policy and legislation across government.

For more information on how the Secretariat is supporting ministries and the Province and the progress the Province is making in implementing Section 3, please refer to the 'Sector Specific Alignment of Laws Overview section'.

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## EXECUTIVE MEMBER BIOGRAPHY



**Name:** Jessica Wood | *Si Sityaawks*  
**Title:** Deputy Minister  
**Ministry:** Declaration Act Secretariat

### **Biography:**

*Si Sityaawks* – (Woman who creates change) is from the Gitksan and Tsimshian First Nations with extended roots among the Tahltan and Nisga’a Nations.

Currently serving as Deputy Minister of the Declaration Act Secretariat, Jessica is leading British Columbia’s cross-ministry work to align provincial laws with the UN Declaration on the Rights of Indigenous Peoples in consultation and cooperation with Indigenous Peoples. Jessica recently became the first Indigenous Person to serve as Deputy Minister in the Province of British Columbia.

Jessica previously served as Assistant Deputy Minister for the Reconciliation Transformation and Strategies Division with the Ministry of Indigenous Relations and Reconciliation where she was responsible for the adoption and implementation of the United Nations Declaration on the Rights of Indigenous Peoples (The Declaration), the Truth and Reconciliation Commission of Canada’s Calls to Action, and learnings from relevant case law. As part of this transformation, she led, in collaboration with the First Nations Leadership Council, the development of legislation to implement the Declaration in provincial law. The *Declaration on the Rights of Indigenous Peoples Act* received Royal Assent in November 2019. Her division also led the development of the first Declaration Act Action Plan released in March 2022. The Plan was developed with Indigenous Peoples to ensure it reflects the priorities of Indigenous Peoples and outlines 89 specific actions every ministry will take over a five-year period.

## EXECUTIVE MEMBER BIOGRAPHY



**Name:** Priscilla Sabbas-Watts | čaʔaa

**Title:** Assistant Deputy Minister, Legislative Transformation and Engagement

**Ministry:** Declaration Act Secretariat

### **Biography:**

Priscilla's traditional name is čaʔaa [sah-ah], which comes from the word čaʔaas, meaning to strip cedar from the cedar tree. She is from the Hiškʷiiʔatḥ (Hesquiaht) on the West Coast of Vancouver Island. Hiškʷiiʔatḥ is one of fourteen nations of the Nuučaanaʷł (Nuuchahnulth).

Priscilla is the Assistant Deputy Minister, Legislative Transformation and Engagement with the Declaration Act Secretariat. Within this position she plays a fundamental role supporting cross-government efforts to work in consultation and cooperation with Indigenous Peoples to align laws with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as per section 3 of the Declaration on the Rights of Indigenous Peoples Act. Priscilla has served as a public servant for the past 20 years holding positions both within her Nation and within the provincial public service. She has previously served both as an elected councillor for Hesquiaht, and Vice President of the Nuuchahnulth Tribal Council. Within the BC Public Service Priscilla has held roles in the Ministry of Indigenous Relations and Reconciliation, the Ministry of Children and Family Development, and the BC Public Service Agency. Prior to joining the Declaration Act Secretariat, she was the Executive Director of the Equity Diversity and Inclusion Branch at the BC Public Service Agency.

## EXECUTIVE MEMBER BIOGRAPHY



**Name:** Leanne Ritchie

**Title:** Communications Director, Government Communications and Public Engagement

**Ministry:** Indigenous Relations and Reconciliation and the Declaration Act Secretariat

**Biography:**

Leanne joined the Ministry in April 2022 in the role of Communications Director. As a journalist and communications professional, she has more than two decades experience as working with provincial jurisdictions, First Nations, and local governments on both the east and west coasts.

Leanne grew up in Port Alberni during the 1990s Clayoquot Sound protests and has spent the bulk of her career at the ever-changing nexus of Indigenous, provincial and local government relations. She's written on Supreme Court of Canada rulings on Indigenous rights including Haida and Tsilhqot'in decisions; lead communications on complex tripartite agreements like treaties, and brought awareness to the issue of murdered and missing Indigenous women and girls in northern B.C.

Currently, Leanne plays a key leadership role in government communications, providing support and education to her colleagues across government. Leanne holds a master's degree from Royal Roads University in Professional Communications with a focus on critical discourse analysis, crisis communications, and conflict resolution. She is grateful for the privilege to live and work in the territories of the lək'wəŋən peoples (Victoria).

## EXECUTIVE MEMBER BIOGRAPHY



**Name:** Ranbir Parmar

**Title:** Assistant Deputy Minister and Executive Financial Officer, CSNR

**Ministry:** Ministry of Water, Land and Resource Stewardship

**Biography:**

Ranbir Parmar is one of the Assistant Deputy Ministers (ADM) for Corporate Services for the Natural Resource Ministries (CSNR) and the Executive Financial Officer (EFO) for the Ministries of Agriculture and Food; Energy, Mines and Low Carbon Innovation; Environment and Climate Change Strategy; and Indigenous Relations and Reconciliation. He is also the lead for the Financial Services Branch and the People and Workplace Strategies Branch supporting those ministries.

Ranbir started his career in the public service in 1994 with the Ministry of Transportation. He has also worked in a variety of roles for the Ministries of Small Business and Revenue, Finance, and Ministry of Forests and Range (MoFR). As the Chief Financial Officer in MoFR his responsibilities included financial planning and reporting, financial operations and systems, and procurement and supply services for the ministry. Ranbir was permanently appointed as the ADM and EFO on April 1, 2022, has a Bachelor of Commerce Degree in Finance from the University of British Columbia, and is a Chartered Professional Accountant, CGA.

Personal Information

# Budget Overview- Declaration Act Secretariat

Transition Binder – November 2024

	2024/25	2025/26	2026/27	Total
Operations	4,567	4,567	4,567	13,701
<b>Total Base Budget</b>	<b>4,567</b>	<b>4,567</b>	<b>4,567</b>	<b>13,701</b>
Contingency	<small>Government Financial Information</small>			
<b>Total Secretariat Budget</b>				

- Budget 2024 committed \$13.701M over the fiscal plan for the ongoing implementation of the Declaration Act Secretariat (22 FTEs). Government Financial Information

## 2023/24 Results

Vote	Budget/ Approvals	2023/2024 Actuals	Variance
Declaration Act Secretariat	4,431	3,475	956
<b>Total</b>	<b>4,431</b>	<b>3,475</b>	<b>956</b>

- Surplus in 2023/24 due to hiring lag with onboarding new staff.

## FTE headcount by location

As of September 1, 2024, DAS has 16 staff in 3 locations around the province.

Location	FTEs	Location	FTEs
Port Alberni	1	Victoria	13
Vancouver	3		

## FTE – Average Annual Burn

Fiscal Year	Annual Avg FTE burn
2024/25	17.50
2023/24	10.45
2022/23	2.17
2021/22	0.08
2020/21	0



## DECLARATION ACT SECRETARIAT

**ADM Responsible:** Priscilla Sabbas-Watts

### **Overview of Core Business / Program Area:**

The mandate of the Declaration Act Secretariat (DAS) is to ensure provincial legislation is consistent with the UN Declaration on the Rights of Indigenous Peoples and is developed in consultation and cooperation with Indigenous Peoples, as per section 3 of the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act).

The Secretariat works to fulfil this mandate via three program areas:

#### *Deputy Minister's Office (DMO)*

The DMO, led by the DM, ADM, and Director of Executive Operations & Corporate Priorities, delivers a wide range of corporate, strategic planning, and project management services for the Secretariat. It is the lead liaison with the Minister's Office, directs ministry service planning and indicator tracking, leads development of internal systems for performance monitoring, directs HR planning, manages correspondence and FOI processes, and oversees delivery of facilities, I.T., and financial services from CSNR. The DMO also leads reporting to the House or Cabinet, including providing the report on the progress that has been made towards implementing section 3 of the Declaration Act as part of the reporting requirements outlined in section 5 of that Act.

#### *Policy*

The Secretariat provides direct advice to ministries on legislative alignment and reform projects via the policy area. Three Executive Directors, along with their policy teams, provide policy analysis and advice to ministries. The policy team supports priority legislative projects as they progress through the legislative development process, advising ministries on their consultation and cooperation activities with Nations and Indigenous partners. The policy team also engages in regular check-in meetings with each ministry to keep abreast of policy, regulatory and legislative developments related to section 3. The team actively participates in cross-government committees to provide section 3-related advice, and they are developing guidance for ministries on conducting effective UN Declaration consistency assessments for legislation and policy. In collaboration with the Secretariat's Legislative Transformation and Engagement area, the team works with Indigenous partners to ensure Nations' and partners' needs and priorities are heard and used to inform government's legislative agenda.

#### *Legislative Transformation and Engagement*

The Legislative Transformation and Engagement team leads communications, relationship-building, and change management efforts throughout government on behalf of the Secretariat. The unit supports the development of educational resources for public servants (in collaboration with the Public Service Agency), leads the project to develop guidance on consultation and cooperation with nations and Indigenous partners, delivers dialogue sessions for corporate executive, and engages and develops relationships with Indigenous partners and other stakeholders. They are also the lead liaison with GCPE on communicating the Secretariat's work internally and externally.

### **Budget:**

<hr/>	
<b>(\$000s)</b>	<b>2024/25</b>
<b>Operating Expenses</b>	<b>4,567</b>

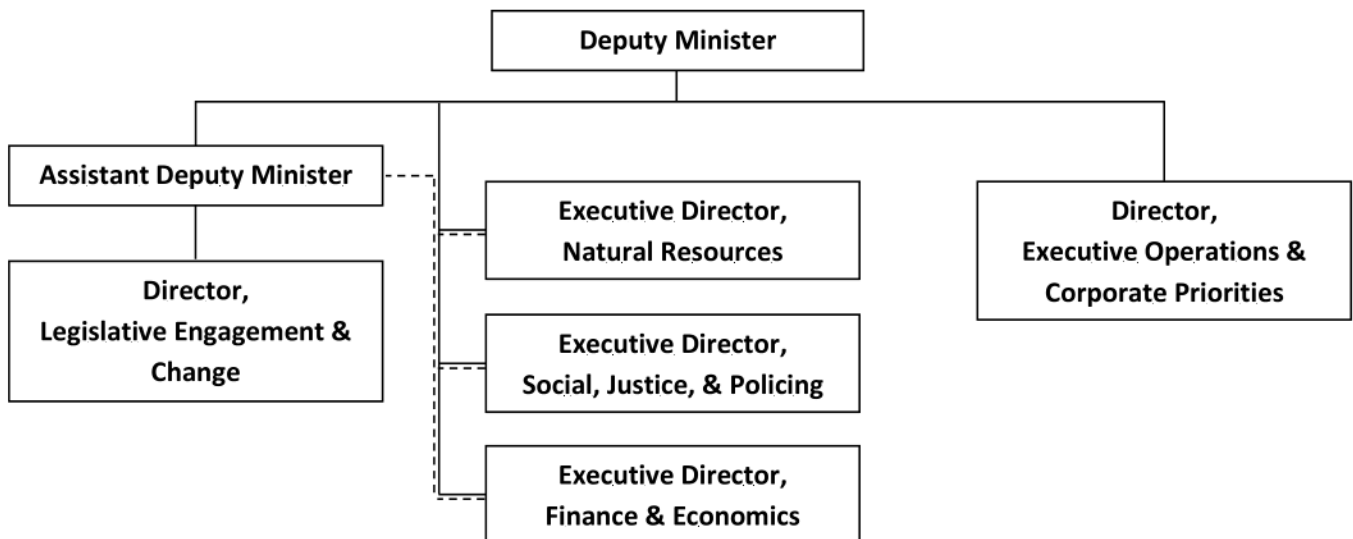
Base Salaries and Overtime	2,191
Employee Benefits	556
Public Servant Travel Expenses	160
Prof.Serv-Oper. and Reg	544
Information Systems-Operating	55
Office and Business Expenses	259
Amortization Expense	1
Building Occupancy Charges	600
Other Expenses	200
<b>Total</b>	<b>4,567</b>

**Full Time Equivalent (FTEs):**  
21

**Related Legislation:**

The Secretariat provides support and advice on legislative development and reform projects across government to ensure alignment with the United Nations Declaration on the Rights of Indigenous Peoples. Some examples of legislation on which the Secretariat provided advice in the prior session include the Anti-Racism Act; Adoption Amendment Act; First Nations Mandated Post-Secondary Institutes Act; and the Child, Family, and Community Service Amendment Act.

**Organizational Chart:**



## CORPORATE SERVICES FOR THE NATURAL RESOURCES MINISTRIES

**ADM Responsible:** Sonja Martins (FOR and WLRS) and Ranbir Parmar (AF, EMLI, ENV and MIRR)

### Overview of Core Business / Program Area:

Corporate Services for the Natural Resource Ministries (CSNR) is a corporate services organization providing services for approximately 8,000 employees in the natural resource ministries in over 100 locations throughout the province.

We serve the following ministries:

- Agriculture and Food (AF)
- Energy, Mines and Low Carbon Innovation (EMLI)
- Environment and Climate Change Strategy (ENV)
- Forests (FOR)
- Indigenous Relations and Reconciliation (MIRR)
- Water, Land and Resource Stewardship (WLRS)

CSNR Services:

#### Facilities, Fleet & Corporate Security

- Facilities – workspace accommodation, project and issue management for all six natural resource ministries
- Fleet and Assets – planning, analysis, reporting, maintenance and procurement for AF, ENV, FOR and WLRS
- Risk and Corporate Security – planning, response and recovery assistance for business disruptions and physical security issues for all six natural resource ministries

#### Financial Services

- Budgeting, forecasting and financial analysis/reporting and support; expenditure, revenue management and recovery processing and reporting
- Financial planning and reporting
- Financial operations
- Accounting
- Financial systems and data entry
- Financial policy, compliance and procurement

#### Human Resources

- Recruitment resources
- Hiring support services, including permitting recruitment team, onboarding and classification and exclusion support services
- Equity, Diversity and Inclusion programs and resources
- Learning and development / Leadership development
- Corporate initiatives including Work Environment Survey reports and resources
- Health and workplace wellness
- Workforce planning including analytics

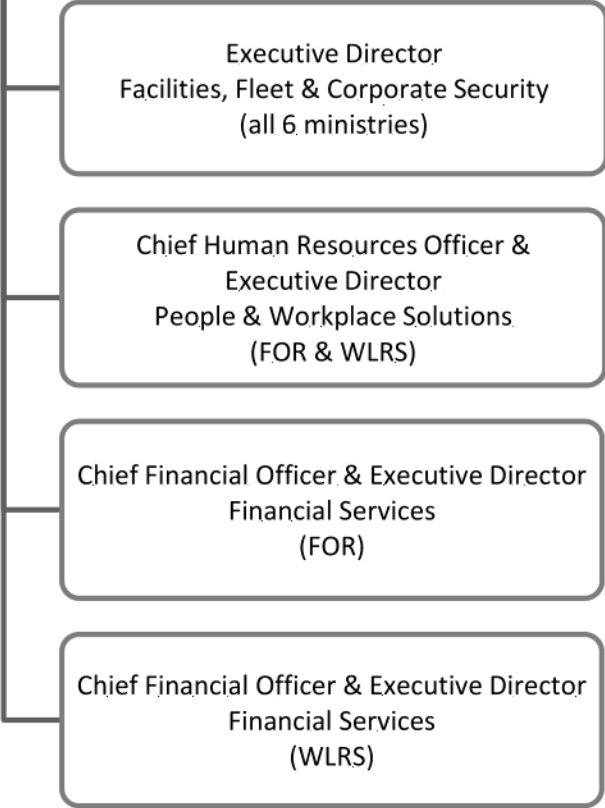
**Budget:** \$34.500M

**Full Time Equivalent (FTEs):** 365 (as of July 2024)

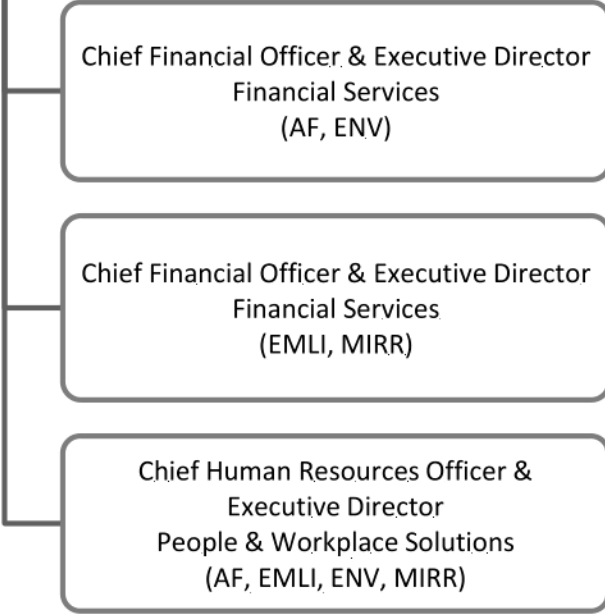
**Related Legislation:** N/A

**Organizational Chart:**

ADM and EFO for FOR & WLRS



ADM and EFO for AF, EMLI, ENV & MIRR



## Government Communications and Public Engagement

**Communications Director Responsible: Leanne Ritchie**

### **Overview of Core Business / Program Area:**

Government Communications and Public Engagement (GCPE) is the strategic communications agency for B.C.'s executive council (cabinet). Its primary role is to inform the public about government programs, services, policies and priorities through media, content creation, advertising, multi-language services, direct engagement with the public and online services.

GCPE's organizational structure is divided into three main branches: Corporate Priorities, Strategic Communications and Communications Operations (includes/ing communications shops serving each Minister and Ministry.) All three are guided by GCPE's Deputy Minister's office, whose role is to promote an outward flow of information and strategy about how cabinet wants to communicate with the public.

- The Corporate Priorities branch helps develop overarching narratives and messages that align with Cabinet's priorities and mandates from the Premier, informing Communications Operations and Strategic Communications. They also write all the Premier's speeches and quotes as well as providing multi-language services.
- Strategic Communications advances Cabinet communications goals through social media and advertising as well as developing B.C.'s visual image and brand standards, to which all ministries must adhere.
- Communications Operations provides communications and issues management counsel and services in support of Cabinet and 23 ministry communications offices. There are 23 Communication Director roles within this division, with one or more assigned to each ministry. The Communications Director is GCPE's extension of Core Policy 22.3. Any materials prepared for public consumption, regardless of the medium used, must be approved by GCPE through the Communications Director assigned to the ministry.

### **GCPE DAS:**

Each GCPE office assigned to a ministry is responsible for managing the public communication of government work within the portfolio of that ministry as well as providing strategic coordination of daily issues management for media and public issues.

The communications shop is comprised of a team of eight staff:

- **Leanne Ritchie:** the Communications Director is the principal communications contact for the Minister's office and Minister, primary media contact, and a member of the ministry's executive team. She provides strategic communications and issues management advice to the Minister, Minister's office and ministry, and liaises with other ministry communications shops, GCPE executive, GCPE's Issues Management team and Premier's office to support external communications on cross-government initiatives and issues management related to the work in the ministry. She works to maintain strong, positive relationships with reporters to support proactive media relations for the Minister and ministry.
- The Communications Manager oversees the day-to-day management of the GCPE staff and works closely with the Director to support the ministry's full range of external communications activities. He also maintains the ministry's communications calendar and is responsible for both operational and strategic human resources in the office.
- GCPE Staff: four senior public affairs officers, including one specifically working with DAS, one public affairs officer and one communications coordinator, work with ministry staff and the communications office leadership to develop communications materials.

**The work of GCPE:**

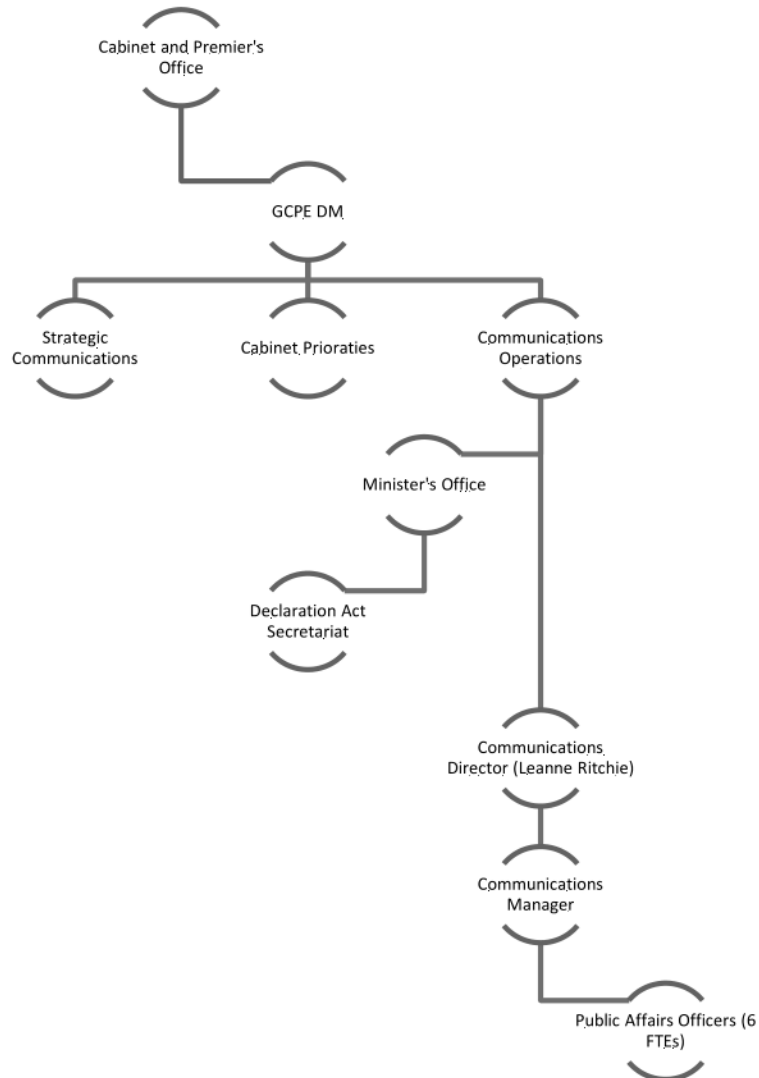
Work of the ministry GCPE team includes strategic communications advice, issues management, media relations, and coordination of announcements and events. A range of communications materials supports government communications objectives, including communications and events plans, engagement plans, key messaging, speeches, news releases, backgrounders, fact sheets, issues notes, media responses, social media, web content and public facing stakeholder engagement products.

The communications leadership team meets weekly with the Minister’s Office staff to plan and manage all communications activities and communications calendar scheduling, including announcement pitches at the weekly Ministerial Assistants’ pitch meeting. An internal calendar of upcoming events and issues is circulated on Wednesday mornings. The team works closely with the GCPE Events team to plan and execute media events for the Minister and Premier.

A daily morning news package of the top and most relevant news stories for the ministry is issued every weekday at 7:30 a.m. Social media monitoring services facilitate timely and proactive issues management.

The team also supports all communications teams across GCPE with guidance on Indigenous cultural protocols, including territorial acknowledgements.

**Organizational Chart:**



## **Primary Partners – Who Do We Interact With?**

### **First Nations Leadership Council**

The First Nations Leadership Council (FNLC) is a coalition comprised of three separate political executives from the BC Assembly of First Nations, the First Nations Summit and the Union of BC Indian Chiefs.

- While the members of the FNLC work together to engage with the Province and others to reach agreements on areas of mutual concern, they remain separate legal entities with overlapping membership.
- Members of the FNLC work together to develop coordinated approaches to issues relevant to First Nations communities throughout the province.
- The Province and FNLC have a shared agenda formalized through the Commitment Document. This sets out shared actions and processes for First Nations engagement. It also establishes the Joint Core Working Group, comprised of senior staff from the Province and the FNLC.
- The Joint Core Working Group (JCWG) is a collective staff table of the Province and the FNLC that collaborates on strategic direction to support implementation of the 2018 Commitment Document and associated Joint Agenda.
- Joint Core Political Table (JCPT) is the political table that JCWG reports to. It is chaired by the Minister of Indigenous Relations and Reconciliation, with attendance of the AG and other ministers as required.

### **BC Assembly of First Nations (BCAFN)**

- BCAFN is a regional arm of the Assembly of First Nations (a national advocacy organization representing First Nation citizens in Canada) and is a Provincial Territorial Organization (PTO) representing the 203 First Nations in BC.

### **First Nations Summit (FNS)**

- Approximately 150 BC First Nations participate in First Nations Summit assemblies and bring forward, discuss and provide political direction on issues of common concern.

### **Union of BC Indian Chiefs (UBCIC)**

- UBCIC is a non-profit political organization representing First Nations in BC (largely those First Nations which do not participate in the treaty process). They have consistently opposed the BC Treaty Process and the federal government's Comprehensive Claims Policy

### **Alliance of BC Modern Treaty Nations (Alliance or ABCMTN)**

- The Alliance formed in 2018 as a collective of modern treaty nations to work collaboratively and meet regularly on common treaty matters. It is made up of eight First Nations.
- The Declaration on the Rights of Indigenous Peoples Act Action Plan includes a section on modern treaties that affirms the importance of implementing the Declaration Act in a manner consistent with distinct modern treaty rights

- Premier's Forums are held between the Alliance members' leadership and Premier and members of Cabinet to discuss, learn, continue to build on relationships
- The Province and the Alliance have a formal agreement called the Shared Priorities Framework. The framework outlines priorities and commitments to advance the implementation of modern treaties.

### **Métis Nation BC (MNBC)**

- A Métis organization comprised of 39 Métis chartered communities. Created in 1996, MNBC represents one of five governing members of the Métis National Council.
- On October 27th, 2021, the Province and MNBC signed a Letter of Intent that sunsets the 2016 Metis Nation Relationship Accord II and commits the Parties to formalize dialogue and integrate engagement on Métis priorities across all of government through a new Métis Relations Working Table.
- BC's current position is that no Métis community is legally capable of successfully asserting site-specific Section 35 rights in British Columbia. Under the Declaration Act Action Plan, BC is committed to build strong partnerships together to address the specific social, cultural and economic needs of Métis people in BC.



**Declaration Act Secretariat  
KEY PARTNERS**

Name	Description	Key Issues / Interests
<p>First Nations Leadership Council</p>	<p>The First Nations Leadership Council is comprised of the political executives of the <u>BC Assembly of First Nations (BCAFN)</u>, the <u>First Nations Summit (FNS)</u>, and the <u>Union of BC Indian Chiefs (UBCIC)</u>. This group works together to develop coordinated approaches to issues relevant to First Nations communities throughout the province.</p> <p>The Province and FNLC have a shared agenda formalized through the Commitment Document. This sets out shared actions and processes for First Nations engagement. It also establishes the Joint Core Working Group, comprised of senior staff from the Province and the FNLC.</p>	<ul style="list-style-type: none"> <li>• Consulted on:               <ul style="list-style-type: none"> <li>○ Internal policy and resource development for consultation and cooperation work across ministries</li> </ul> </li> </ul> <p><small>Advice/Recommendations</small></p>

Name	Description	Key Issues / Interests
Alliance of BC Modern Treaty Nations	<p>Formed in 2018, the Alliance is a collective of modern treaty nations working on common treaty matters. Its members are the Tla'amin Nation, Tsawwassen First Nation, the five Maa-nulth Treaty Nations (Huu-ay-aht First Nations, Ka:'yu:'k't'h'/Chek'tles7et'h' First Nations, Toquaht Nation, Uchucklesaht Tribe and Yuułuʔiłʔatḥ Government) and Nisga'a Nation.</p> <p>The Province and the Alliance have a formal agreement called the <u>Shared Priorities Framework</u>. The framework outlines priorities and commitments to advance the implementation of modern treaties.</p> <p>Premier's forums are held between Alliance members' leadership and members of Cabinet.</p>	<ul style="list-style-type: none"> <li>● Consulted on: <ul style="list-style-type: none"> <li>○ Internal policy and resource development for consultation and cooperation work across ministries</li> </ul> </li> <li>● Advice/Recommendations</li> </ul>
Métis Nation BC	<p>A Métis organization comprised of 39 Métis chartered communities. Created in 1996, MNBC represents one of five governing members of the Métis National Council.</p> <p>In October 2021, the Province and MNBC signed a Letter of Intent that sunsets the 2016 Métis Nation Relationship Accord II and commits the Parties to formalize dialogue through a Métis Relations Working Table.</p>	<ul style="list-style-type: none"> <li>● Consulted on: <ul style="list-style-type: none"> <li>○ Internal policy and resource development for consultation and cooperation work across ministries</li> </ul> </li> <li>● Advice/Recommendations</li> </ul>

## Priority Call List

### MNBC

<b>Métis Nation British Columbia (MNBC)</b>	<p>Walter Mineault, President <a href="mailto:wmineault@mNBC.ca">wmineault@mNBC.ca</a></p> <p>Collette Trudeau CEO <a href="mailto:ctrudeau@mNBC.ca">ctrudeau@mNBC.ca</a></p> <p>Sasha Hobbs Chief Strategy Officer <a href="mailto:shobbs@mNBC.ca">shobbs@mNBC.ca</a></p> <p>Peter Csicsai Chief Relations Officer <a href="mailto:pcsicsai@mNBC.ca">pcsicsai@mNBC.ca</a></p>	Personal Information
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### Alliance of BC Modern Treaty Nations

<b>Alliance of BC Modern Treaty Nations</b>	Kylie Barwise, Coordinating Support <a href="mailto:kbarwise@Nvisiongroup.ca">kbarwise@Nvisiongroup.ca</a>	Personal Information
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<b>Member Nations:</b>		
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<b>Tla'amin Nation</b>	John Hackett, Hegus <a href="mailto:Admin@tn-bc.ca">Admin@tn-bc.ca</a>	Personal Information
<b>Huu-ay-aht First Nations</b>	John Jack, Chief Councillor <a href="mailto:john.j@huuayaht.org">john.j@huuayaht.org</a>	Personal Information
<b>Ka:'yu:'k't'h'/Chek'tles7et'h' First Nations</b>	Benjamin Gilette, Legislative Chief <a href="mailto:benjaming@kcfirstnations.com">benjaming@kcfirstnations.com</a>	Personal Information
<b>Toquaht Nation</b>	Anne Mack, ha?wił <a href="mailto:annem@toquaht.ca">annem@toquaht.ca</a>	(250) 726-4230

<b>Uchucklesaht Tribe</b>	Wilfred Cootes, Chief Councillor <a href="mailto:wilfred.cootes@uchucklesaht.ca">wilfred.cootes@uchucklesaht.ca</a>	Personal Information
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<b>Nisga'a Nation</b>	Eva Clayton, President <a href="mailto:evac@nisgaanation.ca">evac@nisgaanation.ca</a> <a href="mailto:info@nisgaa.net">info@nisgaa.net</a>	(250) 633-3000

FNLC

<b>First Nations Summit (FNS)</b> T: 604-926-9903 F: 604-926-9923 <b>Note: Can work with Colin Braker to organize a conference call</b>	Cheryl Casimer, Political Executive <a href="mailto:ccasimer@fns.bc.ca">ccasimer@fns.bc.ca</a>	Personal Information
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	Marilyn Teneese, Exec. Assistant <a href="mailto:mteneese@fns.bc.ca">mteneese@fns.bc.ca</a>	
<b>Union of BC Indian Chiefs (UBCIC)</b>	Grand Chief Stewart Philip, President <a href="mailto:President@ubcic.bc.ca">President@ubcic.bc.ca</a>	(604) 684-0231 (250) 828-9746

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	<p>Jody Woods, Admin and Research Director</p> <p><a href="mailto:jwoods@ubcic.bc.ca">jwoods@ubcic.bc.ca</a></p>	
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	<p>Vanessa West, Chief of Staff</p> <p><a href="mailto:Vanessa.West@bcafn.ca">Vanessa.West@bcafn.ca</a></p>	
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	<p>Maureen Buchan, Senior Policy Director</p> <p><a href="mailto:maureen.buchan@bcafn.ca">maureen.buchan@bcafn.ca</a></p>	

**Declaration Act Secretariat**  
**30-60-90-Day Issues**

<b>Issue / Decision / Activity</b>	<b>Brief Description</b>
<b>30 Days</b>	
Advice/Recommendations	
<b>60 Days</b>	
Advice/Recommendations	
<b>90 Days</b>	
Advice/Recommendations	

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## Section 3: Alignment of Laws

The Declaration Act Secretariat’s core functions are to support the advancement of Section 3 of the Declaration on the Rights of Indigenous Peoples Act (Declaration Act), which mandates the Province to take all measures necessary to ensure provincial laws are aligned with the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), doing so in consultation and co-operation with Indigenous Peoples. Meeting this obligation is an essential pathway for the recognition and implementation of title and rights, including treaty rights, and for the survival, dignity and well-being of Indigenous Peoples as protected under Section 35(1) of the Constitution Act, 1982.

British Columbia became the first jurisdiction in Canada to lead these legislative transformations and there is much to be learned from the ongoing work. The core of alignment of laws work is co-development, co-operation, co-drafting and consultation with Indigenous

*“The UN Declaration is the most comprehensive instrument detailing the rights of Indigenous Peoples in international law and policy, containing minimum standards for the recognition, protection and promotion of these rights. It establishes a universal framework of minimum standards for the survival, dignity, wellbeing and rights of the Indigenous Peoples.*

*The Declaration addresses both individual and collective rights; cultural rights and identity; rights to education, health, employment, language, and others. It outlaws discrimination against Indigenous Peoples and promotes their full and effective participation in all matters that concern them.*

*It also ensures the right to remain distinct and to pursue their own priorities in economic, social and cultural development. The Declaration explicitly encourages harmonious and cooperative relations between States and Indigenous Peoples.”*

.....  
*Source: UN Declaration on the Rights of Indigenous Peoples | OHCHR*



Peoples. The Declaration Act Secretariat (the Secretariat) continues to identify the systemic and cultural shifts needed to enable success: partnering with Indigenous Peoples and the B.C. public service, applying new learnings from past feedback and further evolving existing policies, processes and systems.

## Provincial, National and Global Leadership

The Secretariat's mandate is to ensure alignment with the UN Declaration. While delivering on this mandate, the Secretariat benefits from maintaining connection to those who developed it, as well as others across Canada and the world who are similarly involved in its implementation.

The Province has worked with the federal government, the Expert Mechanism on the Rights of Indigenous Peoples and the University of British Columbia in pursuit of the full implementation of the Declaration Act. On behalf of the Attorney General and the Minister of Indigenous Relations and Reconciliation, the Province submitted a formal response to the call by the United Nations Office of the High Commissioner for Human Rights for inputs on establishing effective mechanisms at the national and regional levels for implementing the UN Declaration. This continuing work is an important opportunity for the impact of the Province's work to be included in the official reports of the Human Rights Council, and for B.C. to partner with other states working towards similar goals, as well as to further showcase British Columbia as a global leader.

## Aligning Laws with the UN Declaration

*"The alignment of B.C. policies and laws with the United Nations Declaration on the Rights of Indigenous Peoples is a monumental undertaking. Having an Indigenous-led central agency mandated to drive this work is an invaluable key to success. Their guidance and advocacy within government to shift systems and culture is work that has the potential to transform the landscape in the province for years to come. We have appreciated building relationships with the Secretariat to support the implementation of Section 3 through a distinctions-based approach that recognizes and enforces modern treaty rights in B.C."*

.....  
- Alliance of BC Modern Treaty Nations

In 2023/24, the Province continued to develop and pass legislation consistent with the requirements of Section 3. The Secretariat's contribution spans formal input and advice on consultation and co-operation with Indigenous partners, informal troubleshooting, review of materials and issues resolution.



Below are some examples of key legislation passed that incorporated the UN Declaration and was effectively developed in consultation and co-operation with Indigenous Peoples:

**BILL 31 EMERGENCY AND DISASTER MANAGEMENT ACT  
(NOVEMBER 2023)**

On November 8, 2023, the Emergency and Disaster Management Act (EDMA) came into force, replacing the Emergency Program Act. The EDMA reflects the realities of the modern world including global pandemics, security threats and climate change. Guided by the United Nations Sendai Framework for Disaster Risk Reduction, it responds to the four phases of emergency management: mitigation, preparation, response and recovery.

The EDMA is also an important step in aligning the Province's laws with the UN Declaration as it:

- Recognizes Indigenous Peoples' inherent rights of self-government, including the authority to make laws in relation to emergency management;
- Establishes a framework for agreements between Indigenous governing bodies and other authorities that can help advance shared decision-making and co-ordination;
- Authorizes agreements with Indigenous governing bodies to coordinate the exercise of emergency powers, as well as plans, policies and programs related to the response and recovery phases; and
- Includes engagement provisions that require municipalities and regional districts to consult and co-operate with Indigenous governing bodies and incorporate Indigenous knowledge and cultural safety across emergency management practices.

Given this scope of change and the length of the legislation, appropriate engagement on the EDMA took time. In 2019 and 2020, the Province undertook a broad public engagement



process that included meetings with First Nations, Indigenous organizations and other partners in emergency management. In 2022, focused work with First Nations partners began. This included regular sessions with technical teams representing the First Nations Leadership Council and member Nations of the Alliance of BC Modern Treaty Nations, First Nations and Indigenous technical organizations and service providers to discuss the core policy interests underpinning the legislation and subsequently review drafts of the legislation.

The Province is now developing regulations in consultation and co-operation with First Nations, including member Nations of the Alliance of BC Modern Treaty Nations, and informed by engagement with Indigenous organizations, local authorities, critical infrastructure owners, service providers, emergency management practitioners, and the public. The Province has also released a new Indigenous engagement requirements document that provides guidance for implementing the engagement provisions of the EDMA. For more information, please see Theme 1, Action 1.10.

*“This is a much-needed update to the emergency management regime in B.C. First Nations maintain their rights to decide, prepare, mitigate and recover from emergencies. B.C. needs to ensure their laws and regulations will work in partnership with First Nations governments. The BC Assembly of First Nations supports the inclusion of First Nations in all areas of emergency management. This has been another historic year for wildfires and we always are the first to feel the impacts from the climate emergency.”*

.....  
- **Terry Teegee, Regional Chief,**  
BC Assembly of First Nations.



**BILL 5 CHILD, FAMILY AND COMMUNITY SERVICE AMENDMENT ACT (MARCH 2024)**

In November 2022, significant changes were made to the Child, Family and Community Service Act (CFCSA) to align with the UN Declaration. This was the first legislative initiative to enable joint and consent-based decision-making agreements as described in section 6 and 7 of the Declaration Act.

In the early work to implement these provisions, Indigenous partners identified a number of key issues for clarification and amendment to strengthen opportunities for the exercise of inherent Indigenous jurisdiction. Working in consultation and co-operation with Indigenous partners, communities and service providers, the Ministry of Child and Family Development undertook a number of multiple-partner engagement sessions to listen to the challenges, problem-solve solutions and develop legislative amendments together.

The resulting amendments expand the scope for joint and consent-based decision-making agreements in Indigenous child and family services and broaden the definition of “Indigenous child”. This ensures that Indigenous governing bodies not yet exercising their inherent jurisdiction have a pathway to identify their children, provide more culturally relevant care and preserved connection to culture. These amendments to the CFCSA also ensure that appellate courts can hear matters under Indigenous law. Bill 38 introduced a pathway for Indigenous governing bodies to refer to the Provincial court for dispute resolution under their Indigenous law, which is the same dispute resolution process available in the CFCSA. The addition of appellate courts will ensure that, where an Indigenous governing body opts to use provincial courts for dispute resolution, the full provincial appeals process is available to families. These amendments further support the multijurisdictional child and family services model and bring the Act closer to alignment as intended under the Declaration Act. For more information, please see Theme 4, Action 4.17.







**BILL 40 SCHOOL AMENDMENT ACT (NOVEMBER 2023)**

The School Amendment Act supports better education outcomes for First Nations and other Indigenous students attending provincial public schools, in part through hardwiring processes for effective relationships between boards of education and First Nations.

The amendments ensure that First Nations and Treaty First Nations have the option to apply a Model local education agreement (Model LEA) with boards of education should a First Nation request it, setting out processes for information sharing, collaboration and decision-making. The amendments also take a distinctions-based approach, requiring all boards to establish an Indigenous education council (IEC) in their school districts to ensure decisions being made for Indigenous students are made by Indigenous organization representatives and people. This amendment also embeds continuous consultation and co-operation among school districts and IECs, prioritizing the views of local First Nations, their languages, histories and cultures. Finally, the amendments ensure that First Nation students who live on-reserve or Treaty lands have priority to attend public schools designated by their First Nation through the First Nation school of choice provision.

Furthermore, these amendments support reconciliation commitments with the intent to better meet the needs of community and reflect respect for inherent rights and jurisdiction in the education sector. LEAs were a specific commitment set out in the BC Tripartite Education Agreement (BCTEA), the Declaration Act Action Plan, and First Nations school of choice evolved from LEAs. Consultation and co-operation continues in the implementation of the Bill. For more information, please see Theme 1, Action 1.06, and Theme 4, Action 4.03.

*“Today is an important day for First Nation learners and the provincial education system in B.C. These changes to the School Act are aimed at improving First Nation student learning outcomes through effective relationships and processes that respect the inherent authority and role of First Nation governments, parents and communities in the education of their children and youth. First Nations control of First Nations education underpins the First Nation education system we have spent three decades building in B.C. This work includes ensuring the provincial public school system is responsive to, and respects and incorporates the perspectives of, First Nations to better support this student population in a meaningful and appropriate way.”*

*“Indigenous students, particularly First Nation students living on reserve, face systemic barriers that result in inequitable outcomes in the K-12 system, and so the changes in this suite of amendments represent systemic, transformative and welcome changes.”*

.....  
**- Tyrone McNeil, President,**  
First Nations Education Steering Committee



## Capacity Growth

In addition to supporting individual ministries and legislative and policy initiatives, the Secretariat plays a key role in supporting the overall capacity of the provincial public service – and key external agencies and partners – to undertake this work.

One way the Secretariat advances this capacity growth is through developing tools, guidelines and similar resources to support alignment of laws, consultation and co-operation, and the key enabling conditions needed for lasting change and system shifts. This year, the Secretariat has worked with Indigenous partners and ministries across government to initiate the development of consultation and co-operation guidance and support tools, and a broader emerging change leadership framework. The Secretariat has also initiated the development of metrics, indicators, and case studies which will more clearly illuminate progress and spread key learnings and successful practices.

*“The implementation of the Interim Approach has presented us with a valuable opportunity to work with government in a way we have never seen before. The Secretariat as a driver of the Interim Approach and alignment of laws work has played an important role in First Nations’ participation in government process. As a result, First Nations are engaging with government on more legislative pieces to align with the UN Declaration.”*

.....  
**- Grand Chief Stewart Phillip, President,**  
*Union of BC Indian Chiefs*

Another way that the Secretariat supports capacity is through consistent participation in cross-government committees at the executive level. These committees are a key forum through which legislative and policy initiatives are shaped and advanced through their development. Participation in them ensures Section 3 obligations are represented, and perspectives shared by Indigenous Peoples and partners are threaded throughout provincial government business.

There is significant interest in the Secretariat’s work and the alignment of laws, and Secretariat staff invest time and energy in delivering education sessions to internal and external audiences. Over the past year, the Secretariat facilitated over 28 presentations to internal and external groups, including: ministries, provincial councils, Crown corporations, board leadership, local governments and more. These education sessions provide critical awareness and understanding of the UN Declaration and everyone’s obligations to advance Indigenous human rights, including the specific obligations under the Declaration Act.



## Relationship Building

Alignment of laws work must be done in true partnership between the Province and Indigenous Peoples. The development of genuine relationships and trust takes time. In some places, these relationships already exist but in many sectors and spaces, they are just forming. The Secretariat serves a critical interlocutor role, supporting the public service and Indigenous partners to advance substantive issues through policy advice, and facilitate partnership and collaboration to mitigate issues.

The co-development of legislation, policies and consultation and co-operation is a significant task that requires considerable capacity and resources. The launch of the Declaration Act Engagement Fund has provided for First Nations partners to invest in Declaration Act engagement work in a way that meets their needs. This includes work specific to engagement with the Province on alignment of laws, as well as consultation and co-operation.

*"The launch of the Declaration Act Engagement Fund gives First Nations the opportunity for much needed capacity funding to engage with government. This supports First Nations participation in the critical work of implementing the Declaration Act and the alignment of laws – and upholding the values of the United Nations Declaration on the Rights of Indigenous People."*

.....  
**- Cheryl Casimer, Political Executive,**  
*First Nations Summit*

## SECTOR SPECIFIC ALIGNMENT OF LAWS OVERVIEW

**Ministry:** Declaration Act Secretariat

### **Information Briefing Note: Alignment of Laws – Sector Specific Update**

- Section 3 of the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act) requires the Province, in consultation and co-operation with Indigenous Peoples, to take “all measures necessary” to ensure consistency between the laws of British Columbia and the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration).

### **How the Declaration Act Secretariat (the Secretariat) supports the Province in Section 3 implementation**

- Since the passing of the *Declaration on the Rights of Indigenous Peoples Act* (the Declaration Act) in 2019, government has made progress on alignment of provincial legislation with the UN Declaration, and ministries are consulting and cooperating with Indigenous Peoples on key policy and legislation earlier and more effectively.
- The Declaration Act Secretariat (the Secretariat) is a central agency. In the 2023/2024 fiscal year, the Secretariat supported 59 files across 20 ministries. Thirty of these were specifically legislative items, while 29 were other policy or regulatory changes.
- Delivering on government’s statutory obligation to align B.C.’s laws with the UN Declaration is a large and complex undertaking, particularly considering the ever-evolving landscape and emerging nature of this work.
- The Secretariat plays a critical role in supporting a consistent cross-government approach to the alignment of laws through direct ministry support at each stage of policy and legislative development.
- The team is split into three sector areas and focuses on key priority legislation and alignment for ministries in each of the corresponding sectors: Social, Justice and Policing Sector, Natural Resource Sector, and Finance and Economic Sector (see Appendix A for sector – ministry breakdown).
- Further details on the progress, to date, of the alignment of laws in each of the sectors can be found below.

### Social, Justice and Policing Sector

- Many recent advancements in the alignment of laws have occurred in the social sector. Projects have focused on increasing jurisdiction in child and family welfare, improving outcomes for First Nations students and educators, and supporting several initiatives directly impacting housing in First Nations communities.
- Ministries in the social sector have been conducting engagements to inform legislation, regulation and policy for many years. While this experience is advantageous, in terms of relationship building, the complexity and scale of projects within this sector present some challenges, including engagement fatigue and capacity challenges for communities and organizations. The Secretariat is working with this sector to support a coordinated and consistent approach to the alignment of laws.
- The following pieces of legislation include alignment of laws components. This list is not comprehensive.

- *Anti-Racism Act* (Bill 23, Fall 2024)
- *Adoption Amendment Act* (Bill 19, Spring 2024), and the *Child, Family and Community Service Amendment Act* (Bill 5, Spring 2024)
- *First Nations Mandated Post-Secondary Institutions Act* (Bill 20, Spring 2024)
- *School Amendment Act* (Bill 40, Fall 2023)
- *Indigenous Self-Government in Child and Family Services Amendment Act* (Bill 38, Fall 2022).
- *Health Professions and Occupations Act* (Bill 36, Fall 2022)
- *Accessible British Columbia Act* (Bill 6, Fall 2021)
- *Human Rights Code Amendment Act* (Bill 18, Fall 2021)
- *Amendments to the Child, Family and Community Service Act* (Bill 21, Fall 2021)
- *Education Statutes Amendment Act* (Bill 25, Fall 2021)
- *Interpretation Amendment Act* (Bill 29, Fall 2021)
- In addition to the passing of legislation listed above, the sector continues to work on Declaration Act Action Plan priorities that include policies and strategies which may require or potentially initiate legislative alignment. The areas of focus have, thus far, included Ending Indigenous-Specific Racism and Discrimination, and Social, Cultural and Economic Well-being.

#### Natural Resource Sector

- Efforts in this sector have been focused on advancing Declaration Act Action Plan commitments related to modernizing legislation, regulation, and policy within emergency and disaster management, water sustainability, forestry, heritage conservation and mining. This work has included significant advancements in the establishment of innovative approaches to the collaborative stewardship of the land base, with Indigenous Partners (e.g., Forest Landscape Planning). Two statutes with alignment of laws components have been enacted, namely the:
  - *Emergency and Disaster Management Act* (Bill 31, Fall 2023)
  - *Forests Statute Amendment Act* (Bill 23, Fall 2021)
- While progress has been made on the alignment of laws in this sector, the complexity, scale of projects, and the balancing of, sometimes competing, third party rights and interests present challenges. The Secretariat is working closely with this sector to address these challenges and chart a collaborative path forward by being a catalyst for cultural change and technical capacity building.

#### Finance and Economics Sector

- This sector continues to make steady progress on actions from the Declaration Act Action Plan. Priority actions with a stronger link to obligations under section 3 of the Declaration Act include co-developing a new distinctions-based fiscal relationship and framework, including a new policy framework for resource revenue sharing, and co-developing a framework to support repatriation initiatives.
- Another notable priority is to develop equity loan guarantees and other supports for First Nations through a new First Nations Equity Financing Framework.
- The *Anti-Racism Data Act* was enacted in Spring 2022 and is closely aligned with the UN Declaration.
- The Secretariat is working closely with this sector to ensure that as they develop laws, policies, strategies and frameworks, they:

- Are undertaking effective and appropriate consultation and cooperation and meeting both provincial and Indigenous Partners' expectations.
- Have the knowledge, understanding, capacity and organizational structure to undertake this work.

**Additional alignment support**

As a central agency, the Secretariat must maintain a cross-government view of ongoing alignment work. In addition to providing direct supports to ministries and producing guidance on section 3, the Secretariat also sits on various Executive Director, Assistant Deputy Minister and Deputy Minister-level tables to provide insight, advice and recommendations on legislation that is moving through those systems. The Secretariat is also leading and participating in management-level, cross ministry reconciliation and consultation related tables to support consistent and effective approaches to alignment.

Appendix A: Declaration Act Sector Breakdown

<b>Current Declaration Act Secretariat Sector Breakdown</b>		
<b>Finance and Economics</b>	<b>Social, Justice and Policing</b>	<b>Natural Resource</b>
Citizen Services*	Attorney General	Emergency Management and Climate Readiness
Finance	Child and Family Development	Energy, Mines and Low Carbon Innovation
Jobs, Economic Development, and Innovation	Education and Child Care	Environment and Climate Change Strategy
Labour	Health	Forests
Municipal Affairs	Housing	Water, Lands and Resource Stewardship
Tourism, Arts, Culture and Sport	Mental Health and Addictions	Agriculture and Food
Transportation and Infrastructure	Post-Secondary Education and Future Skills	Indigenous Relations and Reconciliation*
	Public Safety and Solicitor General*	
	Social Development and Poverty Reduction	

\*Some aspects of ministry work are shared among the sector leads given the cross-over in subject matter.

INTERIM APPROACH TO IMPLEMENTING  
THE REQUIREMENTS OF SECTION 3 OF THE  
**Declaration on the Rights  
of Indigenous Peoples Act**

*Prepared by the Declaration Act Secretariat*



BRITISH  
COLUMBIA



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# Purpose

Section 3 of the *Declaration on the Rights of Indigenous Peoples Act* requires that Province “in consultation and cooperation with Indigenous Peoples” take “all measures necessary” to ensure consistency between the laws of British Columbia and the *United Nations Declaration on the Rights of Indigenous Peoples*.

Implementing section 3 means that the Province must work to ensure better consistency and clarity of process for involving Indigenous Peoples<sup>1</sup> in policy and legislative development. The Province is developing measures to achieve this through multiple venues, including working directly with First Nations on a government-to-government basis, implementing treaties, agreements, and other constructive arrangements, as well as through on-going work with the Alliance of BC Modern Treaty Nations<sup>2</sup> (ABCMTN), First Nations Leadership Council<sup>3</sup> (FNLC), and Métis Nation BC<sup>4</sup> (MNBC).

This includes measures that were evolving through current ministry-specific policy and legislative development processes. All of this work must be distinctions-based, including as stated in the Draft 10 Principles, the Declaration Act, and the Declaration Act Action Plan.

The Declaration Act Secretariat<sup>5</sup> supports routine cross-government measures, that will ultimately constitute a reformed process, for including Indigenous Peoples in policy and legislative development. It is also recognized that while those measures are being fully developed, interim guidance for public servants is needed as the obligations in section 3 of the Declaration Act are in force.

This document provides **interim guidance** for implementing section 3 of the Declaration Act and, in particular, regarding approaches for involving Indigenous Peoples in policy and legislative development. This is an interim document; it may be updated periodically to incorporate additional information and guidance from the Declaration Act Secretariat. All ministries needing guidance and advice regarding the understanding and implementation of the policy contained in this document should contact the *Declaration Act Secretariat*.

- .....
- 1 Consistent with Section 35(1) of the Constitution Act, 1982 and section 1 of the Declaration Act, the term “Indigenous Peoples” includes First Nations, Métis and Inuit Peoples in Canada.
  - 2 The Shared Priorities Framework, signed in March 2022 between British Columbia and the members of the Alliance of BC Modern Treaty Nations, renews a commitment to timely, effective and appropriately resourced implementation of modern treaties with broad outcomes that included meaningful involvement of modern treaty nations in legislative and policy initiatives.
  - 3 The First Nations Leadership Council acts pursuant to mandates provided by Title and Rights Holders, including through resolutions passed through the member organizations of the FNLC.
  - 4 The October 27, 2021, Letter of Intent between Métis Nation British Columbia (MNBC) and the Province proposes a new whole-of-government approach to Métis relations as a partnership between MNBC and British Columbia that respects Métis self-determination.
  - 5 The development of the Secretariat is directed in the mandate letter (2020) of the Minister of Indigenous Relations and Reconciliation.



## Context

The UN Declaration is the most comprehensive international human rights instrument to explicitly address the human rights of Indigenous Peoples.

The UN Declaration:

“...emphasizes the rights of Indigenous Peoples to maintain and strengthen their own institutions, cultures and traditions and to pursue their development in keeping with their own needs and aspirations. It establishes an important standard for eliminating human rights violations against Indigenous Peoples worldwide and for combating discrimination and marginalization.”<sup>6</sup>

The UN Declaration has 46 articles that constitute the “minimum standards for the survival, dignity and well-being of the Indigenous Peoples of the world” and “elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of Indigenous Peoples”. The UN Declaration is to be read as a whole; the rights and standards within it are interconnected. They cannot be isolated from one another or chosen between.

The UN Declaration also contains direction to States (e.g. Crown governments), on how to develop policy and legislation.

Article 19:

States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions **in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures** that may affect them.

Article 38:

States in consultation and cooperation with Indigenous Peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

The importance of the UN Declaration was reinforced in 2015 in the Truth and Reconciliation Commission of Canada’s Call to Action 43:

43. We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.

6 [https://www.un.org/esa/socdev/unpfii/documents/Declaration\\_ip\\_pressrelease.pdf](https://www.un.org/esa/socdev/unpfii/documents/Declaration_ip_pressrelease.pdf)



The Declaration Act reflects the role of the UN Declaration as the framework for reconciliation.<sup>7</sup>

The purposes of the Declaration Act are to:

- Affirm the application of the UN Declaration to the laws of B.C.;
- Contribute to the implementation of the UN Declaration in B.C.; and
- Support the affirmation of, and develop relationships with, Indigenous governing bodies.

The Declaration Act requires the Province, in consultation and cooperation with Indigenous Peoples, to:

- Ensure provincial laws are consistent with the UN Declaration (section 3);
- Develop and implement an action plan to achieve the objectives of the UN Declaration (section 4); and
- Monitor progress through public annual reporting (section 5).

Key terms in the Declaration Act include:

**“Indigenous Peoples”** has the same meaning as Aboriginal Peoples in section 35 of the *Constitution Act, 1982* (note that this term includes First Nations, Inuit and Métis peoples);

**“Indigenous governing body”** means an entity that is authorized to act on behalf of Indigenous Peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.

The Declaration Act sets out a process for the Province to enter into agreements with Indigenous governing bodies, including joint or consent-based decision-making agreements (sections 6 and 7). The following link provides guidance on *Indigenous governing bodies*.

The phrase “consultation and cooperation” in the Declaration Act is taken from the UN Declaration and its meaning has been the subject of advice from the United Nations Expert Mechanism on the Rights of Indigenous Peoples:

“Use in the [UN] Declaration of the combined terms ‘consult and cooperate’ denotes a right of Indigenous Peoples to influence the outcome of decision-making processes affecting them, not a mere right to be involved in such processes or merely to have their views heard. It also suggests the possibility for Indigenous Peoples to make a different proposal or suggest a different model, as an alternative to the one proposed by the Government or other actor.”<sup>8</sup>

As such, the Province must approach policy and legislation development that may affect Indigenous Peoples in a manner that ensures Indigenous Peoples are fully involved partners in the process and have opportunities to influence the outcome of matters that may affect them.

.....

<sup>7</sup> The federal United Nations Declaration on the Rights of Indigenous Peoples Act also reflects the role of the UN Declaration as the framework for reconciliation, as called for by the Truth and Reconciliation Commission Call to Action 43.

<sup>8</sup> United Nations, General Assembly, Human Rights Council, *Study of the Expert Mechanism on the Rights of Indigenous Peoples: Free, prior and informed consent: a human rights-based approach*, A/HRC/39/62 (10 August 2018) at para. 15.



# Interim Approach for Implementing Section 3

The guidance in this section focuses on the process for developing policy and legislation to ensure the requirements in section 3 of the Declaration Act are met. As the Province is continuing to develop measures to implement section 3, the guidance in this section should be considered interim. It will be updated and supplemented as the work of implementing the Declaration Act in consultation and cooperation with Indigenous Peoples continues. The Declaration Act Secretariat supports ministries in implementing this guidance, as well as the development of additional measures for implementing section 3. Additionally, ministries should seek guidance from the Indigenous Legal Relations Solicitors Unit (NATRIL) within the Legal Services Branch (MAG), as well as ministry-specific legal counsel, throughout the application of this interim process.

The interim process has been developed through on-going efforts to effect consultation and cooperation with Indigenous Peoples during the development of policy and legislation. The experiences of ministries in working with Indigenous Peoples on policy and legislative change since the passage of the Declaration Act have informed the development of this guidance.<sup>9</sup>

The following diagram (Appendix 1) illustrates the interim process for working with Indigenous Peoples in the development of policy and legislation. This interim process is intended to support new approaches to collaboration, information sharing and drafting that bring in the Indigenous perspectives to build a shared understanding of the effect of the policy and legislation on Indigenous people’s rights or interests and ensure that policies and laws are developed or amended to be consistent with the UN Declaration.

See *Appendix 1*.

The diagram identifies five points in time where involvement of Indigenous Peoples takes place in the development of policy and legislation.

.....  
<sup>9</sup> Some examples of recent processes that have illustrated certain current effective practices include: MCFD’s “Letter of Commitment” of how they will work with the FNLC; the process for the development of the Anti-Racism legislation; and the process used to develop the Declaration Act itself.



## 1: Initiate Policy Exploration and Establish Consultation and Cooperation Plan

At the earliest stage of policy development for potential legislation – when the Province is identifying the problem statement (what is the issue or problem we are trying to address or solve through potential policy and legislation?) – dialogue with Indigenous Peoples is required. Dialogue at this stage is to identify priorities, begin to consider how the policy and potential legislation may affect Indigenous Peoples, and begin to identify how it may be consistent with the UN Declaration.

There is no single, prescriptive approach to how this vitally important early engagement may take place. What is required will vary, depending on how the policy being developed and how potential legislation may affect Indigenous Peoples. It may be that early engagement will include a range of measures (e.g., meetings, workshops, correspondence) to share information and dialogue with First Nations, other Indigenous Peoples, and Indigenous organizations, taking the required distinctions-based approach.<sup>10</sup> For example, it may often be appropriate to also work not only with Indigenous Peoples, but also in collaboration with political and advocacy organizations established by Indigenous Peoples, and sectoral organizations, with whom the Province has established relationships and processes that continue to evolve.<sup>11</sup>

It is important to understand that legislation or policy of “general application” may affect Indigenous Peoples, as indicated by the United Nations:

***It would be unrealistic to say that the duty of States to consult directly with Indigenous Peoples through special, differentiated procedures applies literally, in the broadest sense, whenever a State decision may affect them, since almost all legislative and administrative decisions that a State adopts may affect the Indigenous Peoples of the State along with the rest of the population in one way or another. Rather, ...it applies whenever a State decision may affect Indigenous Peoples in ways not felt by others in society. Such a differentiated effect occurs when the interests or conditions of Indigenous Peoples that are particular to them are implicated in the decision, even when the decision may have a broader impact, as in the case of certain legislation.***<sup>12</sup>

- .....
- 10 The distinctions-based approach requires that the Province’s dealings with First Nations, Métis and Inuit Peoples be conducted in a manner that acknowledges the specific rights, interests, priorities and concerns of each, while respecting and acknowledging these distinct Peoples with unique cultures, histories, rights, laws, and governments. Section 35 of the Constitution Act, 1982, recognizes and affirms the rights of Aboriginal Peoples of Canada, while all Indigenous Peoples have human rights that are expressed in the UN Declaration. However, not all rights are uniform or the same among or between all Indigenous Peoples. In many cases, a distinctions-based approach will require that the Province’s relationship and engagement with First Nations, Métis and Inuit Peoples include different approaches or actions and result in different outcomes.
  - 11 Ministries should seek guidance from MAG and MIRR at this stage on any MOU’s or established protocols or processes that may be engaged by the evolving policy proposal, including those with First Nations, FNLC, First Nations Organizations, ABMTN, MNBC, and urban Indigenous organizations.
  - 12 United Nations, General Assembly, Human Rights Council, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, *A/HRC/12/34* (15 July 2009) (*Report of the Special Rapporteur 2009*) at para. 43.



For example, land and resource policy and legislation may affect First Nations in particular ways due to their rights and interests relating to land in their traditional territories (see Articles 26 and 29 of the UN Declaration) and identifying and addressing these impacts will require a distinctions-based approach. As well, legislation dealing with children in care affects Indigenous Peoples in particular ways, given the ongoing impact of colonialism on Indigenous societies and relevant UN Declaration standards relating to children (see, for example, UN Declaration Article 7.2 and TRC Calls to Action 1 to 5).

The potential to affect Indigenous Peoples gives rise to the need to engage in dialogue with Indigenous Peoples to determine whether and how they wish to be involved in developing policy or laws, to ensure consistency with their human rights set out in the UN Declaration, which may include co-development of proposed policy and legislation, through actions in the other points in time in the interim legislative process.

Once it is determined that the proposed policy or legislation may affect Indigenous Peoples, effective processes for Indigenous Peoples to participate in developing policy and legislation must be implemented. There is no single model for this consultation and cooperation. How processes may look will vary depending on the nature, scope, and potential effects of the proposed policy or legislation and what Indigenous Peoples have indicated are substantive or process priorities through early engagement. As well, a distinctions-based approach must always be followed.

Approaches to consultation and cooperation are informed by, but not limited to, the following:

- The subject-matter of the policy or legislation being developed and how it relates to Indigenous Peoples or their rights (e.g. engagement relating to land and resources is often more specific to First Nations, while engagement on social sector initiatives will include not only First Nations, but potentially First Nation organizations, Inuit or Métis Peoples);
- The level of interest in the proposed policy and legislation indicated by Indigenous Peoples;
- The desired degree and form of engagement as indicated by Indigenous Peoples and partners;
- Existing commitments, treaties, agreements or other constructive arrangements with Indigenous Peoples and Indigenous governing bodies, which include obligations and must be considered when relevant to the policy issue or situation;<sup>13</sup> and
- Crown obligations under section 35(1) of the Constitution Act, 1982 (e.g. upholding the honour of the Crown).

In situations where mechanisms and processes for engagement are not in place, they should be jointly determined with Indigenous partners. It is important to establish clear expectations around matters such as process, mandates, development of documents, tracking of outcomes, and funding. Ensure there is adequate time for consultation and cooperation.

.....

**13** The Government of B.C.'s website provides a list of *modern treaties*, historic treaties and *reconciliation and other agreements*. In addition, historic treaties (the "Douglas" or "pre-confederation" treaties on Vancouver Island and Treaty 8 in the northeast) and modern treaties contain treaty rights that are protected under section 35 (1) of the Constitution.



Determining who should be involved in consultation and cooperation is also vitally important. Indigenous Peoples, as rights holders, must be the focus of consultation and cooperation. However, not all Indigenous Peoples will choose to be involved in the same way. Issues that are priorities for some, and priorities for the Province, may be determined by some Indigenous Peoples to not be a priority for them. As well, a distinctions-based approach must be applied. For example, there will be circumstances and contexts, such as with respect to land and resource matters, where only First Nations will be part of the process of development of the policy and legislation.

As a general practice as well, any process of consultation and cooperation should accommodate multiple ways for Indigenous Peoples to be involved. It should never be presumed (or imposed) that Indigenous Peoples will all choose to be involved in the same way, and it is not for the Province to impose modes of involvement.

To establish who should be involved in the consultation and cooperation, consider the following:

- Determine how both Indigenous Peoples and their organizations should be involved. For instance, in some cases First Nations' political leadership collaborate with First Nation organizations for technical and subject matter expertise. Be sure to understand how Indigenous organizations relate to leadership and the peoples they represent.
- Seek internal advice from those who understand the complexities and dynamics of collaborating with Indigenous Peoples on policy and legislation – this includes the Declaration Act Secretariat, regional staff that work closely with Indigenous partners or Indigenous Relations and Affairs units across ministries.
- Seek internal advice on required protocols and practices in place through treaties, agreements, and other constructive arrangements.
- Seek guidance from Indigenous partners on how to respect any Indigenous protocols, traditions, governance processes, laws and jurisdiction.
- Seek internal advice on any legal matters that may have to be addressed through working with the Indigenous Legal Relations Solicitors Unit (NATRIL) within the Legal Services Branch (MAG), as well as ministry-specific legal counsel.
- While some ministries will have existing relationships with Indigenous partners, others may not. Seek cross-ministry dialogue across relevant sectors to learn more about established relationships where they exist, and to support this collaborative work in an effective and efficient way.
- Seek clarity and understanding of how to appropriately engage the diversity of voices among engaged Indigenous partners. This includes opportunities beyond governance structures (e.g. hereditary and elected leaders) to an intersectional approach that could engage Indigenous women, Elders and youth, persons with disabilities and 2SLGBTQQIA+ organizations that serve urban Indigenous populations and other subject matter experts and impacted peoples within an Indigenous community. This helps ensure that all relevant Indigenous Peoples have participated.
- Seek guidance from other subject matter experts (e.g. youth) of the Indigenous Peoples you have determined should be involved in your process.
- Always apply a distinctions-based process.



Finally, it is critically important to remember that any consultation and cooperation plan ministries develop must contemplate what might be done throughout the entire development of policy and legislation – through all of the points in time outlined in the interim approach for implementing section 3 (see *Appendix 1 – Interim Legislative Process*). As such, all the points in time must be considered in developing the consultation and cooperation plan.

## 2: Development of Request for Decision

Based on the early development of policy and the on-going implementation of the consultation and cooperation process a “Request for Decision” (RFD) will be developed. A request for decision must be informed by the early exploration of policy ideas with Indigenous Peoples, provide clarity on the particular policy areas engaged by the proposed policy or legislation, examine how the proposed policy may affect Indigenous Peoples and is consistent with the UN Declaration, and provide clarity on the expected legislative timeline.

Requests for Decision can be jointly prepared with Indigenous Peoples (also known as co-development), and the work done at points 1 and 2 will determine when it is necessary and appropriate to undertake this joint development. In some instances, such as where document for Cabinet are being developed and shared, confidentiality protocols will be necessary.<sup>14</sup>

It may also be the case that First Nations organizations may play a direct role in supporting how consultation and cooperation takes place in the development of the Request for Decision, based on their mandates from First Nations. For example, often this may include the legal and policy teams of the First Nations Leadership Council (FNLC) being actively engaged in the joint development of the Request for Decision to Cabinet. You may also work collectively with the Alliance of BC Modern Treaty Nations respecting individual modern treaties, and the Shared Priorities Framework with Alliance of BC Modern Treaty Nations (ABCMTN), and Treaty Nations as required by treaties, agreements and other constructive arrangements, and with Métis Nation BC (MNBC) as appropriate. A distinction-based approach must always be applied.

Based on your consultation and cooperation process, there may also be on-going dialogue, engagement, and work with Indigenous Peoples throughout the development and consideration of a Request for Decision.

.....  
<sup>14</sup> If your efforts involve the sharing of legislation or confidential documents associated with legislation, a new confidentiality agreement has been developed that can be used across all provincial ministries. These agreements are valid for a calendar year and should be used in situations where the individual you’re consulting with is someone you plan on interacting with more than once in a calendar year. Once an agreement has been signed by an individual, any ministry official is able to share legislation or associated documents with them, being mindful that the specific documents you intend on sharing should be confirmed by your solicitor.





### 3: Development of Request for Legislation

Subsequent to the approval of a Request for Decision, the development of a “Request for Legislation” (RFL) will take place. A central aspect of this will be the development of a “three-column document” that identifies the proposed contents of the legislation and their policy rationale. The three-column document must reflect the outcome of the Request for Decision, must be informed by the on-going exploration of policy ideas with Indigenous Peoples, and reflect how the proposed policy may affect Indigenous Peoples and is consistent with the UN Declaration.

Requests for Legislation can be jointly prepared with Indigenous Peoples (also known as co-development), and the work done at points 1 and 2 will determine when it is necessary and appropriate to undertake this joint development. In some instances, such as where documents for Cabinet are being developed and shared, confidentiality protocols will be necessary.

As with the RFD, it may also be the case that First Nations organizations, and in particular the FNLC and the ABCMTN, may play a direct role in supporting how consultation and cooperation takes place in the development of the Request for Legislation, based on their mandates from First Nations. This may include the legal and policy teams of the FNLC being actively engaged in the joint development of the Request for Legislation. You may also work collectively with the Alliance of BC Modern Treaty Nations respecting individual modern treaties, and the Shared Priorities Framework with ABCMTN, and Treaty Nations as required by treaties, agreements and other constructive arrangements, and with MNBC as appropriate. A distinctions-based approach must always be applied.

Based on your consultation and cooperation process, there may also be on-going dialogue, engagement, and work with Indigenous Peoples throughout the development and consideration of a Request for Legislation to Cabinet.



## 4: Legislative Drafting

Legislative drafting takes place by legislative counsel working under the direction of a directing official. The three-column document developed under 3 above guides the legislative drafting.

The current policy and practice of British Columbia is that co-development does not include Indigenous Peoples drafting together with legislative counsel or the sharing of legal advice relating to the policy or legislation.<sup>15</sup> However, it can include, with confidentiality protocols in place, the sharing of consultation drafts of legislation with Indigenous Peoples, the joint review of those drafts, and the directing official taking proposals for change to the legislative council based on that consultation and cooperation. In some instances, this process of reviewing and proposing change(s), may take place multiple times.<sup>16</sup>

As well, additional guidance and measures regarding legislative drafting are being discussed with the Declaration Act Secretariat, through processes in place with the ABCMTN, the FNLC based on their mandates from First Nations, and with MNBC as appropriate.

## 5: Introduction of Bill – Parliamentary process

Once the Bill (legislation) has been tabled for debate in the legislature, there may sometimes be additional opportunities for reviewing, and potentially amending, the proposed legislation in collaboration. However, currently this is subject to the Parliamentary process and decisions made by provincial elected officials during the Parliamentary process. Some of the many opportunities that may exist, as determined by the Parliamentary process and political decision-making, include: meetings and briefings for Indigenous representatives with Ministers and the public service; public forums about the legislation; and legislative committee hearings and processes. As well, during the Parliamentary process statements and documents may be made public about how the legislation was developed, the consultation and cooperation that took place, and how the legislation is consistent with the UN Declaration.

It is important to continue to engage with Indigenous Peoples and partners as the Bill proceeds through the legislative process and to advise them of any issues that may arise during the debate or committee process, and especially if any amendments to the Bill arise.

### For further information:

Please contact the Declaration Act Secretariat at [DeclarationActSecretariat@gov.bc.ca](mailto:DeclarationActSecretariat@gov.bc.ca)

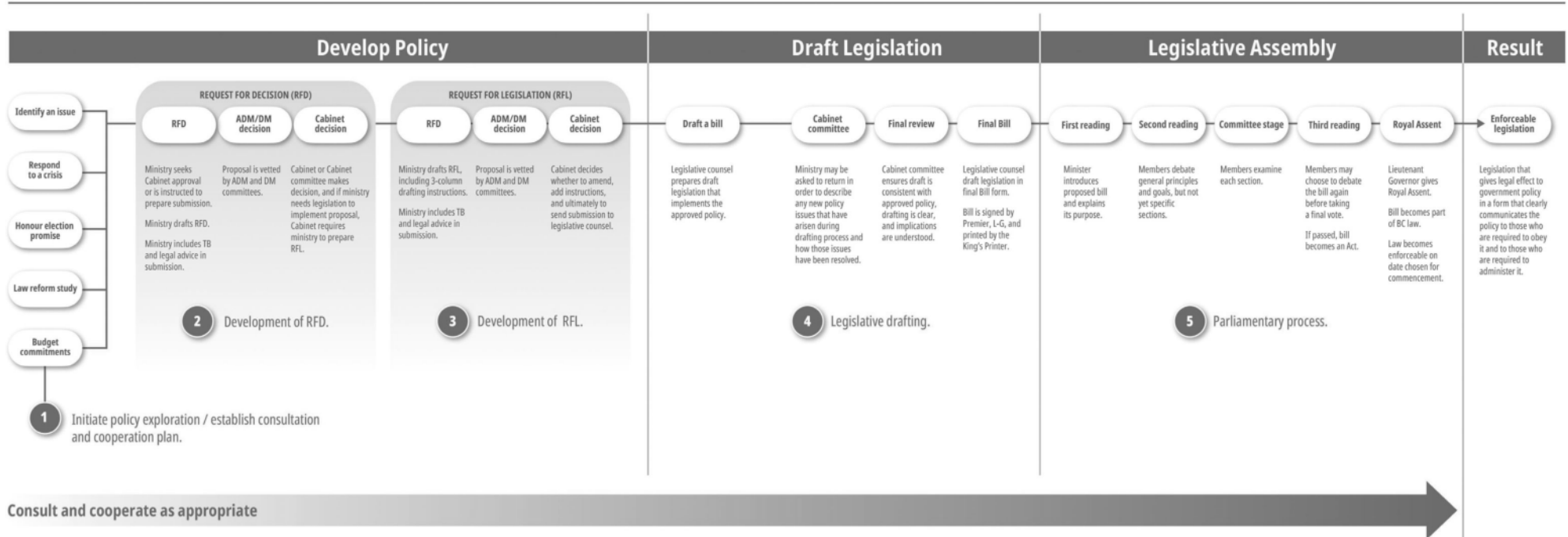
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- 15 If you are unsure about what can be shared, seek advice from your advising solicitor in the Indigenous Legal Relations Solicitors Unit (NATRIL) within the Legal Services Branch (MAG).
- 16 In some instances, such as was the case in the development of the Declaration Act, this may take the form of “joint instructions” for drafting.



## Appendix 1 – Interim Legislative Process

### Approach to Implementing Section 3 of the Declaration on the Rights of Indigenous Peoples Act





## Appendix 2 – External guidance documents

### United Nations Guidance

- Duty of States to consult with Indigenous Peoples on decisions affecting them
  - » <https://undocs.org/A/HRC/12/34> (starting on page 12)
- The requirement that consultations be in good faith, with the objective of achieving agreement or consent (FPIC)
  - » <https://undocs.org/A/HRC/12/34> (starting on page 16)
- Free, prior and informed consent: a human rights-based approach
  - » <https://undocs.org/A/HRC/39/62>

### *Indian Residential School History and Dialogue Centre*

- Implementing *UNDRIP in BC: A Discussion Paper Series*
  - » *A Commentary on the Federal Government’s Legislation to Implement the United Nations Declaration on the Rights of Indigenous Peoples*
  - » *Emergencies, Indigenous Governance and Jurisdiction*
  - » *Indigenous Rights in Times of Emergency*
  - » *Operationalizing Free, Prior, and Informed Consent*
  - » *Co-operatively Resolving Conflicts Through the Application of UNDRIP*
  - » *“Indigenous Governing Bodies” and advancing the work of Re-Building Indigenous Nations and Governments*
  - » *Achieving Consistency between the United Nations Declaration on the Rights of Indigenous Peoples to the Laws of British Columbia*
  - » *Taking “All Measures Necessary” to Ensure Laws are Consistent with the United Nations Declaration on the Rights of Indigenous Peoples*



## Appendix 3 – Internal guidance documents

- *Alliance of BC Modern Treaty Nations Shared Priorities Framework agreement*
- *BC Declaration Act*
  - » *General Website: Home 2022 | A New Path Forward*
  - » *Declaration on the Rights of Indigenous Peoples Act*
- *BC Declaration Act Action Plan*
- *Commitment Document: Concrete Actions: Transforming Laws, Policies, Processes and Structures*
- *Commitment Document: Shared Vision and Guiding Principles*
- *Draft 10 Principles*
- *MNBC and BC Letter of Intent*

## **Key Messages**

### **Declaration Act Secretariat - General**

### **October 2024**

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#### **Key Messages**

- The Declaration Act Secretariat’s mandate is to coordinate and assist the cross-government effort to ensure provincial legislation is consistent with the United Nations Declaration on the Rights of Indigenous Peoples.
- The Secretariat provides guidance on consultation and co-operation, informs government’s legislative agenda and serves in an interlocutor role.
- While both the Ministry of Indigenous Relations and Reconciliation and the Declaration Act Secretariat report to the Minister of Indigenous Relations and Reconciliation, the Secretariat is distinct and separate from the Ministry.
- As a central agency within government, the Secretariat works with all ministries to ensure provincial laws align with the UN Declaration and are developed in consultation and co-operation with Indigenous Peoples, as required in section 3 of the Declaration Act.
- The Secretariat is vital to the public service’s ability to understand and assist in their obligations under section 3 of the Declaration Act (alignment of laws).
- In 2022, the Secretariat released an Interim Approach to help ministries with clear, transparent processes for how they are to work together with Indigenous Peoples in developing provincial laws, policies and practices.
- Since that time, the Secretariat has integrated itself into other ministries work, providing counsel, advice and coordination regarding section 3 legislative responsibilities.
- The work to align provincial laws with the UN Declaration is resulting in an increasing number of provincial legislative reforms.
- The Province has passed several bills since the Declaration Act came into law, most recently:
  - Bill 5 Child, Family and Community Service Amendment Act (March 2024), which expands the scope for joint and consent-based decision-making agreements in Indigenous child and family services.
  - Bill 31 Emergency and Disaster Management Act (Nov 2023), which includes Indigenous Peoples’ authority to make laws in relation to emergency management and more.
  - Bill 40 School Amendment Act (November 2023), which supports better education outcomes for First Nations and other Indigenous students attending provincial public schools.

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# Government 101

Overview of Key Roles, Structures & Processes

October 2024



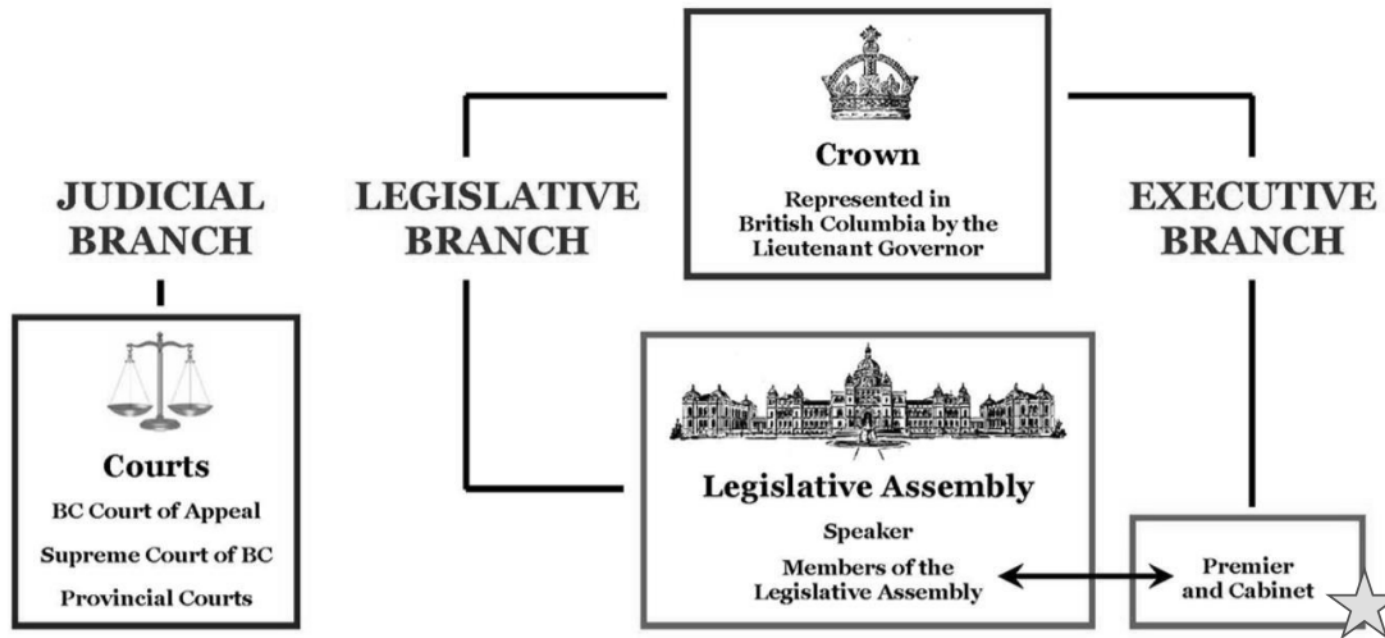
# Overview

- Introduction
- Office of the Premier
- Roles & Responsibilities
- Government Decision Making
- Cabinet Confidentiality
- Conflict of Interest
- Records Management

# Introduction



# The Three Branches of Government



# The Executive Council or Cabinet

- Established under section 9 of *Constitution Act*
- Ultimate decision-making body of government
- Members appointed by the Lieutenant Governor on advice from Premier
- Chaired by the Premier

# Office of the Premier



# Office of the Premier

- The Office of the Premier has two principal roles:
  - 1) **Political:** overseen by the Premier's Chief of Staff, who acts as the senior political advisor to government
  - 2) **Non-partisan Public Service:** overseen by the Deputy Minister to the Premier
- Premier's **Chief of Staff** and **Deputy Minister to the Premier** work collaboratively to:
  - Support the Premier to advance government's policy and legislative agendas
  - Represent the Premier in providing direction to their respective staffs:
    - Chief of Staff provides direction to political staff, including Ministers' chiefs of staff
    - Deputy Minister to the Premier provides direction to public servants

# Key Roles

## Premier's Chief of Staff

- Most senior political advisor
- Provides strategic advice to the Premier and Executive Council (Cabinet) to advance government's policy and legislative agenda
- Coordinates and develops governments strategic and policy objectives
- Coordinates cross-government communications and issues management
- Develops and maintains relationships with major stakeholders
- All Ministers' chiefs of staff report to the Premier's Chief of Staff

## Deputy Minister to the Premier

- Most senior public servant (non-political official)
- Serves as Cabinet Secretary and head of the BC Public Service
- Provides non-partisan advice to the Premier on public policy, development of legislation, and operational issues
- Ensures effective administration of programs and services, the development and implementation of key policy initiatives
- Manages a professional and non-partisan public service
- All Deputy Ministers report to the Deputy Minister to the Premier.



# Roles & Responsibilities



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# Government Decision-Making





# Cabinet-Level Decisions



## Policy

Cabinet considers and provides direction on significant new policies or shifts in policy. It may also provide direction on contentious issues and issues with significant cross-government and inter-governmental implications.



## Fiscal

Treasury Board considers and provides direction on the overall financial decision making of the province and the execution of the fiscal plan, including making regulations or issuing directives to control or limit expenditures.



## Legislative

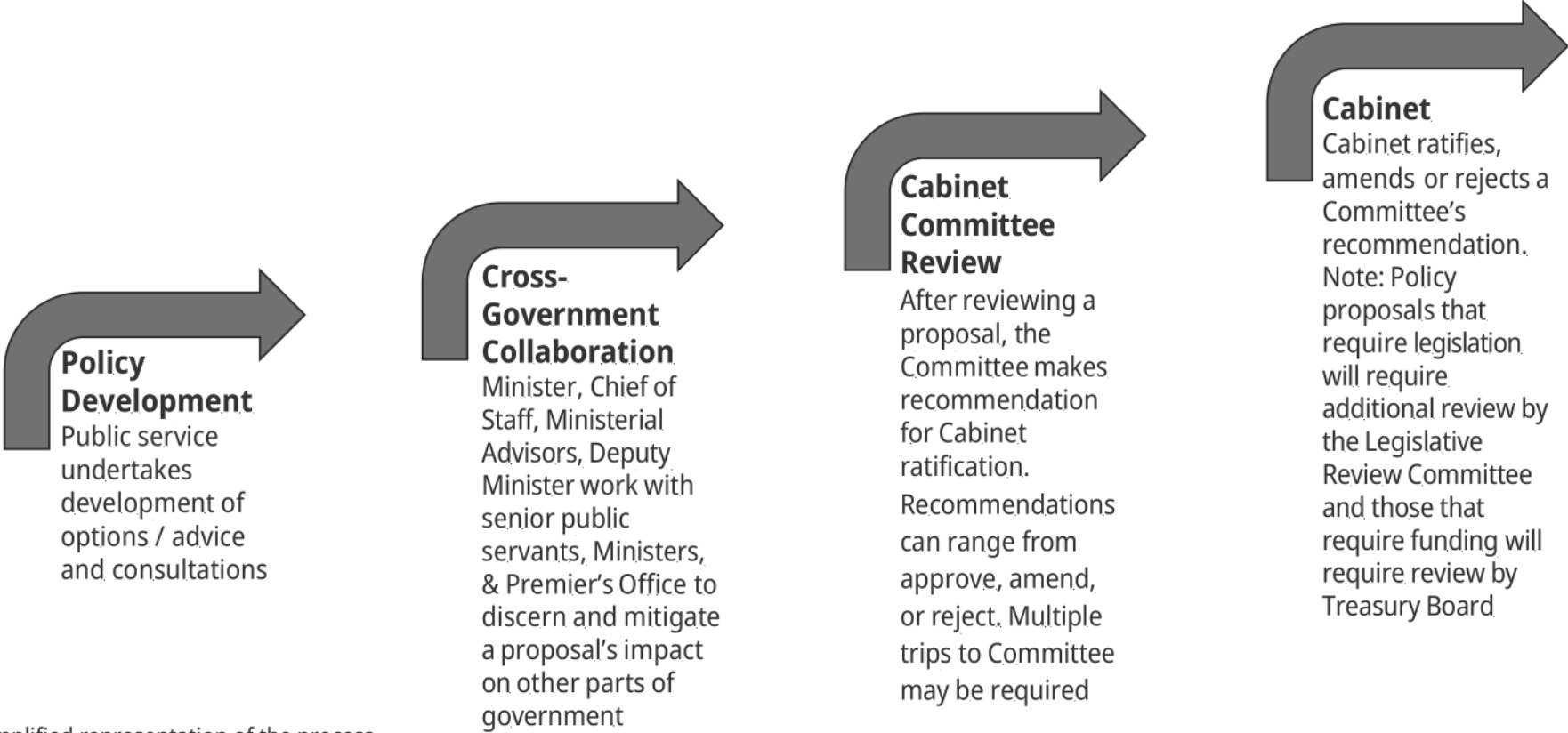
Cabinet considers and provides direction on legislative priorities and legislation.



## Regulations / OICs

Cabinet considers and provides direction on regulatory changes, appointments and more through Orders in Councils (OICs).

# Government Decision-Making: Key Steps\*



\*This is a simplified representation of the process

# Mandate Letters

- Usually, Mandate Letters are issued to each Minister by the Premier and set out the expectations and deliverables regarding their portfolio and priorities for government as a whole
- Mandate Letters act as a guide for the Minister and Deputy Minister to follow in their day-to-day work, as well as the means for evaluating it
- How and when Mandate Letter deliverables are achieved is determined through collective decision making at Cabinet
- Any policy proposal that falls outside of the objectives set out in Mandate Letters requires approval from the Premier's Office to enter into the Cabinet review and decision-making process

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# Cabinet and Cabinet Committees

- Policy or program proposals require formal Cabinet approval to proceed:
  - This process involves a Cabinet Submission, sometimes more than one, for review and decision
  - Policy and funding decisions are determined separately, through Cabinet and Treasury Board respectively
  - This process applies even if the item is listed in a Minister's Mandate Letter
  - The Deputy Minister to the Premier, in their role of Cabinet Secretary, is responsible for what advances into the Cabinet review process
  - The process and administration of Cabinet and Cabinet Committees is managed through the office of Cabinet Operations
- Cabinet and Cabinet Committees reach decisions through discussion and consensus
- Decisions are set out in minutes and are formally communicated to ministries through Records of Decision

# Role of Cabinet Committees in the Review Process

- Prior to proceeding to Cabinet for decision, a submission may be vetted by a Cabinet Committee
- Practically speaking, Cabinet Committees help manage the high volume of items requiring decision so that Cabinet meetings can focus on the most significant, high-profile public policy issues
- Cabinet Committees are established by the Premier, by convention or by legislation
- Membership is composed of Cabinet Ministers and some government caucus MLAs. Each Committee is chaired by a member of the Executive Council (Cabinet)
- Cabinet Committees assess submissions and make recommendations to Cabinet, which the Chair reports out on at a full Cabinet meeting
- Cabinet can ratify, amend or reject the Committee's recommendation and Ministers are expected to leave Cabinet with a united voice

# Cabinet Confidentiality



# Cabinet Confidentiality

- The work undertaken by Cabinet and its Committees is and must remain confidential. This includes anything that would reveal the substance of Cabinet deliberations:
  - Cabinet and Treasury Board Submissions and supporting documents
  - Discussion around the Cabinet table
  - Attendees, agendas and dates that items are scheduled to come forward
- Cabinet is a safe place to talk frankly and emerge with one voice
- All Ministers, MLA Cabinet Committee members and their supporting political staff are required to uphold the confidentiality provisions under the oaths or confidentiality agreements they have taken:

Cabinet Minister	Oath for Member of Executive Council
MLA Cabinet Committee Member	Oath of Confidentiality for Committees of Executive Council
Ministers' Chiefs of Staff	Political Staff Oath Confidentiality Agreement for attending Cabinet & Committee meetings



# Cabinet Confidentiality

- The requirement for Cabinet confidentiality prohibits direct and indirect disclosures outside of government – to stakeholders, lobbyists or the media
- Breaches in Cabinet confidentiality violate the collective responsibility shared by all Cabinet Ministers and can have serious implications for Government as a whole
- Confidentiality applies to Cabinet as an entity – individual ministers do not have the authority to waive it
- Advice/Recommendations

# Conflict of Interest



# Conflict of Interest

- Ministers and political staff are required to avoid conflicts of interest
- Ministers must abide by the *Members' Conflict of Interest Act*, which prohibits acting in an official capacity if a conflict of interest or a perceived conflict of interest exists
- Similarly, political staff must abide by the conflict of interest requirements outlined in the Standards of Conduct for Political Staff
- There are three types of conflict of interest: real, potential and perceived
- A conflict of interest exists if an official power or an official duty or function is performed when the person knows that there is the opportunity to further a private interest
- A private interest does not include an interest that applies to the general public or affects a minister as a broad class of people
- **Effectively managing conflicts of interest is one of the primary ways that public confidence in the integrity of government is fostered and maintained**

# Conflict of Interest Commissioner

- The Conflict of Interest Commissioner is an independent, non-partisan Officer of the Legislative Assembly who is responsible for independently and impartially interpreting and administering the *Members' Conflict of Interest Act*
- All Members of the Legislative Assembly are required to file a confidential disclosure statement with the Commissioner within 60 days of being elected, and after that, annually
- Once the contents of the confidential disclosure statement have been finalized, a Public Disclosure Statement is prepared, which contains most, but not all, of the information provided to the Commissioner
- The Public Disclosure Statement is filed with the Clerk of the Legislative Assembly and is available for public inspection

# Records Management



# Records Management

- All records created are subject to the *Freedom of Information and Protection of Privacy Act (FOIPPA)*, whether they are considered transitory in nature or are related to government decisions
- These include both hard copy and electronic records (E.g., emails, texts, Post-It notes, notebooks)
- Records relating to government decisions need to be maintained by Ministers and Ministers' office staff
- Maintaining records does not equate to disclosure of records
- Records belong to government, not to individual members of Executive Council or political staff

# Records Management

- Content related to Cabinet and Cabinet Committee deliberations cannot be disclosed under section 12 of FOIPPA
- Section 13 of FOIPPA provides a similar rule for policy advice or recommendations developed for a Minister
- Information and Privacy Analysts in the public service help with redacting content from records from records in accordance with FOIPPA as part of preparing responses to freedom of information requests
- Some records are proactively disclosed, including Minister's calendars and travel expenses

# Records Management

- Deputy Minister Offices (DMOs) are responsible for the proper management of government records that reside in a Minister's Office and sign off on the final response packages for freedom of information requests
- DMO and Minister's Office staff should establish protocols regarding records management and responses to freedom of information requests
- Minister's Office staff should undertake training via the Corporate Information and Records Management Office related to records management, freedom of information requests, and protecting the personal privacy of individuals
- Specific executive training may be available via dedicated sessions in addition to online learning courses through the Public Service Agency
- **Staying on top of records management is key – any record you didn't need to keep but is still in existence is subject to FOIPPA**





## **Implementing Section 3 of the Declaration on the Rights of Indigenous Peoples Act**

### ***Overview of Some Expert Perspectives***

The *Declaration on the Rights of Indigenous Peoples Act* requires that the human rights of Indigenous peoples in the *United Nations Declaration on the Rights of Indigenous Peoples* are fully upheld and respected. Achieving this requires a transformation in government laws, policies, and practices, and the further establishment of new relations between Indigenous peoples and British Columbia.

Since the passage of the Declaration Act in 2019, advancing shifts in laws, policies, practices and relationships has been taking place through multiple processes. These include:

- formal province-wide processes, such as the development of the Declaration Act Action Plan as required by section 4 of the Declaration Act;
- bilateral processes between title and rights holders and British Columbia to implement the UN Declaration in their direct relationship;
- the development of new structures within British Columbia, such as the Declaration Act Secretariat, to support processes to achieve consistency between the UN Declaration and the laws of British Columbia as required by section 3 of the Declaration Act;
- the passage of amendments to the *Interpretation Act* to confirm that the laws of British Columbia must be interpreted consistent with the UN Declaration; and
- on-going processes between British Columbia and the First Nations Leadership Council (FNLC) that support implementation on the Declaration Act, and which are reflective of mandates provided to the FNLC) through resolutions of the Union of BC Indian Chiefs, the First Nations Summit, and the BC Assembly of First Nations.

This report summarizes one step - the gathering of a cross-section of expert perspectives - taken by the FNLC and British Columbia to support the implementation of Section 3 of the Declaration Act.

Between October 2021 and April 2022, the FNLC and British Columbia asked a small number of Indigenous experts<sup>1</sup>, as well as those with expertise in aspects of law and policy respecting Indigenous peoples, to share their insights and perspectives about approaches to implementation of section 3 of the Declaration Act. The intent in gathering and disseminating these perspectives through this Report is

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<sup>1</sup> Expert advisors included: Geoffrey Bickert, Gib van Ert, Doug McArthur, Dr. Val Napoleon, the Honourable Steven Point, Dr. Judith Sayers and the Honourable Jody Wilson-Raybould.

to continue to support the direct work and decision-making by First Nations and their governments, and British Columbia, in implementing the Declaration Act.

This report provides a general overview of ideas that were shared through dialogue with the experts. The report has been prepared by an independent facilitator Dr. Roshan Danesh, KC and is not a statement of views of the expert advisors, First Nations, FNLC, or British Columbia. Rather, the report has been prepared to share ideas generated through dialogue with experts that may support the ongoing work between First Nations and British Columbia to implement section 3 of the Declaration Act.

## Overview of Section 3 of the Declaration Act

With the passage of the Declaration Act in 2019 there is a growing focus and momentum on changing legislation to uphold the rights of Indigenous Peoples. While it has long been recognized that addressing the legacy of colonialism will require transformative legislative change – including because of the gross harms inflicted by the *Indian Act* – it has remained difficult, despite extensive advocacy by Indigenous Peoples, to see this work move forward. From this perspective, the Declaration Act, and its federal counterpart the *United Nations Declaration on the Rights of Indigenous Peoples Act*, represent a turning point, where the possibility of long-needed legislative reforms may become a reality.

One foundation for optimism about this potential turning point is section 3.

Section 3 creates a legal requirement on British Columbia to take action to ensure consistency between the laws of British Columbia and the UN Declaration:

In consultation and cooperation with the Indigenous Peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration.

This requirement applies to all laws – those which already exist and are in force, as well as new legislation or legislative amendments that are being developed within government. This requirement also has a procedural element. achieving consistency must take place in “consultation and cooperation” with Indigenous Peoples.

In placing this requirement on British Columbia, section 3 seeks to uphold and implement a number of articles of UN Declaration including Article 19 and Article 38:

### Article 19

States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

### Article 38

States in consultation and cooperation with Indigenous Peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Indigenous Peoples, British Columbia, as well as stakeholders and the public, have placed significant emphasis on the importance of the alignment of laws work, the process through which it takes place, and of moving forward in a coherent, consistent, and transparent manner. Core to this is the necessity

to ensure proper respect for the necessary roles of title and rights holders in the legislative development process.

Since the passage of the Declaration Act there has been some dialogue and effort to move the implementation of section 3 forward. A primary focus of these efforts has been on how to address law-making that was already taking place as part of the on-going legislative calendar, and ensure that steps were being taken to align new laws that were already being developed with the UN Declaration. This work has been challenging both procedurally and substantively – including with respect to developing proper processes for consultation and cooperation with title and rights holders. There has been some constructive progress from these efforts including amendments to the *Interpretation Act 2021*, and the *Anti-Racism Data Act 2022*.

At the same time, Indigenous Peoples have made clear the priority and urgency for moving forward with the systematic review of existing laws. In that regard, there are a few on-going or soon to be launched review processes. Two examples of this are in relation to cultural heritage matters<sup>2</sup> – and specifically efforts to change the *Heritage Conservation Act* – and with respect to children and families<sup>3</sup>, which has seen the passage of new federal legislation and on-going work to reform the *Child, Family, and Community Service Act*<sup>4</sup>. While these processes have not yet yielded tangible change in all the ways that are needed for consistency with the UN Declaration, they do reflect some of the first forums where efforts are being made to change existing laws to achieve consistency with the UN Declaration. As well, industry and other stakeholders are also watching the implementation of section 3 closely, seeking information about what steps have been, and will be, taken.

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<sup>2</sup> Joint Working Group on First Nations Heritage Conservation

<sup>3</sup> The Tripartite First Nations Working Group on First Nations Child and Family Wellbeing. See: <https://www.fnlcchildrenandfamilies.ca>

<sup>4</sup> [https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96046\\_01](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96046_01)

## **Critical Context for Implementing Section 3**

Several key ideas were shared by experts as critical context for implementation of Section 3.

### **1. Upholding Indigenous self-determination and self-government**

Indigenous self-determination and self-government, including as expressed in articles 3, 4, and 5 of the UN Declaration, are part of developing measures to implement section 3 in relation to both new and existing laws. Self-determination includes the right to autonomy or self-government in matters relating to internal and local affairs, and the right of Indigenous Peoples “to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.”

These standards reflect how the UN Declaration upholds a focus on structuring proper relations between State (Crown) and Indigenous governments and jurisdictions, including for the operation of Indigenous laws. This is one lens for thinking about the involvement of Indigenous Peoples in legislative processes – that measures are needed for structured interaction with Indigenous governments and their legal orders, with the Crown’s development of legislation. Of course, this also speaks to the importance of on-going work that Indigenous Peoples are doing to re-build their Nations and governments, and revitalizing their legal orders, including for the purpose of facilitating such structured interaction with Crown governments.

### **2. Respecting democratic principles of parliamentary supremacy and privilege**

There are norms and standards of Canada’s parliamentary system of democracy and model of responsible government that are integral to the law-making process and must inform the consideration of measures to implement section 3.

Parliamentary sovereignty (supremacy) is the principle that Parliament (including provincial legislatures) has absolute power to make or unmake any law. Parliamentary privilege refers to the rights, immunities, and procedures of parliament to be able to do its work, including legislating, without undue interference. Parliamentary sovereignty and privilege were explained by the Supreme Court of Canada as the reason why a duty to consult was not triggered in the law-making process. Such a duty would act as an improper constraint on the legislature’s “ability to control their own processes.”<sup>5</sup>

This reasoning highlights that, in designing measures to implement Section 3, there will be a need to ensure that both Indigenous rights are respected and upheld while also respecting constitutional principles integral to the functioning of the Canadian system of responsible and representative government.

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<sup>5</sup> *Mikisew Cree*, paragraph 38.

Beyond the operation of Parliament, consideration in designing measures will have to be given to the roles of Cabinet confidentiality and solicitor-client privilege, while also upholding the honour of the Crown and meeting other Crown obligations to Indigenous Peoples.

### **3. Recognizing the need to move towards decolonized and inclusive legislative and policy development processes in the context of legal pluralism**

Indigenous Peoples and their governments have not historically been involved in the development of Crown legislation. Legislation has historically played a role in implementing colonization (including most directly the federal *Indian Act*), or reflected the belief or perspective that Indigenous rights do not exist or are not substantive. There have been a few exceptions to this historic pattern, with some notable ones in recent years including in the co-development of the Declaration Act.

One aspect of this historic reality is that policy and legislative development has not occurred within a recognition of a context of legal pluralism where Indigenous governments and legal orders also exist and operate, and have roles, responsibilities, and authorities. This relates to the law-making process, which has designed processes for interaction with Indigenous governments, as well as the substance of law-making which has not considered how legislation may be designed to operate within a legally plural context that recognizes the necessary space and roles for the operation of Indigenous laws.

### **4. Building on experience and narratives of success**

There are some “narratives of success” in the work between Indigenous Peoples and British Columbia. It can be helpful and important to identify these and build upon them.

For example, the development of the Declaration Act included an approach to co-development of legislation that was unique in the history of British Columbia. Within that effort one witnessed a more intense and effective capacity for the political and technical representatives of British Columbia and, for example, the FNLC to work together on a common agenda, the building of a better understanding of the political and systemic realities of each other, and how to support one another in addressing those realities. As well, the process reinforced the central necessity of building regular and consistent mechanisms for consultation and cooperation with the proper title and rights holders.

Narratives of success in work between Indigenous Peoples and British Columbia are inclusive of stories of change – how new understandings, practices, and relational dynamics emerged that supported success. A number of First Nations and British Columbia have stories of successful change in their relationships through their negotiations and agreement implementation. The implementation of section 3 similarly, needs to be supported by critical shifts that will help propel effective co-operative action.

For government these shifts involve reorienting the public service, and political decision-making, to practices that recognize there are roles for Indigenous governments and jurisdictions in the legislative development process, as well as gaining understanding and knowledge of how the standards in the UN Declaration can be practically reflected and upheld in legislation. For First Nations, these shifts involve further advancing protocols and practices within, between and amongst themselves for work with other governments in processes of legislative development that are, by their very nature, global. This includes the building of mechanisms and expertise that First Nations authorize and trust to be relied upon, with potential application to all First Nations, in enduring and long-term processes.



## **Critical Foundations for Implementation of Section 3**

The following were identified by experts as critical foundations for implementing section 3.

### **Foundation 1: Adopt a Principled Approach to Co-Development**

A set of shared principles should be adopted and endorsed politically to guide and shape the processes for implementation of section 3 in relation to both existing and new laws. The specific focus of the principles would be to define what is meant by co-development of legislation. Doing this would assist in maintaining the political will necessary to support the process, and ensuring mechanisms and steps taken are consistent with the approach. This would also help address the reality that legislative development does not occur centrally within government – it occurs Ministry by Ministry – and requires a consistency of approach. Similarly, it would form a foundation on which First Nations could rely as their technical representatives engage in advancing this work.

Adopting shared principles would also reflect the orientation that in implementing section 3 we are in a moment of transition to greater shared jurisdiction and acknowledgement of the reality of legal pluralism. At the same time, through a principled approach, understanding could be built about how issues of Cabinet and Parliamentary confidentiality and privilege will be respected.

Examples of principles of co-development that were discussed by experts include the following:

- *Co-development begins at the earliest stage of the development of potential ideas for policy and legislation*
  - Engagement begins at earliest stage of development of policy ideas.
  - Development of plans for consultation and cooperation and early exploration of the relationship of policy ideas to standards of the UN Declaration also begins at earliest stage.
- *Co-development requires a diversity of approaches to working together, that respects and reflects the continuum of government re-building being undertaken by Indigenous Peoples*
  - A kaleidoscope of approaches to Indigenous Peoples being involved in the co-development should always be available, ranging in intensity of involvement (e.g., everything from letters and website portals, to potentially being involved in joint development of drafting instructions and review of draft language).
  - The goal is to ensure Indigenous Peoples can determine freely how they wish to be involved, based on their own capacities and priorities.

- *Co-development processes must recognize and account for the reality that we are in a time of transition in the re-building of Indigenous governments and Nations, and that the accountability approaches and mechanisms for Indigenous governments within the process continue to evolve and may take multiple forms*
  - It is recognized that as Indigenous governance re-building continues to occur there will be multiple ways in which Indigenous Peoples may be represented within co-development processes, and that these will change over time and may not be identical from process to process.
  - These may range from mandating through province-wide organizations and directing roles of FNLC and FNOs, to different Title and Rights holders being represented in a range of ways.<sup>6</sup>
  - The Indigenous Governing Body Policy<sup>7</sup> must be applied and respected when working with Indigenous Peoples and their representative governments.
- *Government should take an over-inclusive approach to understanding how potential policy or legislative development may affect Indigenous Peoples or their rights*
  - Article 18 and Article 19<sup>8</sup> of UNDRIP are guiding standards for how Indigenous Peoples participate in decision-making, including legislative and policy development.
  - The approach to determining what “affects” Indigenous Peoples or their rights should be based on working with Indigenous Peoples and understanding their views and priorities, not through technical/legal determinations made within government.
- *Co-development processes must recognize and support legal pluralism, and how Indigenous legal orders operate*
  - Indigenous Peoples are in various stages of their own processes of law development, and examining and determining how their own laws may interact with and inform Crown development of legislation and policy.
  - Co-development should include a focus on how space and mechanisms are being created for coherent, consistent, and principled relations between Indigenous laws/legal orders and those of the Crown.
- *Co-development requires reciprocity, including mechanisms for Indigenous Peoples to bring forward their priorities for policy and legislative development, and respecting the law-making processes being undertaken by Indigenous Peoples*

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<sup>6</sup> Multiple examples could be cited from the Declaration Act process and others.

<sup>7</sup> This is a reference to the IGB policy already developed and operational within government.

<sup>8</sup> Article 18 and 19 would be included in the description of the principle to ground the understanding of “affect” to include section 35(1) rights.

- Initiation of potential legislative and policy development does not only begin within the BC government. It can also begin with Indigenous Peoples bringing forward their priorities.
  - Similarly, a co-development process is not only about seeking views on ideas or proposals of the BC government – it must include mechanisms and opportunities for Indigenous Peoples to bring forward how those subjects must be dealt with, and design and build the approach together.
- *Co-development must be “free”, “prior”, and “informed”<sup>9</sup>*
    - “Free” includes that Indigenous Peoples can choose how to participate, and are not coerced to be involved or support a certain outcome.
    - “Prior” includes that co-development is occurring throughout the process and before decisions are made about outcomes.
    - “Informed” includes that full information is provided to Indigenous Peoples.
- *Co-development can include the development of joint legislative drafting instructions and joint review of draft language to ensure the intent of the drafting instructions is met*
    - Joint development of legislative drafting instructions is an approach that can be taken with Indigenous Peoples, with confidentiality protocols (eg. NDAs) being used as necessary.
    - Where joint development of legislative drafting instructions occurs the intent of legislation as developed through a co-development process should be documented and be made public, so that government and Indigenous Peoples can advance, defend, and support the implementation of the statute consistent with its purposes.
- *Co-development requires an attitude and practice of cultural humility*
    - It is important to recognize that the policy and legislative process as it has evolved and been implemented over generations, includes many culturally specific practices and assumptions.
    - Co-development involves challenging and changing some of those practices and assumptions. Cultural humility is an approach to doing this. Cultural humility is a life-long process of self-reflection and self-critique. Undertaking cultural humility allows for Indigenous voices to be front and centre and promotes relationships based on respect, open and effective dialogue and mutual decision-making. Relatedly, it is necessary to

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<sup>9</sup> There is guidance on the meaning of free, prior, and informed as defined in the UN Declaration (eg. from Special Rapporteur etc.) which would be included in the explanation of the principle.

create a culturally safe process that requires positive anti-racism stances, tools and approaches and the continuous practice of cultural humility.<sup>10</sup>

- *Successful co-development requires cultivating deepening relational continuity and stronger layers of trust*
  - Trust needs to be continually built at the political, institutional, and interpersonal levels to support effective co-development practices.
  - As such, co-development processes should be supported by multiple efforts to build relational continuity – some of them intermittent and separate from any specific co-development process (eg. political dialogue and relationship-building), and some of them tied to each specific co-development process (eg. roles for senior officials, joint technical working groups, and other mechanisms).
  
- *Co-development is a learning process, which will continually be evolved and improved, including through acknowledging, celebrating, and building on success.*
  - The effectiveness and utility of co-development processes needs to be continually reviewed, including with Indigenous Peoples, so that learning and adjustments can take place.
  - Opportunities for such learning should take place during a co-development process, as well as more regularly apart from any specific process of co-development.
  - To support this learning, and build positive momentum, recognition should be given to initiatives that work, and how working together in different ways leads to new and constructive outcomes.
  
- *A distinctions-based approach must guide all efforts at co-development, from the beginning of the process until the end*
  - Consistent with the Declaration Act, Draft 10 Principles, and section 35(1) a distinctions-based approach must always be applied to how co-development occurs.
  - This includes recognizing that all co-development processes will not involve all Indigenous Peoples (eg. some/many will be only relevant to First Nations because of subject-matter).

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<sup>10</sup> Definitions adapted from *In Plain Sight*.

## **Foundation 2: Consultation and Cooperation Must Be Diverse, Inclusive and Reflect Rights and Responsibilities in Different Legal Orders**

Processes of consultation and cooperation need to be specifically designed for the purposes of engagement with proper title and rights holders on a province-wide scale with respect to legislative change. The following insights were shared by experts as guidance for thinking about approaches to consultation and cooperation and some of the challenges experienced in engagement processes.

- **Diversity and inclusiveness:** There are different modes that can be identified through which Indigenous Peoples have related, and continue to relate, to Crown governments in the context of colonization. For example, there are different strategies of “navigation”, “negotiation”, “confrontation”, and “stepping outside” that we see employed. When designing mechanisms of consultation and cooperation it should be recognized that all of these modes continue to exist, and that mechanisms should be designed that understand this reality and seek to be open and accessible to all, and not exclude any.
- **Transition and transformation:** The current moment in time is one of transition – where Indigenous Peoples are re-building and revitalizing their governments and legal orders – and of where transformation where Indigenous-Crown relations are being reset on a principled foundation, including the standards in the UN Declaration. Mechanisms for consultation cooperation need to acknowledge this time of transition, and have a fluidity, flexibility, and adaptability to the distinct ways Indigenous Peoples are advancing this transition and what that means for the “who”, “when”, and “how” they may choose to relate to the Crown. It also requires acknowledging that while we must also learn from “narratives of success” about what has worked in the past and the present, we are also in a time where new mechanisms and practices are needed to reflect the shifts.
- **Structural and cultural shifts:** Legislative processes were designed, implemented, and structured over time without consideration of the role of Indigenous governments and laws. This has resulted in entrenched structures, as well as a culture of legislating, that has significant barriers to consultation and cooperation. As such, establishing mechanisms of consultation and cooperation to meet the requirements of section 3 and the standards of the UN Declaration necessitates both structural and cultural shifts within government, as well between Indigenous Peoples and the Crown.
- **Rights and responsibilities in different legal orders:** There is often a conflation of what is meant by Indigenous “rights” and “responsibilities” in section 35(1) of the *Constitution Act* or the UN

Declaration, and the “rights” and “responsibilities” that exist and are held within Indigenous governing systems and legal orders. Mechanisms of consultation and cooperation need to be cognizant of, and respect, these different forms of rights and responsibilities.

- No quick fixes: Consultation and cooperation, when it has occurred, has always been challenging, hindered by structural, cultural, and process barriers, and layered by relational difficulties and mistrust. These challenges will not simply go away. Addressing them occurs through sustained efforts at change, over a sustained period of time, that result in changed outcomes. Mechanisms of consultation and cooperation need to be designed in recognition of this, with a learning orientation, that pursues continuous improvement.

Based on these insights, the following design concepts for mechanisms for consultation and cooperation were discussed:

- *Jointly design* the consultation and cooperation mechanism itself. By building it together it will be more effective and trusted.
- Be *transparent* about the steps and stages of work with Indigenous Peoples. What the process will look like, and what can be expected, at the beginning, middle and end.
- Establish *clarity* about what is joint Crown-Indigenous work within the process, and what is internal work to Indigenous Peoples.
- Ensure there is a *backbone* (an infrastructure) to the mechanism that supports it to be maintained and carry forward with consistency. This may include joint infrastructure, Crown infrastructure, and Indigenous Peoples infrastructure.
- Establish *resourcing* for Indigenous participation that is clear, and can be used “up” and “down” at local, regional, and province-wide ways.
- Adopt an *adaptable* approach that can adjust to changing circumstances, pressures, and contexts as consultation and cooperation takes place.
- Use an *anti-racist* orientation from the outset, and do not underestimate the ways in which stereotypes and racist attitudes or behaviours may arise in efforts at consultation and cooperation.
- Acknowledge and build the recognition of *value* in the approach to consultation and cooperation as it is implemented, and through that create encouragement and trust for more Indigenous Peoples to be involved in it.

- Take steps to *simplify and standardize* the use of tools that may be required in some consultation and cooperation process. For example, the utility, nature, scope, and use of non-disclosure agreements should be considered. Similarly, the joint development of “three column documents” and “drafting instructions” should be coherent across ministries.

### **Foundation 3: Co-design of Review Processes for Existing Laws Can Build on Previous Models of Law Reform while Recognizing the Unique Context of Section 3**

The co-design of a review of laws process for existing laws is helpfully framed through consideration of the following insights:

- *Draw on Existing Practices:* We have a lot of experience in implementing international law (eg. international treaties) into domestic law. We have done this for many decades, including with human rights instruments. Such processes follow general stages that are well established: developing an understanding of what is required by the international instrument; reviewing domestic law to identify gaps with those understandings; developing options and solutions for filling those gaps; and amending legislation as required. While the UN Declaration is not an international treaty, by virtue of section 3 it effectively requires a similar type of legal process to achieve consistency.
- *Recognize the Unique Requirement of Consultation and Cooperation:* While there is an existing practice to draw on from the implementation of existing treaties, we must also recognize the unique context of section 3 – it requires that ensuring consistency must be done in “consultation and cooperation” with Indigenous Peoples. The standards of the UN Declaration also require legislative measures to be developed in partnership (see for example Article 18 and 19). This means that processes will look different than those used previously for the implementation of international treaties. Indigenous Peoples must be at the table, and the process must be designed and implemented with them.
- *Adopt a Legally Sound and Principled Approach:* Achieving consistency between the laws of British Columbia and the UN Declaration has an inescapable legal dimension. There will need to be legal opinions provided on the meanings of the articles of the Declaration, and the implications of those meanings for legislative change.

Of course, we already have significant resources to draw on to discern the meaning of the articles of the UN Declaration including: documents and records from its multi-decade history of development; past and current interpretations and applications by the United Nations, Indigenous Peoples, as well as by some States around the world; the views of experts; and the application of international legal norms. At the same time, while there is some emerging judicial

interpretation of the UN Declaration in Canada, it is very minimal – we should expect far more in the future, including interpretations that will inevitably have to inform the work of achieving consistency.

Consideration needs to be given about how this legal opinion work done. While the legal work is essential, there is a long history of differing legal perspectives between the Crown and First Nations being a source of conflict, delay, and confusion. Consideration should be given to whether it is possible to solicit legal opinions that would inform First Nations as well as British Columbia. Options may include roles for an independent expert or body - whether informally by drawing on particular individuals, or more formally through a new entity such as an “Indigenous ombudsperson” or an existing entity such as the Human Rights Commission.

- *Draw on Expertise:* While some jurisdictions around the globe have been implementing the UN Declaration, including making legal changes to reflect certain standards, no jurisdiction has thus far pursued as audacious and bold an effort as is required by section 3 (or section 5 of the federal *United Nations Declaration on the Rights of Indigenous Peoples Act*). The expertise on the UN Declaration that exists in Canada and around the world will need to be drawn on. Government and First Nations need to consider shorter- and longer-term strategies and approaches for drawing on this expertise, and how it may be used. The new Declaration Act Secretariat established by BC has one structure through its “advisory committee” of experts. Other measures that may be considered include specialized training and education programs, hiring of external experts, and establishment of joint mechanisms for drawing on expertise with First Nations. The FNLC has, and continues, to consider how to draw on additional expertise in its work related to the Declaration Act, including how to further co-ordinate aspects of legal work amongst and between First Nations as has been done on some critical legislative, policy, and litigation initiatives in the past.
- *Build on Early Successes:* The implementation of section 3 is a bold endeavour. Consideration should be given to adopting a staged approach that begins with priorities that are viewed as potentially “easier” to achieve successfully. As a few legislative areas are changed to achieve consistency the lessons from those efforts can be used to refine and further develop approaches for the harder topics. This is consistent with the current approach that appears to be emerging. The *Heritage Conservation Act* has been identified as one priority for early development of a section 3 process. There has already been over a decade of joint work between First Nations and British Columbia through the Joint Working Group on First Nations Heritage Conservation on the challenges with the Heritage Conservation Act, and potential areas of change. Other near-term priorities that may be early successes need to be identified in the near future.



#### **Foundation 4: Alignment of Laws Must be Supported by Structural and Cultural Shifts**

Structural change will be required within government and between and amongst First Nations to implement section 3. Government will require the ability for clarity of accountabilities internally to implement standards that cut across ministry portfolios. The example was given of struggles at both Canada and BC to implement modern land claims and treaty agreements because of a lack of internal accountability structures. Absent such structures, political will cannot translate into tangible and practical change. For First Nations, structural change involves the furthering improvement of standing structures for how their collective work regarding legislative change will take place – as distinct from determining and forming collective structures and processes in response to specific legislative realities emerging.

So far, BC has implemented one structural shift – the development of the Declaration Act Secretariat. There were also many ideas offered about further structuring the collective organization of First Nations around legislative development. One idea was the development of First Nations legislative council, building on some of the other Councils developed by First Nations in BC, that would support the coordination of the collective work of First Nations on legislative development with government. Developing such a council would draw on best practices from work done by existing First Nations' councils, the process of the development of the Declaration Act, and the collective organization and work done by First Nations over many years on advancing legislative change.

Experts also emphasised the need for changes in organizational culture, as well as the culture of relations between Indigenous Peoples and British Columbia. It was recognized that some of the obstacles and challenges to implementation of section 3 will be hidden and intangible – attitudes and norms that have long been in place and influence choices and behaviours. Some of these obstacles and challenges have long been known including lack of trust, and racist stereotypes and discriminatory behaviours. Others are related to coming to an understanding of what working as true partners actually looks like, and how to consciously transition into that based on principles of recognition, respect, and implementation of Indigenous title and rights. Yet another form of obstacle is lack of understanding of each others governance and legal systems, and how to advance together in the context of legal pluralism.

Adopting and implementing a process of change in organizational culture will require measures that range from continuing to advance diversification of the public service, cross-ministry learning and training programs, and modelling and empowering cultural change by organizational leaders. Some of the specific perspectives shared on how to advance this cultural change included the following:

- There are always barriers in government to implementing new and novel policy. Overcoming these barriers requires effective planning, visioning, mission developing, policies and specifics, and accountability. Having a supportive organizational culture is critical to addressing these

barriers. If we don't address an organizational culture that is dated, then we cannot move forward.

- When thinking through how organizational culture may change it is helpful to talk specifically, rather than generally – to ask, what kind of culture is needed to support UN Declaration implementation, not generally how organizational culture should change. The Declaration Act does represent a transformational shift. If we look at the requirement for consistency of laws or the action plan, these are new initiatives in ambition or scope. We need a supportive culture in order to be able to achieve these things. This also requires recognizing that there are a diversity of organizational cultures within the public service – within different ministries etc. We need to have a lens and approach that also addresses dynamics at those specific levels.
- How does organizational culture sometimes operate as a barrier? In two ways: 1: We are often upsetting how we do things and views, practices and conventions unless addressed, and as such we should expect “resistance”. 2. When doing something new there may not be common understandings about what we are trying to do, why we are doing it, consult and engagement process, and changing relationships.
- We need to build on strengths. Nothing is static in the public service. There has been change from decade to decade. The public service has changed over time with respect to understanding how to work with Indigenous Peoples. It continues to change now. For example, anti-Indigenous racism, like throughout society, has been a challenge. Many initiatives have been implemented and are continuing to be implemented to help address this. At the same time, racism does remain a challenge that has to be addressed. A culture must be built that upholds the highest standards of inclusion, respect, and understanding. At the same time, where racist behaviour is occurring it needs to be addressed and confronted – based on the principle of zero tolerance.
- There is a connection between how organizational culture has readiness for implementing the UN Declaration, and political direction and will. Political direction is a driver for change – it helps focus, motivate, and support the changes in organizational culture that are being advanced. When government requires the public service to do something different, momentum in shifts that are already being pursued can accelerate. Ultimately, the signpost of success in changing organizational culture is evidenced in action.
- Another driver for changes in organizational culture can be “shocks” to the system – such as the adoption of the 10 Draft Principles, the passage of the Declaration Act, or the impact of broader societal events like the realization of the existence of mass graves and unmarked burials. Such events accelerate learning, understanding, and acting in new ways by individuals and groups within the public service, including more feeling responsible for being agents of change. Such shifts and shocks can also reveal where the challenges lie, including the levels of racism or ignorance that may still exist.

- Changing organizational culture also involves continuing to build a public service that reflects all of British Columbia. This is true at the leadership level, and at all levels within the public service.
- We need to have a methodology for change. Is there a method that the public service follows? Does it work? The methodology and process must have an urgency. The timing is now, we have the urgency to deliver. Consideration should be given to structuring a change coalition within the public service, and that includes Indigenous Peoples. This includes having clear change-minded and focused leadership. We do a good job of vision statements and setting principles. We now need to be more specific: Decolonization – do we share a vision of what that looks like? We also need a methodology that addresses the fragility and elements of “fear”. Partnerships with Indigenous Peoples are also needed to support the change: a clear method, coalition, and clear direction, and which also accepts, supports, and gives permission innovation.

## **Moving Forward**

These perspectives and ideas from dialogue with experts are being shared in the hope that they can support the fundamental, direct, work between Indigenous Peoples and British Columbia to implement Section 3. There is a readiness to discuss these ideas, and any others, as part of this work. As well, as the newly formed Declaration Act Secretariat advances its mandate to support the implementation of Section 3, it will continue to gather, advance, and generate ideas about what needs to be done to effectively implement Section 3.

If you would like to further discuss the perspectives and ideas in this report, contact the Declaration Act Secretariat through the following email: [DeclarationActSecretariat@gov.bc.ca](mailto:DeclarationActSecretariat@gov.bc.ca)

Further information can be found at [www.declaration.gov.bc.ca](http://www.declaration.gov.bc.ca)



Ref. 55434

June 14, 2022

Dear Chiefs and Council Members:

The *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act) was brought into force in November 2019. Among several important obligations, the Declaration Act requires government to work in consultation and cooperation with Indigenous peoples in British Columbia to take all measures necessary to ensure the laws of British Columbia are consistent with the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UN Declaration).

As part of my 2020 Mandate letter, I committed to establishing a standalone Secretariat office, dedicated to supporting Indigenous consultation and cooperation on provincial policy and legislation. In developing the plan for the new Secretariat, the Province heard from First Nations leadership and legal experts on how the Secretariat can best coordinate, guide, and advance this cross-government responsibility to align our laws, policies, and practices with the UN Declaration.

I am happy to share that as of April 1, 2022, the new Declaration Act Secretariat has been formalized with the mandate to guide and advance the cross-government efforts to work in consultation and cooperation with Indigenous Peoples to align laws with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), per section 3 of the Declaration Act.

.../2

Ministry of  
Indigenous Relations  
and Reconciliation

Office of the  
Minister

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Jessica Wood (Si Sityaawks) has been appointed as the Associate Deputy Minister leading the Declaration Act Secretariat. While the Declaration Act Secretariat reports to me as Minister, it is a separate and distinct body from the Ministry of Indigenous Relations and Reconciliation. Associate Deputy Minister Jessica Wood, as all Deputy Ministers, reports to the Deputy Minister of the Premier and works directly with me as the Minister responsible for the Secretariat. An Assistant Deputy Minister role is also being established and is currently posted [here](#). I encourage you to share this opportunity with your networks. Please note, the position is open exclusively to qualified Indigenous candidates.

Through engagement with Indigenous organizations and internal government discussions, the following principles will guide the Secretariat:

#### Capable

- The Secretariat will have the legal understanding and policy expertise to provide guidance to ministries in their policy and legislative work with regard to alignment with the UN Declaration.
- The Secretariat will have the capacity to coordinate complex processes and design and develop proposals for refinements and changes to aspects of the machinery of government to facilitate implementation of the Declaration Act.

#### Credible

- The Secretariat will have the capacity and influence to be effective in supporting the implementation of the Declaration Act.
- The Secretariat will be staffed with public servants that have the necessary skills and knowledge to effectively implement its mandate.
- Indigenous professionals are a priority in the staffing of the Secretariat.

#### Accountable

- Secretariat processes (decision-making structure, engagement processes, prioritization decisions) will be transparent to First Nations, Indigenous organizations and peoples as well as to government decision-makers and stakeholders.

The Secretariat's initial areas of priority include:

- Developing cross-government guidance and advice on consultation and cooperation.
- Establishing a framework for advancing both “cross-statute” and “statute-specific” legislative change priorities.
  - “Cross-statute” examples: *Interpretation Amendment Act 2021*, *Anti-Racism Data Act 2022*.
  - “Statute-specific” examples: *Heritage Conservation Act*, *Police Act*, Section 7 enabling.
  - In addition, the Secretariat is expected to be engaged on select priority legislative initiatives as “demonstration projects”.
- Developing measures and processes through which a review of laws will take place.
- Recommending for Cabinet approval which laws to prioritize for comprehensive alignment with the UN Declaration.
- Maintaining a schedule based on input from ministries, Indigenous peoples and organizations, that identifies the existing laws that are a priority for review and alignment with the UN Declaration.
- Staff the Secretariat, including a focus on Indigenous-exclusive positions and postings.

Please refer to the attached *Declaration Act Secretariat Overview* to learn more about how the Secretariat will achieve these initial priorities.

In addition, the Secretariat will be supported by an Advisory Forum that I will chair. This Forum will include at least three Indigenous members who are external to government and have expertise in the UN Declaration. The Advisory Forum will ensure that additional Indigenous expertise and experience is brought into the provincial government in its efforts to meet the standards in the UN Declaration.

I am looking forward to continuing to see progress on this important component of my mandate letter. If you have any questions, please do not hesitate to contact the Declaration Act Secretariat directly at [DeclarationActSecretariat@gov.bc.ca](mailto:DeclarationActSecretariat@gov.bc.ca).

Sincerely,



Murray Rankin, QC  
Minister of Indigenous Relations and Reconciliation

CC: Jessica Wood | Si Sityaawks, Associate Deputy Minister  
Declaration Act Secretariat

This Act is current to October 12, 2022

See the Tables of Legislative Changes for this Act's legislative history, including any changes not in force.

## DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT

### [SBC 2019] CHAPTER 44

Assented to November 28, 2019

#### Contents

- 1 Interpretation
- 2 Purposes of Act
- 3 Measures to align laws with Declaration
- 4 Action plan
- 5 Annual report
- 6 Agreements
- 7 Decision-making agreements
- 8 *Offence Act*
- 9 Power to make regulations
- 10 Commencement

#### Schedule

### Interpretation

1 (1) In this Act:

**"Declaration"** means the United Nations Declaration on the Rights of Indigenous Peoples set out in the Schedule;

**"Indigenous governing body"** means an entity that is authorized to act on behalf of Indigenous peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982*;

**"Indigenous peoples"** has the same meaning as aboriginal peoples in section 35 of the *Constitution Act, 1982*;

**"statutory power of decision"** has the same meaning as in the *Judicial Review Procedure Act*.

(2) For the purposes of implementing this Act, the government must consider the diversity of the Indigenous peoples in British Columbia, particularly the distinct languages, cultures, customs, practices, rights, legal traditions, institutions, governance structures, relationships to territories and knowledge systems of the Indigenous peoples in British Columbia.

(3) For certainty, nothing in this Act, nor anything done under this Act, abrogates or derogates from the rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.

(4) Nothing in this Act is to be construed as delaying the application of the Declaration to the laws of British Columbia.

### **Purposes of Act**

2 The purposes of this Act are as follows:

- (a) to affirm the application of the Declaration to the laws of British Columbia;
- (b) to contribute to the implementation of the Declaration;
- (c) to support the affirmation of, and develop relationships with, Indigenous governing bodies.

### **Measures to align laws with Declaration**

3 In consultation and cooperation with the Indigenous peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration.

### **Action plan**

4 (1) The government must prepare and implement an action plan to achieve the objectives of the Declaration.

(2) The action plan must be prepared and implemented in consultation and cooperation with the Indigenous peoples in British Columbia.

(3) The action plan must contain the date on or before which the government must initiate a review of the action plan.

(4) After the action plan is prepared, the minister must, as soon as practicable,

- (a) lay the action plan before the Legislative Assembly if the Legislative Assembly is then sitting, or
- (b) file the action plan with the Clerk of the Legislative Assembly if the Legislative Assembly is not sitting.

(5) The government may prepare a new action plan in accordance with this section.

### **Annual report**

5 (1) Each year the minister must prepare a report for the 12-month period ending on March 31.

(2) The report must be prepared in consultation and cooperation with the Indigenous peoples in British Columbia.

(3) In the report under subsection (1), the minister must report on the progress that has been made towards implementing the measures referred to in section 3 and achieving the goals in the action plan.



- (4) On or before June 30 in each year, the minister must
  - (a) lay the report prepared for the 12-month period ending on March 31 in that year before the Legislative Assembly, if the Legislative Assembly is then sitting, or
  - (b) file the report prepared for the 12-month period ending on March 31 in that year with the Clerk of the Legislative Assembly, if the Legislative Assembly is not sitting.

## **Agreements**

- 6 (1) For the purposes of this Act, a member of the Executive Council, on behalf of the government, may enter into an agreement with an Indigenous governing body.
  - (2) Subsection (1)
    - (a) is subject to section 7, and
    - (b) does not limit a power of the member to enter into an agreement under any other enactment.

## **Decision-making agreements**

- 7 (1) For the purposes of reconciliation, the Lieutenant Governor in Council may authorize a member of the Executive Council, on behalf of the government, to negotiate and enter into an agreement with an Indigenous governing body relating to one or both of the following:
  - (a) the exercise of a statutory power of decision jointly by
    - (i) the Indigenous governing body, and
    - (ii) the government or another decision-maker;
  - (b) the consent of the Indigenous governing body before the exercise of a statutory power of decision.
- (2) A member authorized under subsection (1) to negotiate an agreement may enter into the agreement without further authorization from the Lieutenant Governor in Council unless the Lieutenant Governor in Council restricts the initial authorization to only the negotiation of the agreement.
- (3) Within 15 days after the Lieutenant Governor in Council authorizes the member to negotiate an agreement under subsection (1), the member must make public a summary of the local governments and other persons the member intends to consult before or during the negotiation.
- (4) An agreement entered into under subsection (1)
  - (a) must be published in the Gazette, and
  - (b) is not effective until the agreement is published in the Gazette or a later date specified in the agreement.
- (5) For certainty, subsection (4) applies to an agreement that amends an agreement entered into under subsection (1).

## **Offence Act**

8 Section 5 of the *Offence Act* does not apply to this Act.

## **Power to make regulations**

9 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

## **Commencement**

10 This Act comes into force on the date of Royal Assent.

## **Schedule**

*(Section 1)*

United Nations Declaration on the Rights of Indigenous Peoples

## **Resolution adopted by the General Assembly**

[*without reference to a Main Committee (A/61/L.67 and Add.1)*]

## **61/295. United Nations Declaration on the Rights of Indigenous Peoples**

*The General Assembly,*

*Taking note* of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,<sup>1</sup> by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

*Recalling* its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

*Adopts* the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

*107th plenary meeting*

*13 September 2007*

1. See Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53), part one, chap. II, sect. A.

## **Annex**

## **United Nations Declaration on the Rights of Indigenous Peoples**

*The General Assembly,*

*Guided* by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

*Affirming* that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

*Affirming* also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

*Affirming further* that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

*Reaffirming* that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

*Concerned* that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

*Recognizing* the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

*Recognizing also* the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

*Welcoming* the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

*Convinced* that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

*Recognizing* that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

*Emphasizing* the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

*Recognizing in particular* the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

*Considering* that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

*Considering also* that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

*Acknowledging* that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights<sup>2</sup> and the International Covenant on Civil and Political Rights,<sup>2</sup> as well as the Vienna Declaration and Programme of Action,<sup>3</sup> affirm the fundamental importance of the right

to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

2. See resolution 2200 A (XXI), annex.

3. A/CONF.157/24 (Part I), chap. III.

*Bearing in mind* that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

*Convinced* that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

*Encouraging* States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

*Emphasizing* that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

*Believing* that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

*Recognizing and reaffirming* that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

*Recognizing* that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

*Solemnly proclaims* the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

#### *Article 1*

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights<sup>4</sup> and international human rights law.

4. Resolution 217 A (III).

#### *Article 2*

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

#### *Article 3*

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

#### *Article 4*

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

#### *Article 5*

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

#### *Article 6*

Every indigenous individual has the right to a nationality.

#### *Article 7*

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

#### *Article 8*

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
  - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
  - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
  - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
  - (d) Any form of forced assimilation or integration;
  - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

#### *Article 9*

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

#### *Article 10*

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and

after agreement on just and fair compensation and, where possible, with the option of return.

#### *Article 11*

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

#### *Article 12*

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

#### *Article 13*

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

#### *Article 14*

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

#### *Article 15*

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

#### *Article 16*

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

#### *Article 17*

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

#### *Article 18*

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

#### *Article 19*

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

#### *Article 20*

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

#### *Article 21*

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

#### *Article 22*

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

#### *Article 23*

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

#### *Article 24*

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

#### *Article 25*

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

#### *Article 26*

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.



3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

#### *Article 27*

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

#### *Article 28*

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

#### *Article 29*

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

#### *Article 30*

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.
2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

#### *Article 31*

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

#### *Article 32*

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

#### *Article 33*

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

#### *Article 34*

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

#### *Article 35*

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

#### *Article 36*

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

#### *Article 37*

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

#### *Article 38*

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

#### *Article 39*

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

#### *Article 40*

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

#### *Article 41*

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

#### *Article 42*

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

#### *Article 43*

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

#### *Article 44*

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

*Article 45*

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

*Article 46*

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.
2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.
3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

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**UNITED NATIONS  
DECLARATION ON  
THE RIGHTS OF  
INDIGENOUS  
PEOPLES**



United Nations



# Resolution adopted by the General Assembly on 13 September 2007

*[without reference to a Main Committee (A/61/L.67  
and Add.1)]*

## 61/295. United Nations Declaration on the Rights of Indigenous Peoples

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1 See Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53), part one, chap. II, sect. A.

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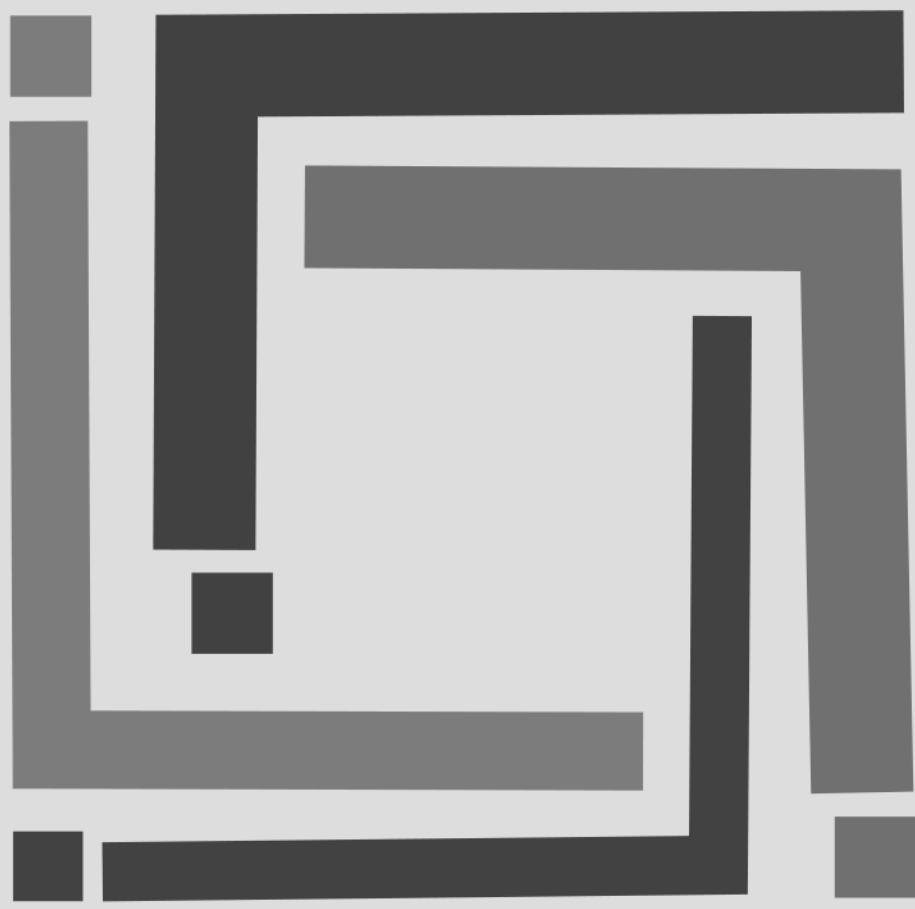
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# Indigenous Governing Bodies in the Declaration on the Rights of Indigenous Peoples Act

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BRITISH  
COLUMBIA



## Purpose

This guidance is intended to support Indigenous Peoples, communities, leaders, organizations, and the public in understanding the ongoing implementation of the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act), specifically in relation to sections 6 and section 7, which speak to agreements between the provincial government and “Indigenous governing bodies”.

The Declaration Act establishes the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) as the Province’s framework for reconciliation, as called for by the Truth and Reconciliation Commission’s *Calls to Action*.

The Declaration Act aims to create a path forward that respects the human rights of Indigenous Peoples while introducing better transparency and predictability around work supporting reconciliation.

## Background

The Declaration Act includes the following provisions:

**“Indigenous governing body”** means an entity that is authorized to act on behalf of Indigenous peoples that hold rights recognized and affirmed by section 35 of the Constitution Act, 1982.

**“Indigenous peoples”** has the same meaning as aboriginal peoples in section 35 of the Constitution Act, 1982.

6 (1) For the purposes of this Act, a member of the executive council, on behalf of the government, may enter into an agreement with an **Indigenous governing body**.

7 (1) For the purposes of reconciliation, the Lieutenant Governor in Council may authorize a member of the executive council, on behalf of the government, to negotiate and enter into an agreement with an **Indigenous governing body** relating to one or both of the following:

- a. the exercise of a statutory power of decision jointly by
  - i. the Indigenous governing body, and
  - ii. the government or another decision-maker;
- b. the consent of the Indigenous governing body before the exercise of a statutory power of decision.



The definition of “Indigenous governing body” in the Declaration Act is a broad one that may include many forms of governing structures. Government can enter into agreements with Indigenous governing bodies through two mechanisms in the Declaration Act. These may be decision-making agreements that implement free, prior, and informed consent under section 7 of the Act, or other agreements under section 6 of the Act.

Who constitutes an Indigenous people that “holds rights recognized and affirmed by section 35 of the Constitution Act, 1982” is a matter that has been answered through the evolution of the law under section 35. The jurisprudence tells us the proper title and rights holder is rooted in the laws, histories, cultures, and traditions of Indigenous Peoples.

For example, in the trial decision in Tsilhqot’in Nation, the test for proper title and rights holder was articulated by the court as being the “historic community of people sharing language, customs, traditions, historical experience, territory and resources” (paragraph 470).

The Act does not seek to (nor could it) alter or change, or define, who the proper title and rights holder may be – rather it reflects the established understanding and answer to this question in evolving section 35 jurisprudence.

What constitutes an “entity authorized to act on behalf of Indigenous peoples” is a matter of Indigenous self-determination, as articulated in the UN Declaration including in articles 3, 4, and 5:

**Article 3:** Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

**Article 4:** Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

**Article 5:** Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.



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## Guidance

The idea of “authorization” in the definition of Indigenous governing bodies must be read as a form of “authorization” pursuant to Indigenous legal processes, traditions, and standards, consistent with the UN Declaration, that are undertaken as part of Nations expressing, re-building, and implementing their governance systems.

Given this definition, it is for Indigenous Peoples – not the Province – to determine what entity constitutes an Indigenous Governing Body. This has to be determined by Indigenous Peoples as part of their internal work, including the processes and mechanisms they use in establishing the authorization for that entity.

The Province does have an interest in achieving agreements with Indigenous governing bodies under sections 6 and 7 of the Act that deepen co-operation, develop innovative, accountable, practical and predictable processes of shared, joint, or consent-based decision-making, and support a principled approach to reconciliation consistent with the UN Declaration. In the course of negotiation of these agreements, it is for Indigenous governing bodies to share information regarding their authorization to act on behalf of an Indigenous People(s).

Working with Indigenous Peoples, as well as through engagement with other governments and partners, the Province will co-develop approaches, models, and policies regarding new models of decision-making that will support negotiations and agreements with Indigenous governing bodies. This work will proceed in collaboration and cooperation with Indigenous Peoples in accordance with the UN Declaration and the Declaration Act.

## Additional Support

For questions specific to the Province’s approach to Indigenous governing bodies in the Declaration Act, please contact the Ministry of Indigenous Relations and Reconciliation through the office of the Assistant Deputy Minister for Negotiations and Regional Operations.

## Additional information

*“Indigenous governing bodies” and advancing the work of Re-Building Indigenous Nations and Governments* is a useful background document that is housed within UBC’s Indian Residential Schools History and Dialogue Centre.

*Background on the Declaration Act and the Declaration Act Action Plan* is also available online at <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples>.

**British Columbia – First Nations  
Proposed Commitment Document  
2015**

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**To: First Nations Leaders and Members of the BC Cabinet**

Over a year has passed since the historic *Tsilhqot'in* decision by the Supreme Court of Canada, and we are now about to hold the 2nd Annual BC Cabinet-First Nations Leaders Gathering to bring our respective leadership together to engage in common issues before us. We also celebrate the 10th anniversary of the New Relationship vision document that the Province and First Nations reached in 2005.

Today, we find ourselves with new circumstances and new opportunities informing this relationship. We are experiencing changes on the landscape of social issues, lands and resources, the economy, technology and case law such as the *Tsilhqot'in* decision. The *Tsilhqot'in* decision confirms that we must revitalize our efforts to build new relations grounded in the recognition of Aboriginal title and rights.

Over the past year, our shared understanding has deepened that change is needed and the status quo cannot continue. The future of our children, families, the environment and the economy depend on it.

Concrete action, and new and creative approaches, at all levels is required – in direct government-to-government relationships, negotiations, policies and laws, fiscal relations and decision-making.



To help move this fundamental change forward, the First Nations Leadership Council and the Province have developed a proposed Commitment Document setting out a proposed joint agenda and action plan for significant work to be done.

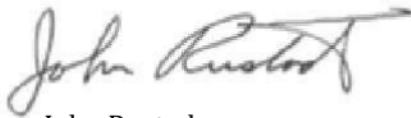
We are seeking your review, input and guidance on the Commitment Document and confirmation that it represents appropriate courses of action required to guide our mutual work.

The Commitment Document will be presented at the September 8th – 10th BC Cabinet–First Nations Leaders Gathering and will be the subject of follow-up dialogue and approvals through our respective processes.

If the direction proposed is supported, the work will begin in earnest, with a robust process of engaging First Nations and a commitment to inclusivity and transparency.

This is not intended to be a long, drawn-out process. It is meant to be about real action and change, in real and tangible ways, that will set us collectively on course to a revitalized relationship and a positive future grounded in recognition of Aboriginal title and rights, and reconciliation of our respective titles and jurisdiction.

Sincerely,



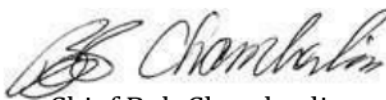
John Rustad

Minister of Aboriginal Relations and Reconciliation

First Nations Leadership Council



Grand Chief Stewart Phillip  
Union of BC Indian Chiefs



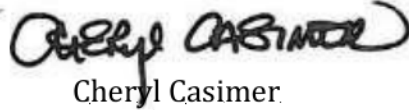
Chief Bob Chamberlin  
Union of BC Indian Chiefs



Chief Judy Wilson  
Union of BC Indian Chiefs



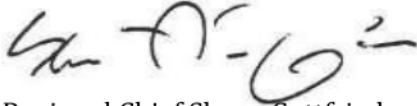
Grand Chief Edward John  
First Nations Summit



Cheryl Casimer  
First Nations Summit



Robert Phillips  
First Nations Summit



Regional Chief Shane Gottfriedson  
BC Assembly of First Nations

We are all here to stay.

These are the words spoken by the Supreme Court of Canada in 1997, and the starting words of our mutual acknowledgement in the New Relationship vision document, developed in 2005.

Ten years later, we find ourselves with new circumstances and new opportunities informing this relationship. We are experiencing changes on the landscape of social issues, lands and resources, the economy, technology and case law such as the *Tsilhqot'in* decision.

Over the past ten years, we have experienced both successes and challenges. Many strong relationships have been built between the Province and First Nations through agreements and community initiatives, which have supported First Nations to strengthen their communities and culture and have led to partnerships in economic development. However, there is still much work to be done. We have yet to come to a common understanding of what it means to engage in a government-to-government relationship based on recognition of aboriginal title and rights as is evidenced by our different perspectives on the Four Principles which were presented by Chiefs to the Province for endorsement at the inaugural September 2014 BC Cabinet-First Nations Gathering.

Maintaining the *status quo* is not an option. Acknowledging our challenges and building on our successes from the past ten years, it is critical that we find a way forward with real and concrete actions so we can together build a bright future for our children.

### **Commitment**

We remain committed to a “government-to-government relationship based on respect, recognition and accommodation of aboriginal title and rights” and to the “reconciliation of Aboriginal and Crown titles and jurisdictions”, as we agreed in the New Relationship.

As articulated by the Supreme Court of Canada, reconciliation of pre-existing Aboriginal societies with the assertion of Crown sovereignty is an imperative set out in section 35 of the *Constitution Act, 1982*. The section 35 framework permits a principled reconciliation of Aboriginal rights with the interests of all Canadians. The courts have provided some guidance on how to advance reconciliation, but have encouraged the Crown governments and First Nations to work out the

details of advancing reconciliation on the ground. Aboriginals and non-Aboriginal people are “all here to stay” and must of necessity move forward in a process of reconciliation.

We commit to jointly design a creative, constructive, pragmatic and organized approach to giving life to the section 35 framework in British Columbia, with tangible milestones to demonstrate progress.

Reconciliation is a journey. There is a multitude of ways to express what reconciliation means, and how it may be achieved through ongoing processes. The following are examples of the many articulations and dimensions of reconciliation:

*“Reconciliation requires constructive action on addressing the ongoing legacies of colonialism that have had destructive impacts on Aboriginal peoples’ education, cultures and languages, health, child welfare, the administration of justice, and economic opportunities and prosperity.” (Truth and Reconciliation Commission, 2015)*

*“Reconciliation must create a more equitable and inclusive society by closing the gaps in social, health, and economic outcomes that exist between Aboriginal and non-Aboriginal Canadians.” (Truth and Reconciliation Commission, 2015)*

*“Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith...” (UNDRIP)*

*“As Delgamuukw explains, the process of reconciling Aboriginal interests with the broader interests of society as a whole is the raison d’être of the principle of justification. Aboriginals and non-Aboriginals are “all here to stay” and must of necessity move forward in a process of reconciliation (para. 186).” (SCC, Tsilhqot’in, para. 82)*

*“What is at stake is nothing less than justice for the Aboriginal group and its descendants, and the reconciliation between the group and broader society.” (SCC, Tsilhqot’in, para. 23)*

We acknowledge there is a need for - and commit to jointly developing, advancing and implementing - additional concrete actions and creative approaches that better reflect our circumstances today, and which support reconciliation and this government-to-government relationship.

The process used to shape and develop our work moving forward must be inclusive, open, transparent and timely. Specifically, it is proposed that the engagement process:

- must provide for effective and informed input from First Nations leaders and communities;
- will engage all levels of the BC Government;
- will include business, industry and advocacy groups; and
- will include the Government of Canada.

### **Joint Agenda: Core Elements of the Work**

The Province and the First Nations Leadership Council (BC Assembly of First Nations, First Nations Summit and Union of BC Indian Chiefs) (the “FNL”) have developed the following proposed joint agenda and action plan for advancing the Crown-First Nation relationship in British Columbia and to come up with a principled framework for reconciliation, including concrete actions, measures and steps, in a manner that is appropriate for a post-*Tsilhqot’in* environment, and with a clear timeline that identifies tangible progress.

It is envisioned that this work will achieve a principled and substantive approach to reconciliation that will include:

#### **1. Vision**

A joint updated vision for the Crown-First Nation relationship in British Columbia, which builds from New Relationship, in the context of social issues, lands and resources and the economy. The vision may also reflect on the role of the Government of Canada.

#### **2. Guiding principles**

Guiding principles for reconciliation, building from those set out in the New Relationship. It is anticipated this will include or reflect principles about the relationship and reconciliation as articulated by the courts, as well as principles agreed to in political accords to date in BC between the Province and First Nations (e.g. *Tsawwassen Accord*, *Transformative Change Accord*).

### **3. Goals and objectives**

Mutual and respective goals and objectives for reconciliation, and associated actions, measures and steps. It is anticipated these would include achieving predictability and stability in the economy, and closing the socio-economic gap that persists between First Nations and non-First Nations.

### **4. Partnerships and Cultural Understandings**

Measures to build partnerships and strengthen cultural understandings between First Nations and the Crown, as well as with others (e.g. industry). The objective of advancing and achieving reconciliation is not an issue limited to the Crown and First Nations. It is an imperative of society as a whole and there are many potential partners to help successfully achieve this objective.

### **5. Processes and structures**

Action with regard to:

- a. Identifying and establishing new institutions, processes, and structures to support or facilitate reconciliation efforts;
- b. Designing new negotiation and dispute resolution approaches;
- c. Supporting First Nations capacity and governance development; and
- d. Determining and advancing strategies and actions to ensure the Government of Canada fulfills the federal Crown's obligations.

### **6. Systemic Supports: Legislation, Policy and Other Options**

Concrete legislative, policy or other options and ideas for facilitating and supporting an improved and constructive relationship. These may initially focus on key legislation, policies or practices that have given rise to conflict in the relationship (e.g. environmental assessment, online mineral staking). It is anticipated that options will include a process for improved and effective engagement on the collaborative development of new legislation, policies and practices, or reform of existing ones.

### **Themes to Address**

The work will require dialogue about a number of key themes, including:

*Reconciliation and Recognition* – Aboriginal rights and title exists in British Columbia. First Nations, the Province and Canada must find ways to reconcile our respective jurisdictions, governance, laws and responsibilities.

*Strengthening the Economy* – Having a strong and resilient economy is a shared interest and is critical to our mutual success. First Nations must be full partners in economic development and growth.

*Lands and Resources* – Aboriginal people have a unique connection to the land and resources in British Columbia and sustainable resource development is a key component of British Columbia's economy. Collaborative environmental stewardship can ensure our lands and resources are used sustainably and into the future.

*Social and Economic Gaps* – Closing the social and economic gap between Aboriginal peoples and other British Columbians to achieve healthy and strong Aboriginal communities is a shared objective and priority.

*Advancing Successful Negotiations* – Negotiation offers a path to collaboration and finding creative ways to address our respective interests, and the preferable path to reconciliation.

In addressing these themes, the work should reflect upon and consider lessons learned since 2005, including:

- progress and opportunities that have been made;
- a frank assessment of what has and has not worked;
- the implications, challenges, and opportunities for implementing the principles and standards of *Tsilhqot'in* across British Columbia, including recognizing the proper Title and Rights holders;
- the respective work that First Nations and Crown governments must do to effect a transformation in relations; and
- reflect on strengths and how to address gaps in the relationships.

Acknowledging that a large body of work already exists and should be built upon moving forward, the work should consider relevant materials including the following:

- New Relationship Vision;
- Transformative Change Accord;
- The Supreme Court of Canada's decision in *Tsilhqot'in* and other jurisprudence;
- The Four Principles developed by First Nations Chiefs in 2014;
- The strategic objectives of the Premier and Cabinet;
- The *United Nations Declaration on the Rights of Indigenous Peoples*;
- Truth and Reconciliation Commission Reports;
- Recognition Working Group materials;
- Recognition and Reconciliation legislative initiative;
- All Chiefs Task Force Report (2009);
- Materials developed by the Union of BC Indian Chiefs, First Nations Summit, and BC Assembly of First Nations that inform the development of a reconciliation framework, and movement to a post-*Tsilhqot'in* environment;
- Royal Commission on Aboriginal Peoples Report;
- First Nations Leadership Council report on shared territories and overlaps;
- Industry and business reports and publications;
- Government reports and publications.



## **Proposed Implementation & Engagement Process**

The implementation of this joint agenda will be overseen by the Members of the Provincial Cabinet and the FNLC, who will jointly determine milestones/timelines to be met, as informed by input gathered through the engagement process.

A Joint Core Working Group will be established to undertake this work in accordance with this proposed commitment document.

We recognize that meaningful engagement and information sharing will be critical in making progress in the coming year. We commit to developing a joint engagement workplan that is based on an inclusive, open, transparent and timely process.

### First Nations Engagement

The FNLC proposes the following processes for First Nations engagement:

- Two All Chiefs Assemblies, in addition to regularly scheduled BCAFN, UBCIC and FNS assemblies;
- Team/working group to present in any Nation;
- Regional sessions; and
- First Nations Organizations (sectoral councils);
- Legal advisory team (to which any First Nation can send a representative).

### BC Government Engagement

The Premier and Cabinet provide the policy direction of Government and will be informed by:

- Policy and legal working group to include and encourage advice from cross-government; and
- Premier's office involvement and linkage to core working group.

The following components are engagement pieces that will be approached jointly:

#### Business and Industry Engagement

The engagement process will create diverse opportunities for outreach and engagement with business and industry. Engagement with business and industry will occur through existing associations and groups including Business Council of British Columbia, sector associations such as Clean Energy BC, Mining Association of BC, AME-BC, COFI, etc. Engagement may take a variety of forms including dialogue sessions, presentations, written, etc and may be joint or bilateral.

#### Federal Government Engagement

The Federal government has a critical role to play in reconciliation and engaging on a Nation-to-Nation basis with BC First Nations. The FNLC and Province of BC agree that it's important to jointly approach the Federal Government and ensure the Federal government fulfills the federal Crown's obligations.

#### Public Awareness and Other Stakeholders

We jointly agree there will be other relevant stakeholders such as social service agencies that may want input and information regarding this work. This will be considered as part of the overall engagement workplan.

Consideration will be given to finding ways to raise public awareness and understanding of the unique and important nature of the relationship between First Nations and the Provincial Crown.

The actions in this proposed Commitment Document now form the agenda for the coming year between First Nations Leadership Council and the Province, with milestones/timelines to be jointly determined, and informed by input from the engagement process, as a priority step. It is proposed that the Province be represented by members of the BC Cabinet. This will include an Annual meeting on progress to include the Premier.

A formal report out will occur at the next annual BC Cabinet First Nations Leaders Gathering in September 2016, with other reporting as set out in the proposed Implementation and Engagement Process.

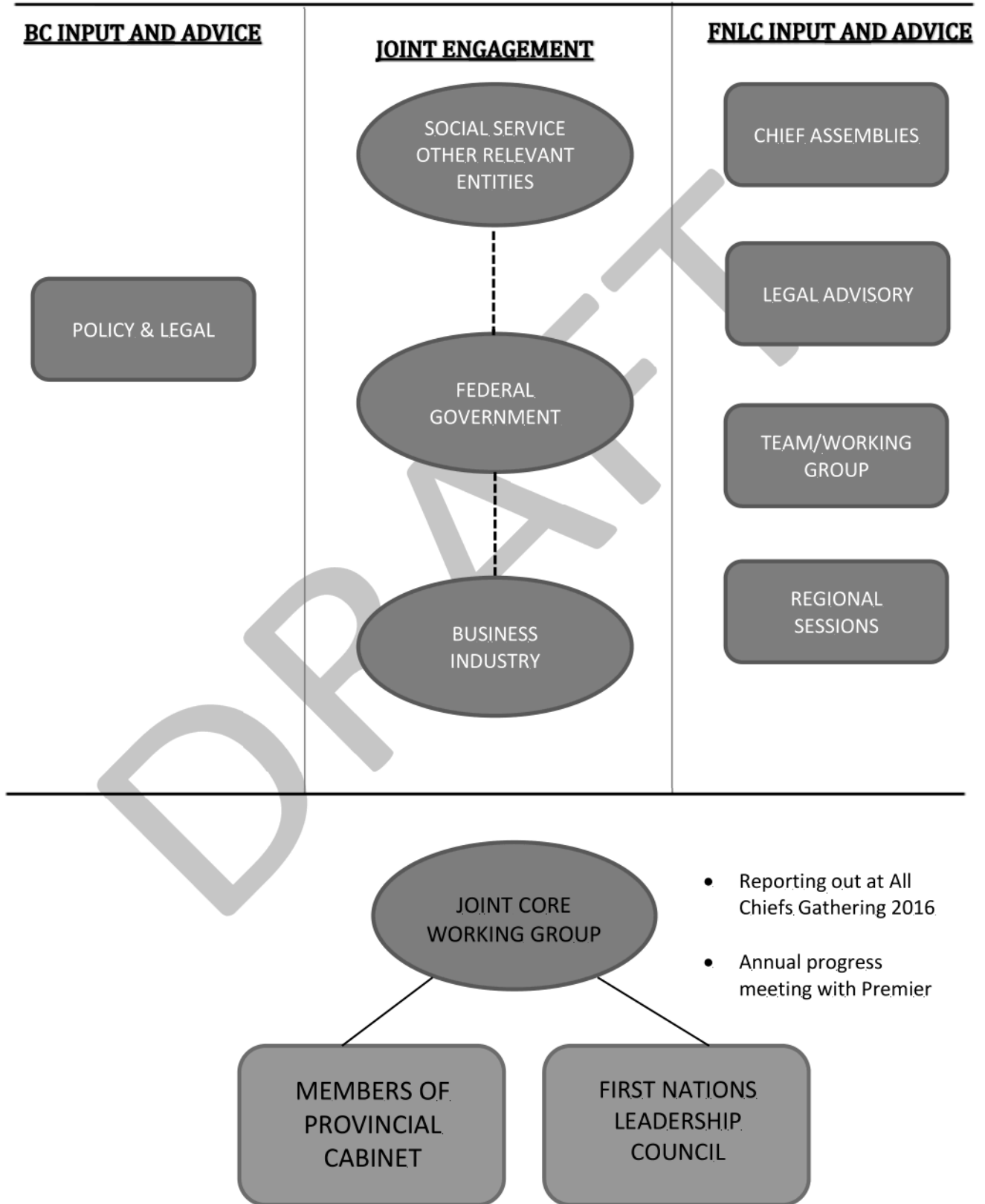
Province commits to resourcing the joint work and engagement process.

A proposed engagement and reporting structure is attached.

Ratification processes will be implemented as appropriate.

DRAFT

## ENGAGEMENT WORKPLAN:



# Joint Agenda: Implementing the Commitment Document

## Shared Vision, Guiding Principles, Goals and Objectives

### VISION 2018

As expressed in the 2005 New Relationship vision, the Province of British Columbia and First Nations in British Columbia remain determined to achieve a government-to-government relationship based on respect, recognition and accommodation of Aboriginal title and rights, and to the reconciliation of Aboriginal and Crown titles and jurisdictions.

In light of the changing legal, political, economic and social landscape, we are updating our shared vision of and framework for an effective Crown-First Nation relationship in British Columbia, that includes concrete actions and measures for ensuring tangible and real change to the *status quo*.

We will jointly design, construct and implement a principled, pragmatic and organized approach to implement the section 35 *Constitution Act, 1982* framework in British Columbia, the Tsilhqot'in

decision and other established law, the *United Nations Declaration on the Rights of Indigenous Peoples*, and the Truth and Reconciliation Commission's Calls to Action - with tangible milestones to demonstrate progress. We also endorse for application in BC the *Principles respecting the Government of Canada's relationship with Indigenous peoples* (July 2017), which we will determine in collaboration and which are consistent with the Four Principles developed by BC First Nations in 2014. We acknowledge, too, the roles the federal Crown must play in our work of reconciliation.

First Nations and the Crown will work toward strong, sophisticated and valued government-to-government relationships, with clear principles, mutual and respective responsibilities, and accountabilities. This renewed and modernized relationship will clarify and include space for the exercise of our respective jurisdictions, governance, laws and responsibilities, including through new processes and institutions, with the aim of benefitting from and integrating,





where appropriate, the strengths of Indigenous and Crown systems (inclusive of world views, values, processes, standards, policies, decision-making institutions or structures, and approaches), for the benefit of all British Columbians and in terms of environmental stewardship, sustainable resource development, appropriate needs-based service delivery, and a robust and sustainable economy.

Supporting strengthened governance capacity of First Nations will be a priority in order to support this renewed government-to-government relationship.

Our shared vision for Crown-First Nation reconciliation – a fundamental purpose of section 35 of the *Constitution Act, 1982* – has First Nations as an integral part of the social, cultural, political and economic fabric of British Columbia.

We will achieve this vision through our commitment to guiding principles of reconciliation, which will inform and facilitate innovative approaches to negotiations and agreement-making, the development of new mechanisms for decision-making and economic relations, meaningful changes to legislation and policy, and collaborative engagement with partners. This collaborative work will support and contribute to our success and, also, bring clarity where it may not exist today. We recognize the legal landscape continues to evolve and there are differing interpretations of jurisprudence. We prefer, instead, to establish the following principles to move away from the status quo and toward a modernized Crown-Indigenous relationship in British Columbia.

We will begin this work by implementing our agreed **Concrete Actions: Transforming Laws, Policies, Processes and Structures**.

## GUIDING PRINCIPLES

Our shared guiding principles for our ongoing work of reconciliation are as follows:

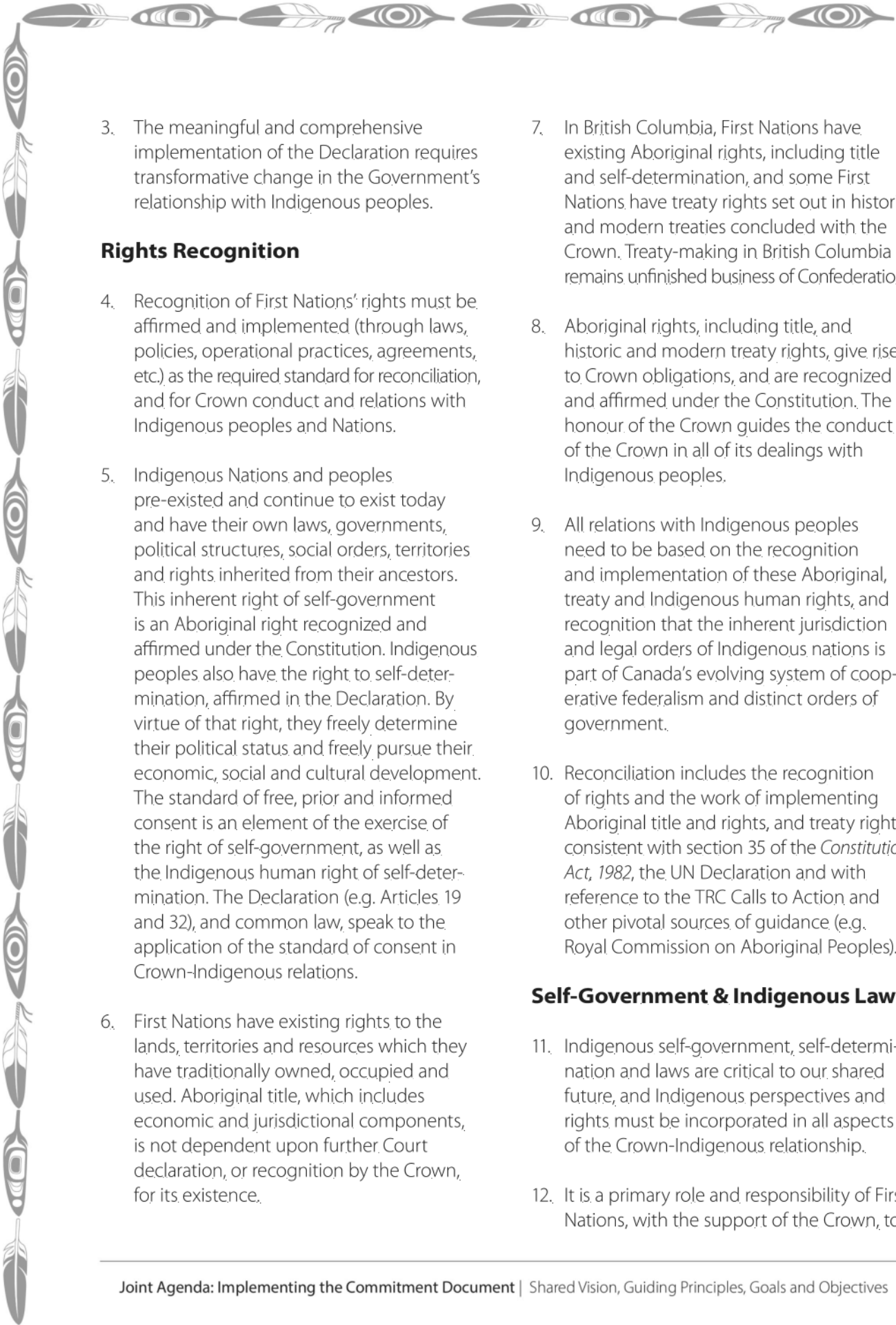
### United Nations Declaration on the Rights of Indigenous Peoples

1. The rights recognized in the *United Nations Declaration on the Rights of Indigenous Peoples* ("Declaration") constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world, including in British Columbia. These include foundational standards related to the right of self-determination, self-government, and land and resource rights (see, for example, Articles 3, 26 and 32).
2. As stated by the Prime Minister at the 2017 United Nations General Assembly, speaking to the 10th anniversary of the Declaration:

*"In the words of Canada's Truth and Reconciliation Commission, the Declaration provides "the necessary principles, norms, and standards for reconciliation to flourish in twenty-first-century Canada." That's not an aspiration. That's a way forward."*

And, as stated by Premier John Horgan in his mandate letter to Minister Scott Fraser, Minister of Indigenous Relations and Reconciliation:

*"We will work collaboratively and respectfully with First Nations to establish a clear, cross-government vision of reconciliation to guide the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, the Truth and Reconciliation Commission Calls to Action, and the Tsilhqot'in Supreme Court decision."*



3. The meaningful and comprehensive implementation of the Declaration requires transformative change in the Government's relationship with Indigenous peoples.

### **Rights Recognition**

4. Recognition of First Nations' rights must be affirmed and implemented (through laws, policies, operational practices, agreements, etc.) as the required standard for reconciliation, and for Crown conduct and relations with Indigenous peoples and Nations.
5. Indigenous Nations and peoples pre-existed and continue to exist today and have their own laws, governments, political structures, social orders, territories and rights inherited from their ancestors. This inherent right of self-government is an Aboriginal right recognized and affirmed under the Constitution. Indigenous peoples also have the right to self-determination, affirmed in the Declaration. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. The standard of free, prior and informed consent is an element of the exercise of the right of self-government, as well as the Indigenous human right of self-determination. The Declaration (e.g. Articles 19 and 32), and common law, speak to the application of the standard of consent in Crown-Indigenous relations.
6. First Nations have existing rights to the lands, territories and resources which they have traditionally owned, occupied and used. Aboriginal title, which includes economic and jurisdictional components, is not dependent upon further Court declaration, or recognition by the Crown, for its existence.

7. In British Columbia, First Nations have existing Aboriginal rights, including title and self-determination, and some First Nations have treaty rights set out in historic and modern treaties concluded with the Crown. Treaty-making in British Columbia remains unfinished business of Confederation.

8. Aboriginal rights, including title, and historic and modern treaty rights, give rise to Crown obligations, and are recognized and affirmed under the Constitution. The honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.
9. All relations with Indigenous peoples need to be based on the recognition and implementation of these Aboriginal, treaty and Indigenous human rights, and recognition that the inherent jurisdiction and legal orders of Indigenous nations is part of Canada's evolving system of cooperative federalism and distinct orders of government.
10. Reconciliation includes the recognition of rights and the work of implementing Aboriginal title and rights, and treaty rights, consistent with section 35 of the *Constitution Act, 1982*, the UN Declaration and with reference to the TRC Calls to Action and other pivotal sources of guidance (e.g. Royal Commission on Aboriginal Peoples).

### **Self-Government & Indigenous Laws**

11. Indigenous self-government, self-determination and laws are critical to our shared future, and Indigenous perspectives and rights must be incorporated in all aspects of the Crown-Indigenous relationship.
12. It is a primary role and responsibility of First Nations, with the support of the Crown, to



determine their structures of governance, including determining or confirming political institutions representative of proper title and rights holders, and to identify appropriate processes or approaches to clarify relationships, boundaries and protocols with neighbouring Nations.

13. Both Crown and First Nation Governments require decision-making responsibilities, management structures, partnerships with other governments, and sources of revenue. Reconciliation and self-government require a renewed fiscal relationship that is designed and implemented to properly support the operation of First Nation Governments, and that promotes a mutually supportive climate for sustainable economic partnership and resource development.
14. The best outcomes are achievable when Crown and First Nation decisions are aligned, in harmony, and an outcome of collaboration rather than conflict. As such, models of and approaches to shared and joint decision-making are needed which facilitate meaningful and collaborative approaches to how Aboriginal title and rights are implemented by First Nations, and are considered, addressed, accommodated, and respected.

### **Socio-Economic & Cultural Well-Being**

15. The socio-economic gap between First Nations and other British Columbians must be closed as an imperative under human rights law, reconciliation and social justice.
16. We have a shared interest in supporting First Nations to develop and strengthen their governance capacity to deliver the range of services to their citizens, including with regard to child and family well-being,

emergency services to keep communities safe, excellence in education, and supporting healthy families.

17. We have a shared interest in supporting First Nations to revitalize, strengthen and continue their distinct cultures and languages.
18. We have a shared and mutual interest in achieving and maintaining a strong, robust and diverse economy at the provincial, regional and community levels, with increasing participation by First Nations at all levels.
19. Meaningful First Nations participation in the economy is integral to our collective success. A strong economy will assist in closing socio-economic gaps and building strong First Nations governments.

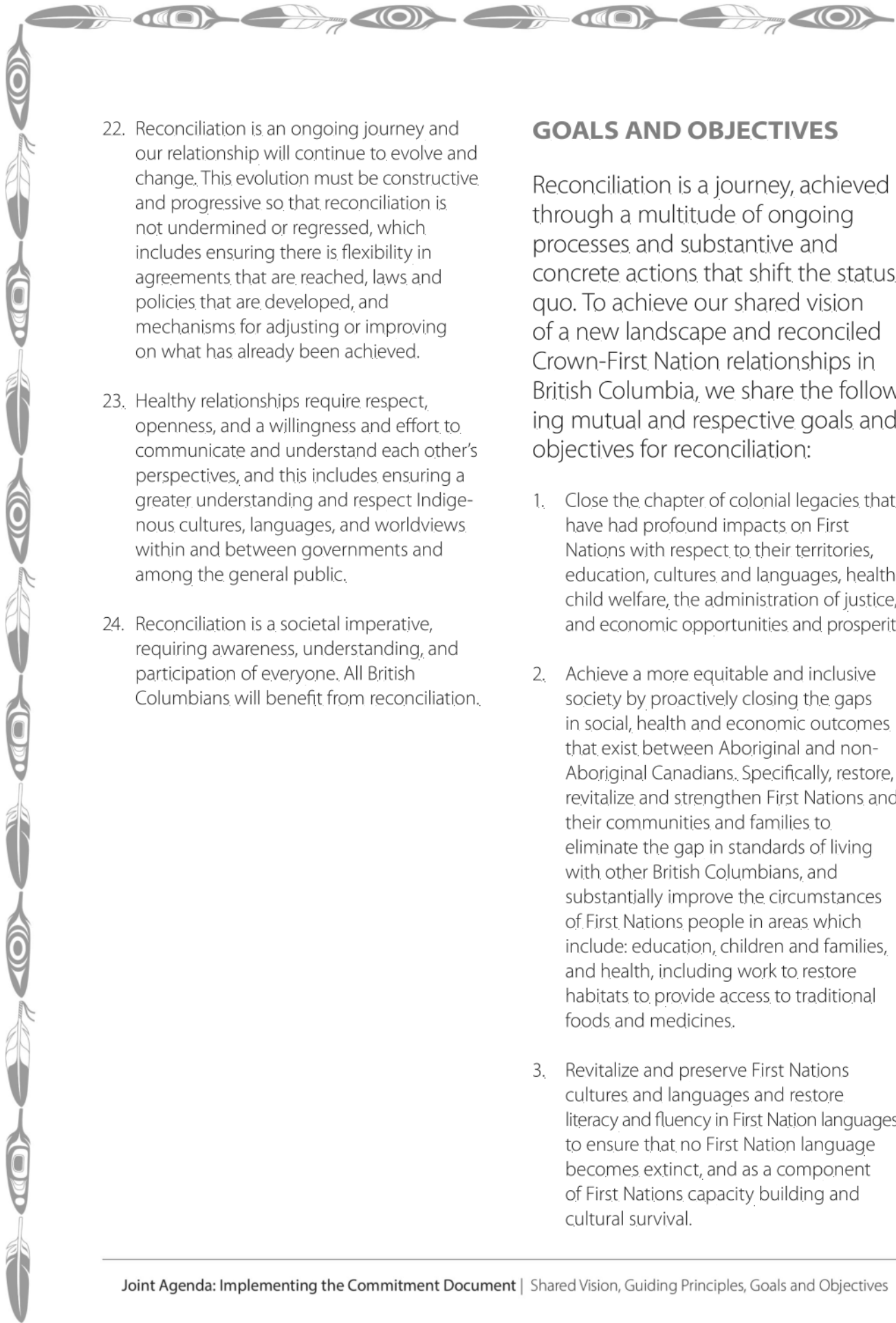
### **Environmental Integrity**

20. There is a shared interest in environmentally sustainable resource development, informed by science and First Nations traditional knowledge and wisdom. We can better steward the land if we commit to better understand and implement the most progressive and successful aspects of our respective perspectives, approaches and practices.

### **Collaboration and Conflict Resolution**

21. Innovative approaches to negotiations, problem-solving and collaboration are required to advance reconciliation, including opportunities for short, medium, and long-term agreements, and the development of new models of clarity and predictability that are achieved through stronger relationships, processes, and structures.



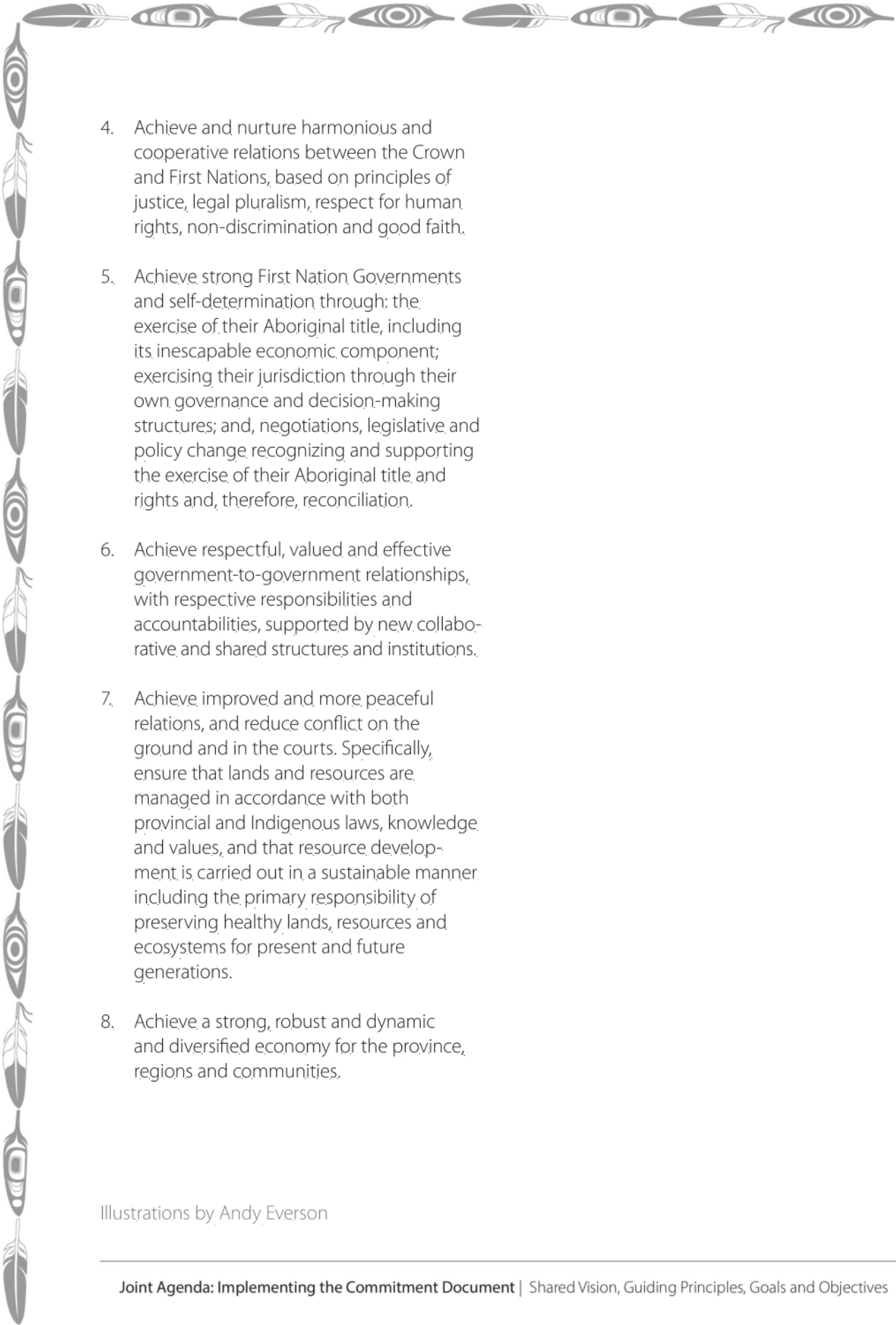


22. Reconciliation is an ongoing journey and our relationship will continue to evolve and change. This evolution must be constructive and progressive so that reconciliation is not undermined or regressed, which includes ensuring there is flexibility in agreements that are reached, laws and policies that are developed, and mechanisms for adjusting or improving on what has already been achieved.
23. Healthy relationships require respect, openness, and a willingness and effort to communicate and understand each other's perspectives, and this includes ensuring a greater understanding and respect Indigenous cultures, languages, and worldviews within and between governments and among the general public.
24. Reconciliation is a societal imperative, requiring awareness, understanding, and participation of everyone. All British Columbians will benefit from reconciliation.

## GOALS AND OBJECTIVES

Reconciliation is a journey, achieved through a multitude of ongoing processes and substantive and concrete actions that shift the status quo. To achieve our shared vision of a new landscape and reconciled Crown-First Nation relationships in British Columbia, we share the following mutual and respective goals and objectives for reconciliation:

1. Close the chapter of colonial legacies that have had profound impacts on First Nations with respect to their territories, education, cultures and languages, health, child welfare, the administration of justice, and economic opportunities and prosperity.
2. Achieve a more equitable and inclusive society by proactively closing the gaps in social, health and economic outcomes that exist between Aboriginal and non-Aboriginal Canadians. Specifically, restore, revitalize and strengthen First Nations and their communities and families to eliminate the gap in standards of living with other British Columbians, and substantially improve the circumstances of First Nations people in areas which include: education, children and families, and health, including work to restore habitats to provide access to traditional foods and medicines.
3. Revitalize and preserve First Nations cultures and languages and restore literacy and fluency in First Nation languages to ensure that no First Nation language becomes extinct, and as a component of First Nations capacity building and cultural survival.



4. Achieve and nurture harmonious and cooperative relations between the Crown and First Nations, based on principles of justice, legal pluralism, respect for human rights, non-discrimination and good faith.
5. Achieve strong First Nation Governments and self-determination through: the exercise of their Aboriginal title, including its inescapable economic component; exercising their jurisdiction through their own governance and decision-making structures; and, negotiations, legislative and policy change recognizing and supporting the exercise of their Aboriginal title and rights and, therefore, reconciliation.
6. Achieve respectful, valued and effective government-to-government relationships, with respective responsibilities and accountabilities, supported by new collaborative and shared structures and institutions.
7. Achieve improved and more peaceful relations, and reduce conflict on the ground and in the courts. Specifically, ensure that lands and resources are managed in accordance with both provincial and Indigenous laws, knowledge and values, and that resource development is carried out in a sustainable manner including the primary responsibility of preserving healthy lands, resources and ecosystems for present and future generations.
8. Achieve a strong, robust and dynamic and diversified economy for the province, regions and communities.

Illustrations by Andy Everson

# Joint Agenda: Implementing the Commitment Document

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## Concrete Actions: Transforming Laws, Policies, Processes and Structures

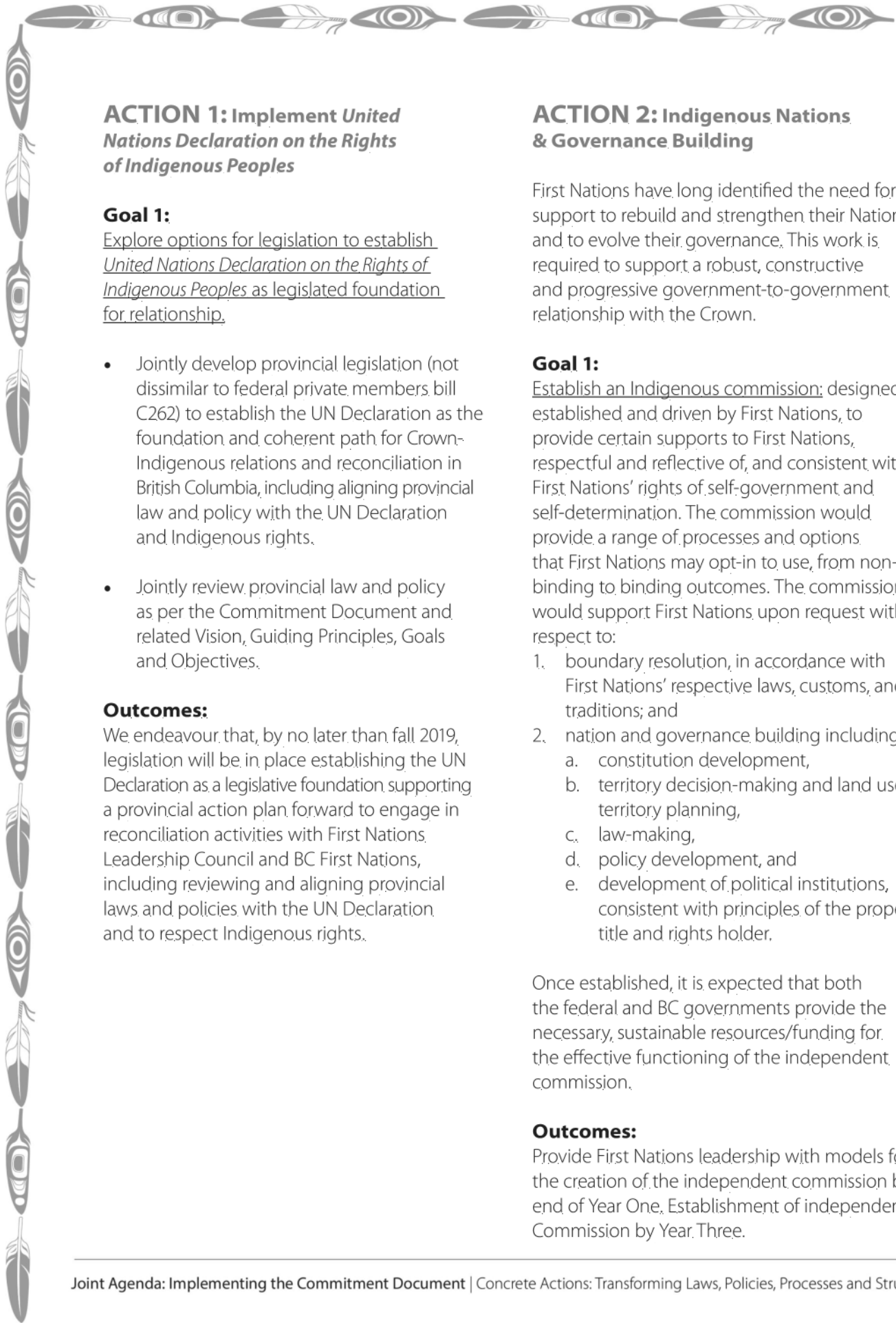
To implement the Commitment Document, and to achieve the Vision, Guiding Principles, Goals and Objectives, First Nations and British Columbia (B.C.) need to establish new institutions, processes and structures based on recognition of Indigenous rights, to support/facilitate reconciliation efforts, enable new negotiations and dispute resolution approaches, and provide capacity and governance development support to First Nations and BC.

To enable and enact new processes and structures, the Province and First Nations will review policies, programs, and legislation to align with the *United Nations Declaration on the Rights of Indigenous Peoples* ("Declaration"), the Truth and Reconciliation Commission Calls to Action, and *Tsilhqot'in* and other case law. In addition, the Government of Canada has roles to play which must be engaged.

Simply stated, reconciliation and transformative change will occur through concrete action, not mere verbal commitments.

The following concrete actions have been identified as *initial* priorities: Indigenous Nations & Governance Building; Legislative, Policy and Practice Review and Reform; New Approaches to Effective Negotiations and Dispute Resolution; and, Reconciliation in BC. These actions will be implemented through joint processes that are agreed to by First Nations and BC and are co-governed by the Premier/Ministers and the First Nations Leadership Council. The First Nations Leadership Council and BC will engage Canada as appropriate and are committed to engaging and informing stakeholders and non-Indigenous communities on concrete actions. This multi-year work is focused primarily on systemic change and is laid out below with concrete outcomes proposed for the next three years of work.





## **ACTION 1: Implement *United Nations Declaration on the Rights of Indigenous Peoples***

### **Goal 1:**

Explore options for legislation to establish *United Nations Declaration on the Rights of Indigenous Peoples* as legislated foundation for relationship.

- Jointly develop provincial legislation (not dissimilar to federal private members bill C262) to establish the UN Declaration as the foundation and coherent path for Crown-Indigenous relations and reconciliation in British Columbia, including aligning provincial law and policy with the UN Declaration and Indigenous rights.
- Jointly review provincial law and policy as per the Commitment Document and related Vision, Guiding Principles, Goals and Objectives.

### **Outcomes:**

We endeavour that, by no later than fall 2019, legislation will be in place establishing the UN Declaration as a legislative foundation supporting a provincial action plan forward to engage in reconciliation activities with First Nations Leadership Council and BC First Nations, including reviewing and aligning provincial laws and policies with the UN Declaration and to respect Indigenous rights.

## **ACTION 2: Indigenous Nations & Governance Building**

First Nations have long identified the need for support to rebuild and strengthen their Nations and to evolve their governance. This work is required to support a robust, constructive and progressive government-to-government relationship with the Crown.

### **Goal 1:**

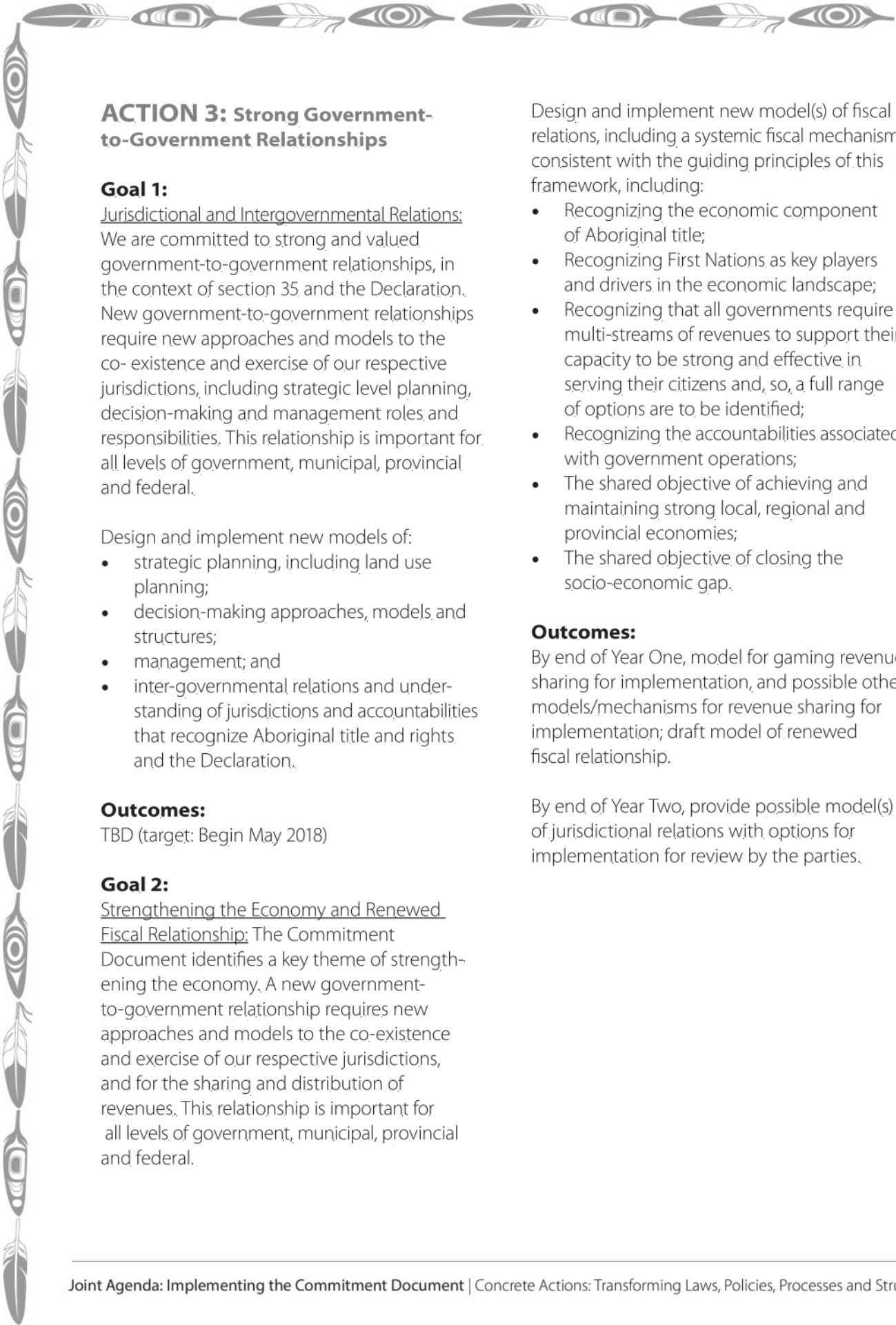
Establish an Indigenous commission: designed, established and driven by First Nations, to provide certain supports to First Nations, respectful and reflective of, and consistent with, First Nations' rights of self-government and self-determination. The commission would provide a range of processes and options that First Nations may opt-in to use, from non-binding to binding outcomes. The commission would support First Nations upon request with respect to:

1. boundary resolution, in accordance with First Nations' respective laws, customs, and traditions; and
2. nation and governance building including:
  - a. constitution development,
  - b. territory decision-making and land use/territory planning,
  - c. law-making,
  - d. policy development, and
  - e. development of political institutions, consistent with principles of the proper title and rights holder.

Once established, it is expected that both the federal and BC governments provide the necessary, sustainable resources/funding for the effective functioning of the independent commission.

### **Outcomes:**

Provide First Nations leadership with models for the creation of the independent commission by end of Year One. Establishment of independent Commission by Year Three.



### **ACTION 3: Strong Government-to-Government Relationships**

#### **Goal 1:**

##### Jurisdictional and Intergovernmental Relations:

We are committed to strong and valued government-to-government relationships, in the context of section 35 and the Declaration. New government-to-government relationships require new approaches and models to the co-existence and exercise of our respective jurisdictions, including strategic level planning, decision-making and management roles and responsibilities. This relationship is important for all levels of government, municipal, provincial and federal.

Design and implement new models of:

- strategic planning, including land use planning;
- decision-making approaches, models and structures;
- management; and
- inter-governmental relations and understanding of jurisdictions and accountabilities that recognize Aboriginal title and rights and the Declaration.

#### **Outcomes:**

TBD (target: Begin May 2018)

#### **Goal 2:**

##### Strengthening the Economy and Renewed Fiscal Relationship:

The Commitment Document identifies a key theme of strengthening the economy. A new government-to-government relationship requires new approaches and models to the co-existence and exercise of our respective jurisdictions, and for the sharing and distribution of revenues. This relationship is important for all levels of government, municipal, provincial and federal.

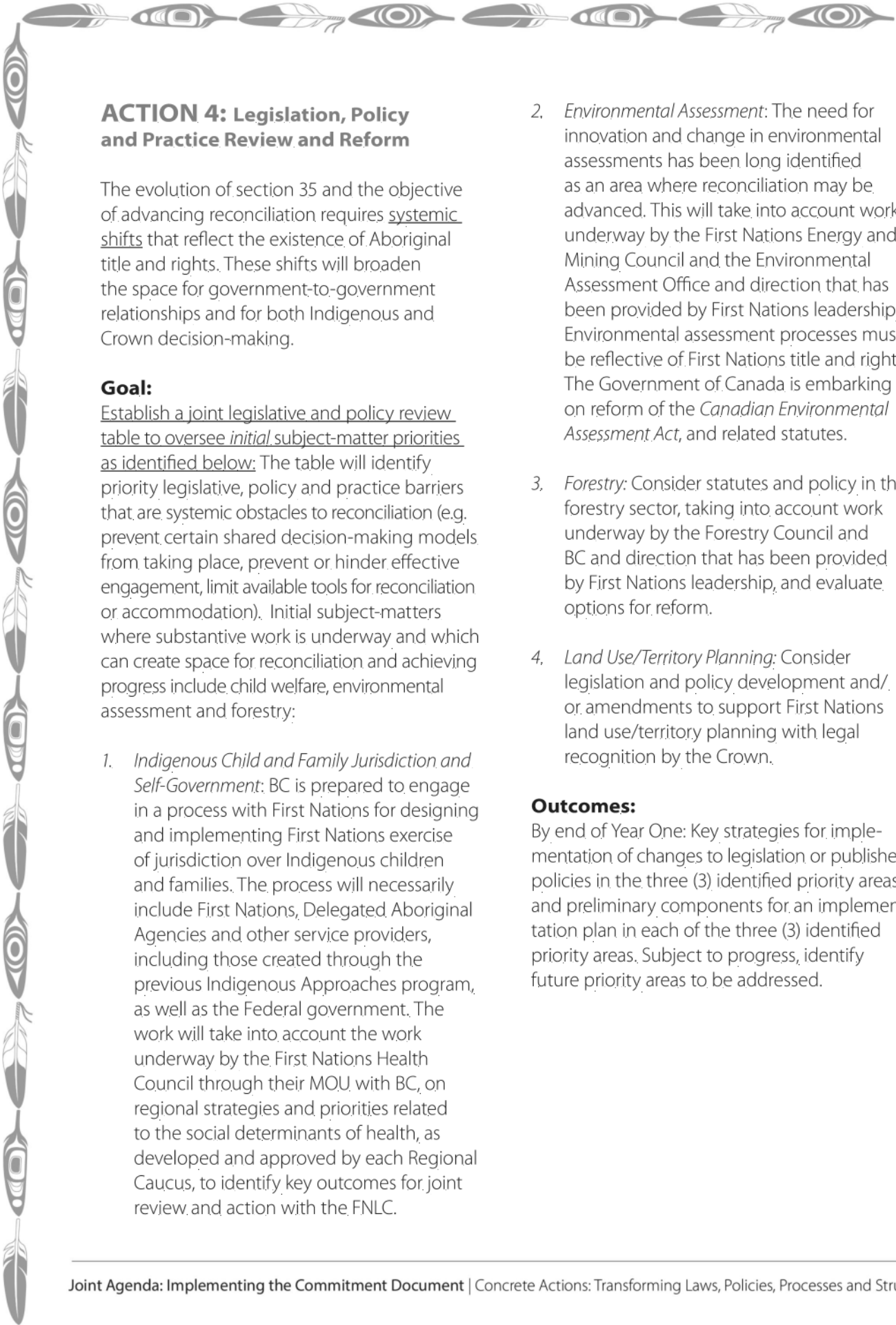
Design and implement new model(s) of fiscal relations, including a systemic fiscal mechanism, consistent with the guiding principles of this framework, including:

- Recognizing the economic component of Aboriginal title;
- Recognizing First Nations as key players and drivers in the economic landscape;
- Recognizing that all governments require multi-streams of revenues to support their capacity to be strong and effective in serving their citizens and, so, a full range of options are to be identified;
- Recognizing the accountabilities associated with government operations;
- The shared objective of achieving and maintaining strong local, regional and provincial economies;
- The shared objective of closing the socio-economic gap.

#### **Outcomes:**

By end of Year One, model for gaming revenue sharing for implementation, and possible other models/mechanisms for revenue sharing for implementation; draft model of renewed fiscal relationship.

By end of Year Two, provide possible model(s) of jurisdictional relations with options for implementation for review by the parties.



## **ACTION 4: Legislation, Policy and Practice Review and Reform**

The evolution of section 35 and the objective of advancing reconciliation requires systemic shifts that reflect the existence of Aboriginal title and rights. These shifts will broaden the space for government-to-government relationships and for both Indigenous and Crown decision-making.

### **Goal:**

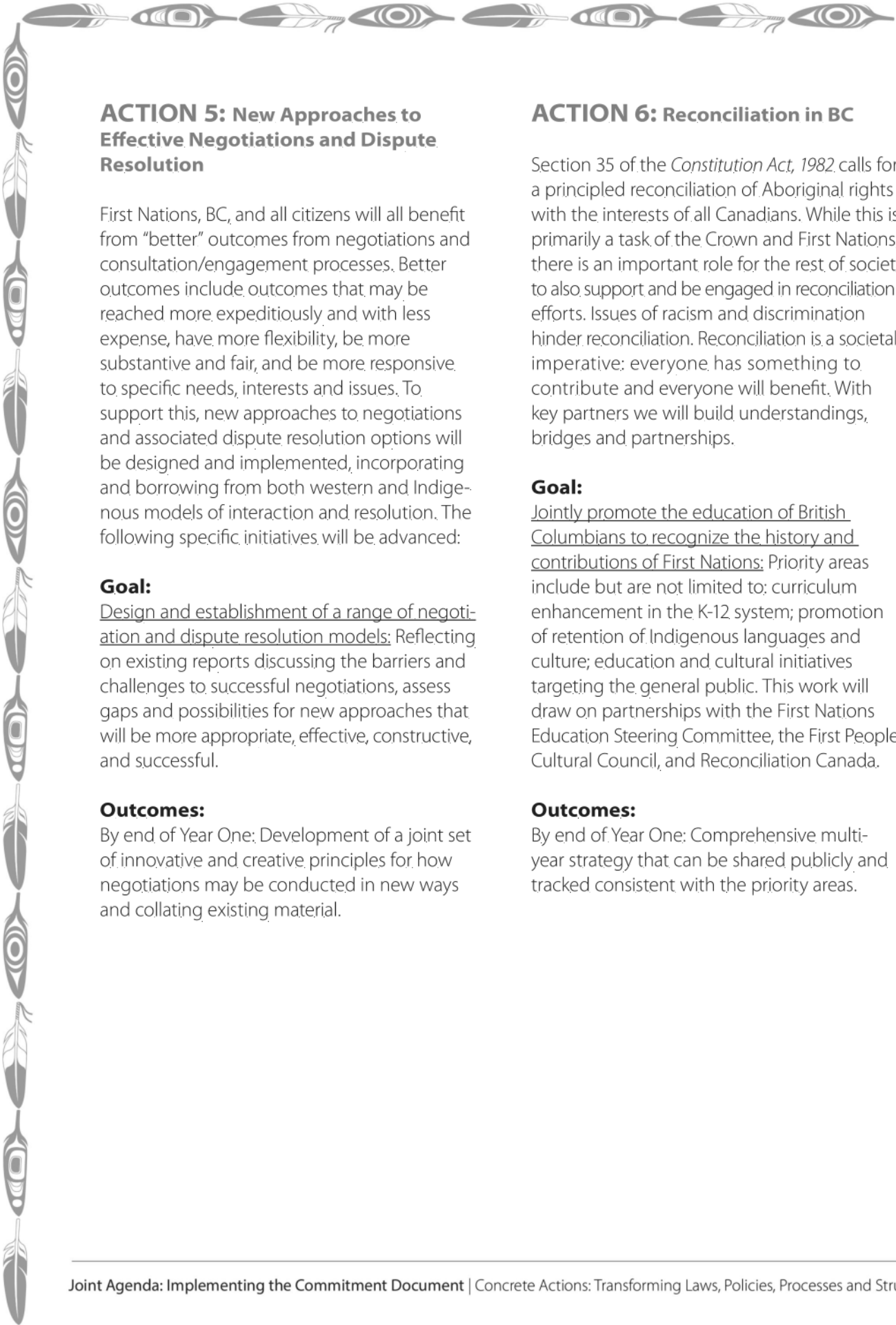
Establish a joint legislative and policy review table to oversee initial subject-matter priorities as identified below: The table will identify priority legislative, policy and practice barriers that are systemic obstacles to reconciliation (e.g. prevent certain shared decision-making models from taking place, prevent or hinder effective engagement, limit available tools for reconciliation or accommodation). Initial subject-matters where substantive work is underway and which can create space for reconciliation and achieving progress include child welfare, environmental assessment and forestry:

1. *Indigenous Child and Family Jurisdiction and Self-Government:* BC is prepared to engage in a process with First Nations for designing and implementing First Nations exercise of jurisdiction over Indigenous children and families. The process will necessarily include First Nations, Delegated Aboriginal Agencies and other service providers, including those created through the previous Indigenous Approaches program, as well as the Federal government. The work will take into account the work underway by the First Nations Health Council through their MOU with BC, on regional strategies and priorities related to the social determinants of health, as developed and approved by each Regional Caucus, to identify key outcomes for joint review and action with the FNLC.

2. *Environmental Assessment:* The need for innovation and change in environmental assessments has been long identified as an area where reconciliation may be advanced. This will take into account work underway by the First Nations Energy and Mining Council and the Environmental Assessment Office and direction that has been provided by First Nations leadership. Environmental assessment processes must be reflective of First Nations title and rights. The Government of Canada is embarking on reform of the *Canadian Environmental Assessment Act*, and related statutes.
3. *Forestry:* Consider statutes and policy in the forestry sector, taking into account work underway by the Forestry Council and BC and direction that has been provided by First Nations leadership, and evaluate options for reform.
4. *Land Use/Territory Planning:* Consider legislation and policy development and/or amendments to support First Nations land use/territory planning with legal recognition by the Crown.

### **Outcomes:**

By end of Year One: Key strategies for implementation of changes to legislation or published policies in the three (3) identified priority areas, and preliminary components for an implementation plan in each of the three (3) identified priority areas. Subject to progress, identify future priority areas to be addressed.



### **ACTION 5: New Approaches to Effective Negotiations and Dispute Resolution**

First Nations, BC, and all citizens will all benefit from “better” outcomes from negotiations and consultation/engagement processes. Better outcomes include outcomes that may be reached more expeditiously and with less expense, have more flexibility, be more substantive and fair, and be more responsive to specific needs, interests and issues. To support this, new approaches to negotiations and associated dispute resolution options will be designed and implemented, incorporating and borrowing from both western and Indigenous models of interaction and resolution. The following specific initiatives will be advanced:

**Goal:**

Design and establishment of a range of negotiation and dispute resolution models: Reflecting on existing reports discussing the barriers and challenges to successful negotiations, assess gaps and possibilities for new approaches that will be more appropriate, effective, constructive, and successful.

**Outcomes:**

By end of Year One: Development of a joint set of innovative and creative principles for how negotiations may be conducted in new ways and collating existing material.

### **ACTION 6: Reconciliation in BC**

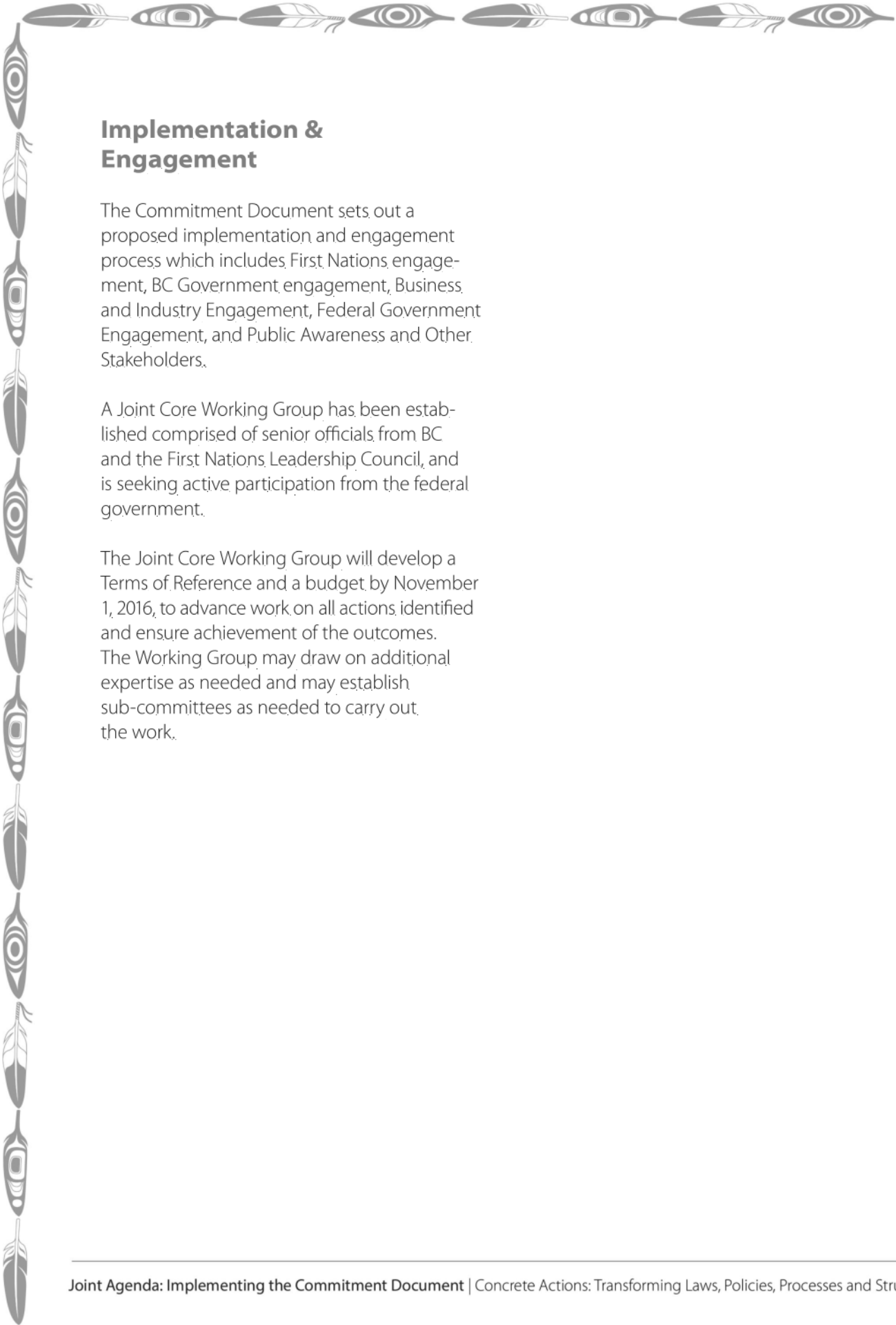
Section 35 of the *Constitution Act, 1982* calls for a principled reconciliation of Aboriginal rights with the interests of all Canadians. While this is primarily a task of the Crown and First Nations, there is an important role for the rest of society to also support and be engaged in reconciliation efforts. Issues of racism and discrimination hinder reconciliation. Reconciliation is a societal imperative: everyone has something to contribute and everyone will benefit. With key partners we will build understandings, bridges and partnerships.

**Goal:**

Jointly promote the education of British Columbians to recognize the history and contributions of First Nations: Priority areas include but are not limited to: curriculum enhancement in the K-12 system; promotion of retention of Indigenous languages and culture; education and cultural initiatives targeting the general public. This work will draw on partnerships with the First Nations Education Steering Committee, the First Peoples Cultural Council, and Reconciliation Canada.

**Outcomes:**

By end of Year One: Comprehensive multi-year strategy that can be shared publicly and tracked consistent with the priority areas.



## Implementation & Engagement

The Commitment Document sets out a proposed implementation and engagement process which includes First Nations engagement, BC Government engagement, Business and Industry Engagement, Federal Government Engagement, and Public Awareness and Other Stakeholders.

A Joint Core Working Group has been established comprised of senior officials from BC and the First Nations Leadership Council, and is seeking active participation from the federal government.

The Joint Core Working Group will develop a Terms of Reference and a budget by November 1, 2016, to advance work on all actions identified and ensure achievement of the outcomes. The Working Group may draw on additional expertise as needed and may establish sub-committees as needed to carry out the work.





## LETTER OF INTENT

Dated for reference October 27, 2021

BETWEEN

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**  
("British Columbia")

AND

**THE MÉTIS NATION BRITISH COLUMBIA**  
("MNBC")

**(Collectively, the "Parties")**

### WHEREAS:

- A. The Parties entered into the Métis Nation Relationship Accord in September of 2006 and renewed the Accord in November 2016, committing to strengthen relationships between the provincial government and Métis people.
- B. The purpose of this Letter of Intent is to outline the Parties' understanding that British Columbia and the MNBC are advancing their relationship and are proposing a new "whole of government" approach to Métis relations as a partnership between MNBC and British Columbia respecting Métis self-determination.

### COLLABORATIVE PRIORITIES:

With this Letter of Intent, the Parties intend to create a new collaborative, accountable, cross government approach to Métis relations incorporating an Assistant Deputy Minister's Committee to help coordinate the framework and vision in step with ongoing programs and initiatives of other ministries with MNBC.

1. The Parties acknowledge the opportunity to sunset the previous Métis Nation Relationship Accord II, and move to a reconciliation agreement in an emerging landscape of reconciliation as being framed by the *Declaration Act on the Rights of Indigenous Peoples*, the Truth and Reconciliation Commission Calls to Action and the National Inquiry into Missing and Murdered Indigenous Women and Girls Calls to Justice.
2. The Parties propose to co-develop a new Métis Relations Working Table as the hub of engagement for MNBC and government with an approach to relations that



formalizes dialogue and integrates engagement on Métis priorities across all of government.


**ADDITIONAL MATTERS:**

3. Upon signing on this Letter of Intent, the Parties agree to immediately begin developing the technical requirements needed to formalize the table.
4. This Letter of Intent may be executed in counterparts and facsimile by the Parties.

**On Behalf of the Métis Nation BC:**

  
\_\_\_\_\_  
Lissa Dawn Smith  
Acting President  
Métis Nation BC

**On Behalf of the Province of British Columbia:**

  
\_\_\_\_\_  
Hon. Murray Rankin, QC  
Minister of Indigenous Relations and  
Reconciliation

DRAFT PRINCIPLES  
*that Guide the*  
PROVINCE OF BRITISH COLUMBIA'S  
*Relationship with*  
INDIGENOUS PEOPLES



# DRAFT PRINCIPLES that Guide the PROVINCE OF BRITISH COLUMBIA'S Relationship with INDIGENOUS PEOPLES

The Province wants to renew its relationship with Indigenous peoples in B.C., and affirms its desire to achieve a government-to-government relationship based on respect, recognition and exercise of Aboriginal title and rights and to the reconciliation of Aboriginal and Crown titles and jurisdictions. We agree to work with Indigenous peoples to jointly design, construct and implement principled, pragmatic and organized approaches informed by the Supreme Court of Canada Tsilhqot'in decision and other established law, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Truth and Reconciliation Commission (TRC) Calls to Action.

Indigenous people have a special constitutional relationship with the Crown. This relationship, including existing Aboriginal and treaty rights, is recognized and affirmed in section 35 of the *Constitution Act*, 1982.

The Province's draft reconciliation principles are intended as bold statements to guide this new relationship and end the denial of Indigenous rights that have led to disempowerment and assimilationist policies and practices. The principles will assure the Province conducts itself in a way that reflects a clear shift in an often troubled relationship with Indigenous peoples to a modern government-to-government relationship that is strong, sophisticated and valued. These principles create the space needed to exercise our respective jurisdictions for the benefit of all British Columbians. We will recognize success when we know Indigenous peoples believe themselves to be self-determining, self-governing, self-sufficient and can practise their Indigenous cultural traditions and customs as an important and respected part of B.C. society.

B.C.'s principles are about renewing the Crown-Indigenous relationship. They are an important starting point to move away from the status quo and to empower the Province to fundamentally change its relationship with Indigenous peoples, a process that will take time and will call for innovative thinking and action. This is necessary to ensure a modernized Crown-Indigenous relationship in B.C.

# **1 The Province of British Columbia recognizes that all relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.**

This opening principle affirms the priority of recognition in renewed government-to-government relationships. As set out by the courts, an Indigenous nation or rights-holding group is a group of Indigenous people sharing critical features such as language, customs, traditions, and historical experience at key moments in time like first contact, assertion of Crown sovereignty, or effective control. The Royal Commission on Aboriginal Peoples estimated that there are between 60 and 80 historical nations in Canada.

The Province's recognition of the ongoing presence and inherent rights of Indigenous peoples as a defining feature of Canada is grounded in the promise of section 35 of the *Constitution Act, 1982*, in addition to reflecting articles 3 and 4 of UNDRIP. The promise mandates the reconciliation of the prior existence of Indigenous peoples and the assertion of Crown sovereignty, as well as the fulfilment of historic treaty relationships.

This principle reflects UNDRIP's call to respect and promote the inherent rights of Indigenous peoples. This includes the rights that derive from their political, economic, and social structures and from their cultures, spiritual traditions, histories, laws, and philosophies, especially their rights to their lands, territories and resources.

The constitutional and legal order in Canada recognizes the reality that Indigenous peoples' ancestors owned and governed the lands which now constitute Canada prior to the Crown's assertion of sovereignty. All of the Crown's relationships with Indigenous peoples are based on recognition of this fact and supported by the recognition of Indigenous title and rights, as well as the negotiation and implementation of pre-Confederation, historic, and modern treaties.

It is the mutual responsibility of all governments to shift their relationships and arrangements with Indigenous peoples so that they are based on recognition and respect for the right to self-determination, including the inherent right of self-government for Indigenous nations. This responsibility includes changes in the operating practices and processes of the provincial government. For Indigenous peoples, this responsibility includes how they define and govern themselves as nations and governments and the parameters of their relationships with other orders of government.

# **2 The Province of British Columbia recognizes that reconciliation is a fundamental purpose of section 35 of the *Constitution Act, 1982*.**

Reconciliation is an ongoing process through which Indigenous peoples and the Crown work cooperatively to establish and maintain a mutually respectful framework for living together, with a view to fostering strong, healthy, and sustainable Indigenous nations within a strong Canada. As we build a new future, reconciliation requires recognition of rights and that we all acknowledge the wrongs of the past, know our true history, and work together to implement Indigenous rights.

This transformative process involves reconciling the pre-existence of Indigenous peoples and their rights and the assertion of sovereignty of the Crown, including inherent rights, title, and jurisdiction. Reconciliation, based on recognition, will require hard work, changes in perspectives and actions, and compromise and good faith, by all.

Reconciliation frames the Crown's actions in relation to Aboriginal and treaty rights and informs the Crown's broader relationship with Indigenous peoples. The Province's approach to reconciliation is guided by UNDRIP, the TRC Calls to Action, constitutional values, and collaboration with Indigenous peoples as well as the federal and other provincial and territorial governments.

### **3 The Province of British Columbia recognizes that the honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.**

The Province recognizes that it must uphold the honour of the Crown, which requires the provincial government and its departments, agencies, and officials to act with honour, integrity, good faith, and fairness in all of its dealings with Indigenous peoples. The honour of the Crown gives rise to different legal duties in different circumstances, including fiduciary obligations and diligence. The overarching aim is to ensure that Indigenous peoples are treated with respect and as full partners in Confederation.

### **4 The Province of British Columbia recognizes that Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.**

This principle affirms the inherent right of self-government as an existing Aboriginal right within section 35 of the *Constitution Act*, 1982. Recognition of the inherent jurisdiction and legal orders of Indigenous nations is therefore the starting point of discussions aimed at interactions between federal, provincial, territorial, and Indigenous jurisdictions and laws.

As informed by UNDRIP, Indigenous peoples have a unique connection to and constitutionally protected interest in their lands, including decision making, governance, jurisdiction, legal traditions, and fiscal relations associated with those lands.

Government-to-government relationships, including treaty relationships, therefore include:

1. developing mechanisms and designing processes which recognize that Indigenous peoples are foundational to Canada's constitutional framework;
2. involving Indigenous peoples in the effective decision making and governance of our shared home;
3. putting in place effective mechanisms to support the transition away from colonial systems of administration and governance; and
4. ensuring, based on recognition of rights, the space for the operation of Indigenous jurisdictions and laws.

## **5 The Province of British Columbia recognizes that treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.**

This principle recognizes that Indigenous peoples have diverse interests and aspirations and that reconciliation can be achieved in different ways with different nations, groups, and communities.

This principle honours historic treaties as frameworks for living together, including the modern expression of these relationships. In accordance with the Royal Proclamation of 1763, many Indigenous nations and the Crown historically relied on treaties for mutual recognition and respect to frame their relationships. Across much of Canada, the treaty relationship between the Indigenous nations and Crown is a foundation for ongoing cooperation and partnership with Indigenous peoples.

The Province recognizes the role that treaty making has played in building Canada and the contemporary importance of treaties, both historic and those negotiated after 1973, as foundations for ongoing efforts at reconciliation. The spirit and intent of both Indigenous and Crown parties to treaties, as reflected in oral and written histories, must inform constructive partnerships, based on the recognition of rights, that support full and timely treaty implementation.

In accordance with section 35 of the *Constitution Act*, 1982, all Indigenous peoples in Canada should have the choice and opportunity to enter into treaties, agreements, and other constructive arrangements with the Crown as acts of reconciliation that form the foundation for ongoing relations. The Province prefers no one mechanism of reconciliation to another. It is prepared to enter into innovative and flexible arrangements with Indigenous peoples that will ensure that the relationship accords with the aspirations, needs, and circumstances of the Crown-Indigenous relationship.

The Province also acknowledges that the existence of Indigenous rights is not dependent on an agreement and, where agreements are formed, they should be based on the recognition and implementation of rights and not their extinguishment, modification, or surrender.

Accordingly, this principle recognizes and affirms the importance that Indigenous peoples determine and develop their own priorities and strategies for organization and advancement. The Province recognizes Indigenous peoples' right to self-determination, including the right to freely pursue their economic, political, social, and cultural development.

## **6 The Province of British Columbia recognizes that meaningful engagement with Indigenous peoples aims to secure their free, prior and informed consent when B.C. proposes to take actions which impact them and their rights, including their lands, territories and resources.**

This principle acknowledges the Province's commitment to a new government-to-government relationship that builds on and goes beyond the legal duty to consult. In delivering on this commitment, the Province recognizes the right of Indigenous peoples to participate in decision making in matters that affect their rights through their own representative institutions and the need to consult and cooperate in good faith with the aim of securing their free, prior and informed consent.

The Supreme Court of Canada has clarified that the standard to secure consent of Indigenous peoples is strongest in the case of Aboriginal title lands. The Supreme Court of Canada has confirmed that Aboriginal title gives the holder the right to use, control, and manage the land and the right to the economic benefits of the land and its resources. The Indigenous nation, as proper title holder, decides how to use and manage its lands for both traditional activities and modern purposes, subject to the limit that the land cannot be developed in a way that would deprive future generations of the benefit of the land.

The importance of free, prior and informed consent, as identified in UNDRIP, extends beyond title lands. To this end, British Columbia will look for opportunities to build processes and approaches aimed at securing consent, as well as creative and innovative mechanisms that will help build deeper collaboration, consensus, and new ways of working together. It will ensure that Indigenous peoples and their governments have a role in public decision making as part of Canada's constitutional framework and ensure that Indigenous rights, interests, and aspirations are recognized in decision making.

## **7 The Province of British Columbia recognizes that respecting and implementing rights is essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.**

This principle reaffirms the central importance of working in partnership to recognize and implement rights and, as such, that any infringement of Aboriginal or treaty rights requires justification in accordance with the highest standards established by Canada's courts and must be attained in a manner consistent with the honour of the Crown and the objective of reconciliation.

This requirement flows from the constitutional arrangements in Canada. Meaningful engagement with Indigenous peoples is therefore mandated whenever the Province may seek to infringe a section 35 right.



## **8 The Province of British Columbia recognizes that reconciliation and self-government require a renewed fiscal relationship, developed in collaboration with the federal government and Indigenous nations that promotes a mutually supportive climate for economic partnership and resource development.**

The Province recognizes that the rights, interests, perspectives, and governance role of Indigenous peoples are central to securing a new fiscal relationship. It also recognizes the importance of strong Indigenous governments in achieving political, social, economic, and cultural development and improved quality of life. This principle recognizes that a renewed economic and fiscal relationship must ensure that Indigenous nations have the fiscal capacity, as well as access to land and resources, in order to govern effectively and to provide programs and services to those for whom they are responsible.

The renewed fiscal relationship will also enable Indigenous peoples to have fair and ongoing access to their lands, territories, and resources to support their traditional economies and to share in the wealth generated from those lands and resources as part of the broader provincial economy.

A fairer fiscal relationship with Indigenous nations can be achieved by the Province, in concert with the federal government, through a number of mechanisms such as new tax arrangements and the negotiation of revenue-sharing agreements.

## **9 The Province of British Columbia recognizes that reconciliation is an ongoing process that occurs in the context of evolving Crown-Indigenous relationships.**

This principle recognizes that reconciliation processes, including processes for negotiation and implementation of treaties, agreements and other constructive arrangements, will need to be innovative and flexible and build over time in the context of evolving Crown-Indigenous relationships. These relationships are to be guided by the recognition and implementation of rights.

Treaties, agreements, and other constructive arrangements should be capable of evolution over time. Moreover, they should provide predictability for the future as to how provisions may be changed or implemented and in what circumstances. The Province is open to flexibility, innovation, and diversity in the nature, form, and content of agreements and arrangements.

The Province also recognizes that it has an active role and responsibility in ensuring the cultural survival of Indigenous peoples as well as in protecting Aboriginal and treaty rights.

The Province will collaborate with Indigenous peoples on changes to provincial laws, policies and practices.

**10** The Province of British Columbia recognizes that a distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of Indigenous peoples in B.C. are acknowledged, affirmed, and implemented.

The Province recognizes First Nations, the Métis Nation, and Inuit as the Indigenous peoples of Canada, consisting of distinct, rights-bearing communities with their own histories, including with the Crown. The work of forming renewed relationships based on the recognition of rights, respect, co-operation, and partnership must reflect the unique interests, priorities and circumstances of each people.





Truth and  
Reconciliation  
Commission of Canada

# **Truth and Reconciliation Commission of Canada: Calls to Action**



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**2015**

Truth and Reconciliation Commission of Canada, 2012

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# Calls to Action

In order to redress the legacy of residential schools and advance the process of Canadian reconciliation, the Truth and Reconciliation Commission makes the following calls to action.

## Legacy

### CHILD WELFARE

1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
  - i. Monitoring and assessing neglect investigations.
  - ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
  - iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
  - iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
  - v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.
2. We call upon the federal government, in collaboration with the provinces and territories, to prepare and

publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions.

3. We call upon all levels of government to fully implement Jordan's Principle.
4. We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:
  - i. Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.
  - ii. Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.
  - iii. Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate.
5. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate parenting programs for Aboriginal families.

### EDUCATION

6. We call upon the Government of Canada to repeal Section 43 of the *Criminal Code of Canada*.
7. We call upon the federal government to develop with Aboriginal groups a joint strategy to eliminate

educational and employment gaps between Aboriginal and non-Aboriginal Canadians.

8. We call upon the federal government to eliminate the discrepancy in federal education funding for First Nations children being educated on reserves and those First Nations children being educated off reserves.
9. We call upon the federal government to prepare and publish annual reports comparing funding for the education of First Nations children on and off reserves, as well as educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
10. We call on the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles:
  - i. Providing sufficient funding to close identified educational achievement gaps within one generation.
  - ii. Improving education attainment levels and success rates.
  - iii. Developing culturally appropriate curricula.
  - iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses.
  - v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems.
  - vi. Enabling parents to fully participate in the education of their children.
  - vii. Respecting and honouring Treaty relationships.
11. We call upon the federal government to provide adequate funding to end the backlog of First Nations students seeking a post-secondary education.
12. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate early childhood education programs for Aboriginal families.

#### **LANGUAGE AND CULTURE**

13. We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.

14. We call upon the federal government to enact an Aboriginal Languages Act that incorporates the following principles:
  - i. Aboriginal languages are a fundamental and valued element of Canadian culture and society, and there is an urgency to preserve them.
  - ii. Aboriginal language rights are reinforced by the Treaties.
  - iii. The federal government has a responsibility to provide sufficient funds for Aboriginal-language revitalization and preservation.
  - iv. The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities.
  - v. Funding for Aboriginal language initiatives must reflect the diversity of Aboriginal languages.
15. We call upon the federal government to appoint, in consultation with Aboriginal groups, an Aboriginal Languages Commissioner. The commissioner should help promote Aboriginal languages and report on the adequacy of federal funding of Aboriginal-languages initiatives.
16. We call upon post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages.
17. We call upon all levels of government to enable residential school Survivors and their families to reclaim names changed by the residential school system by waiving administrative costs for a period of five years for the name-change process and the revision of official identity documents, such as birth certificates, passports, driver's licenses, health cards, status cards, and social insurance numbers.

#### **HEALTH**

18. We call upon the federal, provincial, territorial, and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement the health-care rights of Aboriginal people as identified in international law, constitutional law, and under the Treaties.
19. We call upon the federal government, in consultation with Aboriginal peoples, to establish measurable goals to identify and close the gaps in health outcomes

between Aboriginal and non-Aboriginal communities, and to publish annual progress reports and assess long-term trends. Such efforts would focus on indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.

20. In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Métis, Inuit, and off-reserve Aboriginal peoples.
21. We call upon the federal government to provide sustainable funding for existing and new Aboriginal healing centres to address the physical, mental, emotional, and spiritual harms caused by residential schools, and to ensure that the funding of healing centres in Nunavut and the Northwest Territories is a priority.
22. We call upon those who can effect change within the Canadian health-care system to recognize the value of Aboriginal healing practices and use them in the treatment of Aboriginal patients in collaboration with Aboriginal healers and Elders where requested by Aboriginal patients.
23. We call upon all levels of government to:
  - i. Increase the number of Aboriginal professionals working in the health-care field.
  - ii. Ensure the retention of Aboriginal health-care providers in Aboriginal communities.
  - iii. Provide cultural competency training for all health-care professionals.
24. We call upon medical and nursing schools in Canada to require all students to take a course dealing with Aboriginal health issues, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, and Indigenous teachings and practices. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

## JUSTICE

25. We call upon the federal government to establish a written policy that reaffirms the independence of the

Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.

26. We call upon the federal, provincial, and territorial governments to review and amend their respective statutes of limitations to ensure that they conform to the principle that governments and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.
27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
29. We call upon the parties and, in particular, the federal government, to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.
30. We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.
31. We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.
32. We call upon the federal government to amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.



33. We call upon the federal, provincial, and territorial governments to recognize as a high priority the need to address and prevent Fetal Alcohol Spectrum Disorder (FASD), and to develop, in collaboration with Aboriginal people, FASD preventive programs that can be delivered in a culturally appropriate manner.
34. We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:
  - i. Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD.
  - ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.
  - iii. Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community.
  - iv. Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.
35. We call upon the federal government to eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.
36. We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.
37. We call upon the federal government to provide more supports for Aboriginal programming in halfway houses and parole services.
38. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.
39. We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.
40. We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.
41. We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls. The inquiry's mandate would include:
  - i. Investigation into missing and murdered Aboriginal women and girls.
  - ii. Links to the intergenerational legacy of residential schools.
42. We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the *Constitution Act, 1982*, and the *United Nations Declaration on the Rights of Indigenous Peoples*, endorsed by Canada in November 2012.

## Reconciliation

### **CANADIAN GOVERNMENTS AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE**

43. We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
44. We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the *United Nations Declaration on the Rights of Indigenous Peoples*.

### **ROYAL PROCLAMATION AND COVENANT OF RECONCILIATION**

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:

- i. Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and *terra nullius*.
  - ii. Adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
  - iii. Renew or establish Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
  - iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.
46. We call upon the parties to the Indian Residential Schools Settlement Agreement to develop and sign a Covenant of Reconciliation that would identify principles for working collaboratively to advance reconciliation in Canadian society, and that would include, but not be limited to:
- i. Reaffirmation of the parties' commitment to reconciliation.
  - ii. Repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*, and the reformation of laws, governance structures, and policies within their respective institutions that continue to rely on such concepts.
  - iii. Full adoption and implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
  - iv. Support for the renewal or establishment of Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
  - v. Enabling those excluded from the Settlement Agreement to sign onto the Covenant of Reconciliation.
  - vi. Enabling additional parties to sign onto the Covenant of Reconciliation.

47. We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and *terra nullius*, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.

**SETTLEMENT AGREEMENT PARTIES AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

48. We call upon the church parties to the Settlement Agreement, and all other faith groups and interfaith social justice groups in Canada who have not already done so, to formally adopt and comply with the principles, norms, and standards of the *United Nations Declaration on the Rights of Indigenous Peoples* as a framework for reconciliation. This would include, but not be limited to, the following commitments:
- i. Ensuring that their institutions, policies, programs, and practices comply with the *United Nations Declaration on the Rights of Indigenous Peoples*.
  - ii. Respecting Indigenous peoples' right to self-determination in spiritual matters, including the right to practise, develop, and teach their own spiritual and religious traditions, customs, and ceremonies, consistent with Article 12:1 of the *United Nations Declaration on the Rights of Indigenous Peoples*.
  - iii. Engaging in ongoing public dialogue and actions to support the *United Nations Declaration on the Rights of Indigenous Peoples*.
  - iv. Issuing a statement no later than March 31, 2016, from all religious denominations and faith groups, as to how they will implement the *United Nations Declaration on the Rights of Indigenous Peoples*.
49. We call upon all religious denominations and faith groups who have not already done so to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and *terra nullius*.

**EQUITY FOR ABORIGINAL PEOPLE IN THE LEGAL SYSTEM**

50. In keeping with the *United Nations Declaration on the Rights of Indigenous Peoples*, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and

understanding of Indigenous laws and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.

51. We call upon the Government of Canada, as an obligation of its fiduciary responsibility, to develop a policy of transparency by publishing legal opinions it develops and upon which it acts or intends to act, in regard to the scope and extent of Aboriginal and Treaty rights.
52. We call upon the Government of Canada, provincial and territorial governments, and the courts to adopt the following legal principles:
  - i. Aboriginal title claims are accepted once the Aboriginal claimant has established occupation over a particular territory at a particular point in time.
  - ii. Once Aboriginal title has been established, the burden of proving any limitation on any rights arising from the existence of that title shifts to the party asserting such a limitation.

#### **NATIONAL COUNCIL FOR RECONCILIATION**

53. We call upon the Parliament of Canada, in consultation and collaboration with Aboriginal peoples, to enact legislation to establish a National Council for Reconciliation. The legislation would establish the council as an independent, national, oversight body with membership jointly appointed by the Government of Canada and national Aboriginal organizations, and consisting of Aboriginal and non-Aboriginal members. Its mandate would include, but not be limited to, the following:
  - i. Monitor, evaluate, and report annually to Parliament and the people of Canada on the Government of Canada's post-apology progress on reconciliation to ensure that government accountability for reconciling the relationship between Aboriginal peoples and the Crown is maintained in the coming years.
  - ii. Monitor, evaluate, and report to Parliament and the people of Canada on reconciliation progress across all levels and sectors of Canadian society, including the implementation of the Truth and Reconciliation Commission of Canada's Calls to Action.
  - iii. Develop and implement a multi-year National Action Plan for Reconciliation, which includes research and policy development, public education programs, and resources.

- iv. Promote public dialogue, public/private partnerships, and public initiatives for reconciliation.

54. We call upon the Government of Canada to provide multi-year funding for the National Council for Reconciliation to ensure that it has the financial, human, and technical resources required to conduct its work, including the endowment of a National Reconciliation Trust to advance the cause of reconciliation.
55. We call upon all levels of government to provide annual reports or any current data requested by the National Council for Reconciliation so that it can report on the progress towards reconciliation. The reports or data would include, but not be limited to:
  - i. The number of Aboriginal children—including Métis and Inuit children—in care, compared with non-Aboriginal children, the reasons for apprehension, and the total spending on preventive and care services by child-welfare agencies.
  - ii. Comparative funding for the education of First Nations children on and off reserves.
  - iii. The educational and income attainments of Aboriginal peoples in Canada compared with non-Aboriginal people.
  - iv. Progress on closing the gaps between Aboriginal and non-Aboriginal communities in a number of health indicators such as: infant mortality, maternal health, suicide, mental health, addictions, life expectancy, birth rates, infant and child health issues, chronic diseases, illness and injury incidence, and the availability of appropriate health services.
  - v. Progress on eliminating the overrepresentation of Aboriginal children in youth custody over the next decade.
  - vi. Progress on reducing the rate of criminal victimization of Aboriginal people, including data related to homicide and family violence victimization and other crimes.
  - vii. Progress on reducing the overrepresentation of Aboriginal people in the justice and correctional systems.
56. We call upon the prime minister of Canada to formally respond to the report of the National Council for Reconciliation by issuing an annual "State of Aboriginal Peoples" report, which would outline the government's plans for advancing the cause of reconciliation.

## PROFESSIONAL DEVELOPMENT AND TRAINING FOR PUBLIC SERVANTS

57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

## CHURCH APOLOGIES AND RECONCILIATION

58. We call upon the Pope to issue an apology to Survivors, their families, and communities for the Roman Catholic Church's role in the spiritual, cultural, emotional, physical, and sexual abuse of First Nations, Inuit, and Métis children in Catholic-run residential schools. We call for that apology to be similar to the 2010 apology issued to Irish victims of abuse and to occur within one year of the issuing of this Report and to be delivered by the Pope in Canada.
59. We call upon church parties to the Settlement Agreement to develop ongoing education strategies to ensure that their respective congregations learn about their church's role in colonization, the history and legacy of residential schools, and why apologies to former residential school students, their families, and communities were necessary.
60. We call upon leaders of the church parties to the Settlement Agreement and all other faiths, in collaboration with Indigenous spiritual leaders, Survivors, schools of theology, seminaries, and other religious training centres, to develop and teach curriculum for all student clergy, and all clergy and staff who work in Aboriginal communities, on the need to respect Indigenous spirituality in its own right, the history and legacy of residential schools and the roles of the church parties in that system, the history and legacy of religious conflict in Aboriginal families and communities, and the responsibility that churches have to mitigate such conflicts and prevent spiritual violence.
61. We call upon church parties to the Settlement Agreement, in collaboration with Survivors and representatives of Aboriginal organizations, to establish permanent funding to Aboriginal people for:
- i. Community-controlled healing and reconciliation projects.

- ii. Community-controlled culture- and language-revitalization projects.
- iii. Community-controlled education and relationship-building projects.
- iv. Regional dialogues for Indigenous spiritual leaders and youth to discuss Indigenous spirituality, self-determination, and reconciliation.

## EDUCATION FOR RECONCILIATION

62. We call upon the federal, provincial, and territorial governments, in consultation and collaboration with Survivors, Aboriginal peoples, and educators, to:
- i. Make age-appropriate curriculum on residential schools, Treaties, and Aboriginal peoples' historical and contemporary contributions to Canada a mandatory education requirement for Kindergarten to Grade Twelve students.
  - ii. Provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms.
  - iii. Provide the necessary funding to Aboriginal schools to utilize Indigenous knowledge and teaching methods in classrooms.
  - iv. Establish senior-level positions in government at the assistant deputy minister level or higher dedicated to Aboriginal content in education.
63. We call upon the Council of Ministers of Education, Canada to maintain an annual commitment to Aboriginal education issues, including:
- i. Developing and implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools.
  - ii. Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history.
  - iii. Building student capacity for intercultural understanding, empathy, and mutual respect.
  - iv. Identifying teacher-training needs relating to the above.
64. We call upon all levels of government that provide public funds to denominational schools to require such schools to provide an education on comparative religious studies, which must include a segment on

Aboriginal spiritual beliefs and practices developed in collaboration with Aboriginal Elders.

65. We call upon the federal government, through the Social Sciences and Humanities Research Council, and in collaboration with Aboriginal peoples, post-secondary institutions and educators, and the National Centre for Truth and Reconciliation and its partner institutions, to establish a national research program with multi-year funding to advance understanding of reconciliation.

#### **YOUTH PROGRAMS**

66. We call upon the federal government to establish multi-year funding for community-based youth organizations to deliver programs on reconciliation, and establish a national network to share information and best practices.

#### **MUSEUMS AND ARCHIVES**

67. We call upon the federal government to provide funding to the Canadian Museums Association to undertake, in collaboration with Aboriginal peoples, a national review of museum policies and best practices to determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and to make recommendations.
68. We call upon the federal government, in collaboration with Aboriginal peoples, and the Canadian Museums Association to mark the 150th anniversary of Canadian Confederation in 2017 by establishing a dedicated national funding program for commemoration projects on the theme of reconciliation.
69. We call upon Library and Archives Canada to:
- i. Fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joint-Orentlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.
  - ii. Ensure that its record holdings related to residential schools are accessible to the public.
  - iii. Commit more resources to its public education materials and programming on residential schools.
70. We call upon the federal government to provide funding to the Canadian Association of Archivists to undertake, in collaboration with Aboriginal peoples, a national review of archival policies and best practices to:

- i. Determine the level of compliance with the *United Nations Declaration on the Rights of Indigenous Peoples* and the *United Nations Joint-Orentlicher Principles*, as related to Aboriginal peoples' inalienable right to know the truth about what happened and why, with regard to human rights violations committed against them in the residential schools.
- ii. Produce a report with recommendations for full implementation of these international mechanisms as a reconciliation framework for Canadian archives.

#### **MISSING CHILDREN AND BURIAL INFORMATION**

71. We call upon all chief coroners and provincial vital statistics agencies that have not provided to the Truth and Reconciliation Commission of Canada their records on the deaths of Aboriginal children in the care of residential school authorities to make these documents available to the National Centre for Truth and Reconciliation.
72. We call upon the federal government to allocate sufficient resources to the National Centre for Truth and Reconciliation to allow it to develop and maintain the National Residential School Student Death Register established by the Truth and Reconciliation Commission of Canada.
73. We call upon the federal government to work with churches, Aboriginal communities, and former residential school students to establish and maintain an online registry of residential school cemeteries, including, where possible, plot maps showing the location of deceased residential school children.
74. We call upon the federal government to work with the churches and Aboriginal community leaders to inform the families of children who died at residential schools of the child's burial location, and to respond to families' wishes for appropriate commemoration ceremonies and markers, and reburial in home communities where requested.
75. We call upon the federal government to work with provincial, territorial, and municipal governments, churches, Aboriginal communities, former residential school students, and current landowners to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance, commemoration, and protection of residential school cemeteries or other sites at which residential school children were buried. This is to include the provision of

appropriate memorial ceremonies and commemorative markers to honour the deceased children.

76. We call upon the parties engaged in the work of documenting, maintaining, commemorating, and protecting residential school cemeteries to adopt strategies in accordance with the following principles:
- i. The Aboriginal community most affected shall lead the development of such strategies.
  - ii. Information shall be sought from residential school Survivors and other Knowledge Keepers in the development of such strategies.
  - iii. Aboriginal protocols shall be respected before any potentially invasive technical inspection and investigation of a cemetery site.

#### **NATIONAL CENTRE FOR TRUTH AND RECONCILIATION**

77. We call upon provincial, territorial, municipal, and community archives to work collaboratively with the National Centre for Truth and Reconciliation to identify and collect copies of all records relevant to the history and legacy of the residential school system, and to provide these to the National Centre for Truth and Reconciliation.
78. We call upon the Government of Canada to commit to making a funding contribution of \$10 million over seven years to the National Centre for Truth and Reconciliation, plus an additional amount to assist communities to research and produce histories of their own residential school experience and their involvement in truth, healing, and reconciliation.

#### **COMMEMORATION**

79. We call upon the federal government, in collaboration with Survivors, Aboriginal organizations, and the arts community, to develop a reconciliation framework for Canadian heritage and commemoration. This would include, but not be limited to:
- i. Amending the Historic Sites and Monuments Act to include First Nations, Inuit, and Métis representation on the Historic Sites and Monuments Board of Canada and its Secretariat.
  - ii. Revising the policies, criteria, and practices of the National Program of Historical Commemoration to integrate Indigenous history, heritage values, and memory practices into Canada's national heritage and history.

- iii. Developing and implementing a national heritage plan and strategy for commemorating residential school sites, the history and legacy of residential schools, and the contributions of Aboriginal peoples to Canada's history.

80. We call upon the federal government, in collaboration with Aboriginal peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to honour Survivors, their families, and communities, and ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process.
81. We call upon the federal government, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools National Monument in the city of Ottawa to honour Survivors and all the children who were lost to their families and communities.
82. We call upon provincial and territorial governments, in collaboration with Survivors and their organizations, and other parties to the Settlement Agreement, to commission and install a publicly accessible, highly visible, Residential Schools Monument in each capital city to honour Survivors and all the children who were lost to their families and communities.
83. We call upon the Canada Council for the Arts to establish, as a funding priority, a strategy for Indigenous and non-Indigenous artists to undertake collaborative projects and produce works that contribute to the reconciliation process.

#### **MEDIA AND RECONCILIATION**

84. We call upon the federal government to restore and increase funding to the CBC/Radio-Canada, to enable Canada's national public broadcaster to support reconciliation, and be properly reflective of the diverse cultures, languages, and perspectives of Aboriginal peoples, including, but not limited to:
- i. Increasing Aboriginal programming, including Aboriginal-language speakers.
  - ii. Increasing equitable access for Aboriginal peoples to jobs, leadership positions, and professional development opportunities within the organization.
  - iii. Continuing to provide dedicated news coverage and online public information resources on issues of concern to Aboriginal peoples and all Canadians,

including the history and legacy of residential schools and the reconciliation process.

85. We call upon the Aboriginal Peoples Television Network, as an independent non-profit broadcaster with programming by, for, and about Aboriginal peoples, to support reconciliation, including but not limited to:
- i. Continuing to provide leadership in programming and organizational culture that reflects the diverse cultures, languages, and perspectives of Aboriginal peoples.
  - ii. Continuing to develop media initiatives that inform and educate the Canadian public, and connect Aboriginal and non-Aboriginal Canadians.
86. We call upon Canadian journalism programs and media schools to require education for all students on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations.

#### **SPORTS AND RECONCILIATION**

87. We call upon all levels of government, in collaboration with Aboriginal peoples, sports halls of fame, and other relevant organizations, to provide public education that tells the national story of Aboriginal athletes in history.
88. We call upon all levels of government to take action to ensure long-term Aboriginal athlete development and growth, and continued support for the North American Indigenous Games, including funding to host the games and for provincial and territorial team preparation and travel.
89. We call upon the federal government to amend the Physical Activity and Sport Act to support reconciliation by ensuring that policies to promote physical activity as a fundamental element of health and well-being, reduce barriers to sports participation, increase the pursuit of excellence in sport, and build capacity in the Canadian sport system, are inclusive of Aboriginal peoples.
90. We call upon the federal government to ensure that national sports policies, programs, and initiatives are inclusive of Aboriginal peoples, including, but not limited to, establishing:
- i. In collaboration with provincial and territorial governments, stable funding for, and access to, community sports programs that reflect the diverse

cultures and traditional sporting activities of Aboriginal peoples.

- ii. An elite athlete development program for Aboriginal athletes.
  - iii. Programs for coaches, trainers, and sports officials that are culturally relevant for Aboriginal peoples.
  - iv. Anti-racism awareness and training programs.
91. We call upon the officials and host countries of international sporting events such as the Olympics, Pan Am, and Commonwealth games to ensure that Indigenous peoples' territorial protocols are respected, and local Indigenous communities are engaged in all aspects of planning and participating in such events.

#### **BUSINESS AND RECONCILIATION**

92. We call upon the corporate sector in Canada to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:
- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
  - ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
  - iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.

#### **NEWCOMERS TO CANADA**

93. We call upon the federal government, in collaboration with the national Aboriginal organizations, to revise the information kit for newcomers to Canada and its citizenship test to reflect a more inclusive history of the diverse Aboriginal peoples of Canada, including

information about the Treaties and the history of residential schools.

94. We call upon the Government of Canada to replace the Oath of Citizenship with the following:

I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada including Treaties with Indigenous Peoples, and fulfill my duties as a Canadian citizen.



## Truth and Reconciliation Commission of Canada

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**Reconciliation Transformation and Strategies Division**  
**Declaration Act Engagement Fund**

ADM Responsible: Ann Marie Sam

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**Program Overview**

- In April 2023, the Province announced the \$200 million Declaration Act Engagement Fund (DAEF) in direct response to calls from First Nation leaders for funding to support First Nations capacity to work in consultation and cooperation with the Province on implementation of the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act).
- The primary purpose of the DAEF is to enhance First Nations' capacity to engage with the Province on implementation of the Declaration Act Action Plan and alignment of provincial legislation with the UN Declaration.
- The secondary purpose of the DAEF is to support engagement between First Nations and the Province on other strategic, policy, and legislative priorities with the Province that evolve from related government-to-government work and relations.
- The DAEF is intended to create the flexibility for First Nations to engage with the Province in ways that respond to the priorities and unique needs of their communities.
- Eligible applicants include BC First Nations under the *Indian Act* in BC, BC Modern Treaty Nations, and Self-Governing Nations. However, eligible First Nations may choose to pool their funds and/or provide to another governance structure, such as an aggregate or hereditary governance structure.
- Each First Nation in BC is eligible for \$260,000 annually for a total of \$1.04 million over four years (2023/24 until 2026/27).
- The DAEF is intended to be an interim step while a new fiscal framework is being co-developed with First Nations.

**Program Administration**

- MIRR and the Declaration Act Secretariat (DAS) provide oversight and policy advice to the delivery of the DAEF, which is administered by the New Relationship Trust (NRT).
- NRT provides mid-year and year-end reporting to MIRR, and MIRR and NRT plan to work together to incrementally enhance the depth and scope of reporting to meet MIRR's reporting expectations as the program enters its second half.

### **Current Status**

- As of October 2024, 191 First Nations have submitted applications, and 76 First Nations have submitted workplans that indicate their priorities for engagement on Declaration Act implementation.