



COLUMBIA SHUSWAP REGIONAL DISTRICT

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Honourable Naomi Yamamoto
Minister of State for Emergency Preparedness
PO Box 9055 STN Prov Govt
VICTORIA BC V8W 9E2

RE: Emergency Management in BC Framework Discussion

On behalf of the Columbia Shuswap Regional District (the “CSRD”), we provide these comments in response to the consultation paper “*Prepared and Resilient – A discussion paper on the legislative framework for emergency management in British Columbia*” (the “Paper”) provided by your Ministry. We thank you for providing us with this opportunity to be consulted and note that the following comments reference the discussion points and other sections of the Paper.

Message from the Minister (p. 1)

We agree with the statement that “the coordination and synergies of emergency management experts in this province—whether at the local or provincial level—starts with understanding and fulfilling key emergency management responsibilities and having the appropriate authority to take the right actions at the right time when faced with an emergency or disaster.” There are at least two recurring concerns in our comments that follow in connection with this objective. The first concern is that there should be clear lines of responsibility for emergencies, particularly in areas of provincial and local government overlap. The second concern is that the Province should provide sufficient financial resources and other support to ensure the CSRD is able to carry out its emergency responsibilities.

In our own regional district, we are particularly concerned about flooding, landslides or other emergencies that occur within regional district boundaries where the CSRD effectively has little or no control. Unlike municipalities who are responsible for road networks, bridges and sidewalks as well as subdivision approvals, regional districts do not share these same responsibilities and therefore do not have extensive public works functions, heavy equipment and responding resources. In our view, it is reasonable for the Province to assume primary authority for assessing and responding to emergencies in those areas as it does for wildfire emergencies through its wildfire management branch.

Executive Summary (p. 2)

With respect to modernizing fundamental concepts and structure of the *Emergency Program Act* (the “EPA”), we support the inclusion of prevention into the legislation. Prevention is a major component of a successful emergency management program that is intended to lessen the impacts and effects of an emergency.

ELECTORAL AREAS

A GOLDEN-COLUMBIA
B REVELSTOKE-COLUMBIA

C SOUTH SHUSWAP
D FALKLAND-SALMON VALLEY

E SICAMOUS-MALAKWA
F NORTH SHUSWAP-SEYMOUR ARM

MUNICIPALITIES

GOLDEN
REVELSTOKE

SALMON ARM
SICAMOUS

Context of a Review of the Emergency Program Act (pp. 3-4)**Overview of the Legislative Framework**

We are concerned that there is limited discussion in the Paper with respect to disaster financial assistance (“DFA”); however, we note the statement on p. 4 of the Paper that:

“the list of challenges and examples presented for discussion and consideration are focused on the Act and not the regulations. However, this does not preclude comments and input on any of the regulations as potential changes to the Act could also have implications for matters set out under the regulations.”

In this regard, we wish to express several concerns we have with respect to DFA and the *Compensation and Disaster Financial Assistance Regulation* (the “DFA Regulation”). First, we are strongly of the view that the DFA Regulation needs more clarity and detail with respect to what items will be eligible for DFA. The CSRD has found itself in situations in the past where it has needed to negotiate with the Province with respect to what items would be eligible for DFA, which creates uncertainty and administrative delays. To address this issue, we suggest that Schedule 5 of the DFA Regulation provide a more detailed list of what specific items would be covered by DFA to reduce the uncertainty that the CSRD and other local governments experience from time to time with respect to DFA.

We are also concerned about the limitations on DFA based on the wording in Section 26 and other sections of Part 3 of the DFA Regulation that provide that DFA is limited to “the lesser of” as that imposes potentially significant costs on the CSRD when materials must be replaced, or a facility must be rebuilt, to current standards rather than those applicable before the disaster.

We are also of the view that the process for disaster financial assistance needs to be streamlined so that financial claims are processed and approved in a timely manner. For example, including explicit provisions in Division 4 of Part 3 of the DFA Regulation that require processing and approval of disaster financial assistance claims within a specified time period would be very useful.

Discussion 1: The phases of emergency management (pp. 5-6)**Background**

As noted above, our view is that there needs to be more streamlined and user friendly processes with regards to obtaining DFA, including increased funding opportunities from the Province and the Federal Government.

Challenge in the current legislative framework

We support the concept of having discrete “sections” for each of the emergency management phases. We do think the term “emergency program” should be retained to exemplify the structure and policy of an organization that surrounds and encompasses the organization’s emergency plan. We suggest that “emergency program” be defined in the Act with the definition including the emergency management phases of prevention/mitigation, preparedness, response and recovery.

Proposals

1. Renaming the Act as the *Emergency Management Act* is supported.
2. Restructuring the Act so that it contains parts reflecting the phases of emergency management is also supported.
3. With respect to removing the term “emergency program” and references to “program” or “programs” throughout, we believe the term “emergency program” more accurately describes the efforts encompassed by the emergency plan. In our view, use of the term “emergency program” in the Act and regulations is preferable because the term is succinct and well used and understood throughout the Province.
4. We support the proposal to define an “emergency plan” under the Act as a plan to prepare for, prevent, mitigate against, respond to and recover from an emergency and its effects.

Discussion 2: Definition of “Emergency” (pp. 6-7)Proposals

1. The CSRD supports the definition from Manitoba’s *Emergency Measures Act*; however, we think that using the term “impending” from the Ontario legislation is preferable to use of the term “imminent” which has historically been subject to some uncertainty and debate as an emergency unfolds.

We also raise the issue of whether the definition of an “emergency” should include damage to the economy, as there may be times when an emergency may not cause significant harm or damage to people or property but can still have a significant adverse effect on the economy. As an example, notwithstanding damage caused by debris flows along Sicamous Creek, the high water levels of both Mara and Shuswap Lakes in 2012 did not cause significant harm to people or property; however, the flooding did cause businesses to permanently close and had a significant adverse impact on the Sicamous economy.

Discussion 3: Definition of “local authority” (p. 8)Proposals

1. While we are mindful that certain constitutional or statutory obstacles may exist, we raise the question of whether all Indian bands should be included as local authorities under the Act.

Discussion 4: Emergency Management BC (p. 9)Proposals

1. Supported.
2. Conditional support. With respect to the statement to reduce risk by promoting and supporting emergency preparedness, prevention and mitigation, response and recovery initiatives, we conditionally support this proposal with the additional caveat that better mitigation support and funding is required.

Discussion 5: Assigning provincial emergency planning, response, and recovery responsibilities (pp. 10-11)**Challenge in the current legislative framework**

We agree there is a need for the Act and regulations to clearly establish emergency management responsibilities; however, we question whether it is desirable or workable to empower the minister with authority to require other ministers to prepare emergency plans in relation to specified hazards. Our view is that consultation and collaboration is desirable, but it may be preferable for each ministry to have the ability to devise its own program based on duties and parameters clearly established in the Act and regulations. We think a decentralized approach is preferable whereby each provincial ministry retains authority for its own program, in collaboration and dialogue with Emergency Management BC and that each ministry emergency plan shall be reviewed and approved by the Minister responsible for the Act.

Proposals

1. Further to our comments above, with respect to granting authority for the minister responsible for the Act to require other ministers, after consulting with them, to prepare emergency plans in relation to specified hazards, we question whether this is preferable or work. If authority is granted to the Minister under the Act as proposed, we think that all phases of emergency management should be included in the emergency plan and not limited to only response and recovery.
2. Subject to our comments above, we support this proposal.

Discussion 6: Ministerial authority to direct emergency planning (pp. 12-13)**Background**

We respectfully question whether the statement that “local governments lead the initial response to emergencies and disasters in their communities” is an accurate description of emergency planning and response in British Columbia or the current reality. Although initial assessment and response activities occur by municipal governments regarding emergency events that affect critical infrastructure such as roads within their jurisdiction, this is not the case in regional districts. There are numerous circumstances when a provincial ministry or agency is the primary responder to an emergency.

As one example, if a bridge collapses on the Trans-Canada Highway within the boundaries of the CSRD, the Ministry of Transportation and Infrastructure (“**MoTI**”) are the lead organization, not the CSRD. In every case of wildfire emergencies affecting forest resources, the provincial wildfire management branch assumes site control and leads the response efforts. In general, we are concerned about those provisions of the Paper that from our vantage point suggest that the Province is attempting to “download” emergency assessment and response obligations to the CSRD and other local governments in circumstances where we will be ill-equipped to deal with them.

As noted elsewhere in the Paper, emergency planning and management is a shared responsibility under the Act, we desire the Province to take a more proactive role in emergencies where it is better equipped to respond. As mentioned, the Province has a very good organization to respond to wildfires; however, it does not have the same organization and effectiveness with respect to flooding and landslides. Our desire would be that the Province respond to flooding emergencies utilizing the similar mechanism and framework that is in place for response to wildfires (through the Wildfire Management Branch).

We do support a collaborative approach with the Province and local government working together in a cooperative manner with the appropriate activation of an Emergency Operations Centre ("EOC") in support of the Province, and we request safeguards be provided in the Act that clearly delineate provincial responsibility to ensure that the Province cannot unilaterally waive its obligations and shift them to local governments.

Challenge in the current legislative framework

With respect to the statement that "the minister does not have authority to require that a local authority make changes to their plans in situations where a cooperative approach has not been productive to address a significant issue with a plan", we respectfully do not agree and are of the view that a cooperative approach has been effective.

Proposal

1. We are strongly opposed to the intention of the position to grant additional authority to provide that the Minister responsible for the Act may make an order requiring a local authority to change its local emergency plan where the Minister has reviewed the plan and recommended modifications. The authority and responsibility for local government emergency planning and programs should remain with local governments.

Discussion 7: Private sector and non- government agencies (pp. 13-14)

Proposals

1. We are in strong support of this proposal. In our experience, Emergency Management British Columbia ("EMBC") has not taken adequate account of the need for business continuity planning in the private sector and we firmly believe that good business continuity planning within any organization will help assure proper readiness and effectiveness in emergency preparedness and response, especially when related to critical infrastructure.
2. We support the proposal to grant an authority to require owners of critical infrastructure assets to provide information about these assets as prescribed by regulation, for the purposes of supporting efficient and effective emergency planning, prevention/mitigation, response and recovery.

Discussion 8: Shared responsibility for emergency response (pp. 15-16)

Challenge in the current legislative framework

We agree that a key aspect of emergency management is the sharing of responsibilities between local authorities and the Province. With respect to the statement that "in general, provincial government policy is that a local authority is responsible for planning for and responding to any emergency in its jurisdictional area with local resources and resources available to them through mutual aid/assistance agreements", we are not in full agreement. We understand that the provincial policy is that local jurisdictions will develop and maintain an emergency plan; however, our view is that the Province and local governments share responsibility for emergency planning.

With respect to the Province's statutory obligations for emergencies such as wildfires under the *Wildfire Act* that do not affect developed areas, we acknowledge that wildfires are led by the Province, and supported by

local governments through EOC activations. Before the establishment of regional districts and leading up to 2005, flooding or hydrologic emergencies were the collaborative responsibility of the Attorney General, the Ministry of Transportation and Infrastructure, and the Ministry of the Environment, as was required by the nature, location and impact of the emergency.

We propose that the Province consider re-establishing a leadership role for flooding and landslides in undeveloped areas similar to its role in wildfires under the *Wildfire Act*. We also note that there is currently a UBCM resolution under the sponsorship of the CSRD and the Regional District of North Okanagan with respect to this issue.

We agree that the 'shared responsibility' framework to emergency management sometimes leads to confusion as to whether a local authority or the Province should be implementing emergency plans; however, our experience has been that this confusion arises from provincial overreach beyond what is permitted by the Act and regulations. We are also concerned about the disregard of the Province for local government plans and policies that support provincial responsibility for flooding and other emergencies in remote areas of regional districts where local governments have little or no control with respect to planning and related matters such as subdivision approvals.

Proposals

1. Our view is that the responsibility for assessing the threat to health, safety or welfare of people or damage to property and the environment posed by an emergency should be a joint responsibility with each level of government (local, provincial and federal) involved in these responsibilities within their defined mandates. For example, in the event of a train derailment with hazardous materials, the federal and provincial governments have more expertise and ability to respond than does a local government. Of course local governments should collaborate and assist, but in our view, statutorily requiring local governments to assess and respond to all emergencies is impractical.

With respect to adding provisions in the Act that make a local authority responsible for implementing its resources and responding to and recovering from emergencies, we are supportive of simplifying this wording to simply provide that the local authority is responsible for implementing its local emergency plan. The local government will use its discretion as to what resources will be used in accordance with its emergency plan.

2. We support the proposal to provide for the Minister to implement one or more provisions of the provincial emergency plan and to provide provincial assistance and support for emergency response and recovery; however, we would recommend that some clarity be added to this provision to specify what types of emergencies would be the subject of a provincial response mandate and what would be the subject of a provincial assistance mandate.

With respect to adding provisions to the Act whereby EMBC would be responsible for communicating with a local authority, including providing necessary advice to a Minister in relation to an emergency in the jurisdictional area of a local authority, we are concerned about those remote areas within the boundaries of the regional district where homes, cabins and other structures are leased from or owned by the Province. The CSRD has no control or authority in these situations and these areas, and thus, have no responsibility for incident or site level response other than incident site support through an EOC activation.

Discussion 9: State of emergency (pp. 17-18)**Proposals**

1. We support the addition of criteria or a test to guide local authorities or the Provincial Government in the declaration of a state of emergency and the making of orders during a declared emergency. However, the addition of such criteria should be based on a legal review acting on behalf of local governments in BC in order to ensure that the addition of criteria does not restrict regional district elected officials to make decisions for the applications of extraordinary powers associated with the Act.
2. The addition of emergency powers not currently provided under section 10 of the *Emergency Program Act*, including the authority to collect, use or disclose information during a state of emergency “that would not otherwise be collected” is not supported until a better understanding of the type, use, volume, and retention requirements of the information being referred to in this section is clearly understood. The CSRD is additionally not supportive of being responsible for accreditation, credentialing and permitting essential personnel arriving from outside Canada. This is not a delegated responsibility that elected officials of a local government have, or want, as it represents a duty that is beyond our responsibility, expertise and capability.

Discussion 10: Evacuation orders (pp. 18-19)**Proposals**

1. We are not supportive of the concept of adding authority to the Emergency Management Act for police to apprehend any person who refuses to comply with an evacuation order issued under a declared state of emergency. These contemplated changes to the Emergency Management Act would unreasonably restrict residents’ choices and will be viewed as outside of the mandate of public safety legislation. These measures will also place new responsibilities on a regional district operating under a state of local emergency to be in a position to recover costs from arrested and detained persons. If the Province is contemplating such changes, it would be better identified through amendments to the Police Services Legislation rather than the Emergency Management Act.

Discussion 11: Employment protection (p. 20)**Proposals**

1. We are supportive of amendments that would provide employment protection for the duration of a state of emergency and that would also cover travel to and from the emergency and for a time period after an emergency if the person is still required to provide assistance. There are many examples of volunteers or personnel traveling from home area to other areas of the province that need assistance – such as Structural Protection Units (“SPU”s) or Emergency Social Service (“ESS”) volunteers to staff reception centers. We also support employment protection in situations where a person is recovering from illness or injury as a result of providing assistance during an emergency. Additionally, we are supportive of extending employment protection to volunteers or other persons who assist in responding to and recovering from an emergency or disaster in circumstances where they have not been ordered to provide assistance. The CSRD Emergency Program is heavily invested in community volunteers for EOC activations, ESS reception centers and SPU deployments. Often the availability of community volunteers

is limited by employment restrictions whereby volunteers will lose their regular job if they leave work, etc. Support such as this in an emergency would be a tremendous asset, especially for catastrophic events. The employment protection should apply to preventative aspects of emergency management as well such as SPU deployments.

2. We also support expanding the protection against loss of employment in section 25 of the Act to include the same protections as those provided for a person on jury duty under section 56 of the *Employment Standards Act*.

Thank you for considering our response to the topics in the Prepared and Resilient discussion paper. Changes to the Emergency Program Act will have significant and broad reaching implications to all local governments across BC. We are committed to collaboration with the Province in order to enhance program effectiveness, communication and trust in the delivery of emergency management services to all of our communities.

Yours truly,

COLUMBIA SHUSWAP REGIONAL DISTRICT

Per:



Rhona Martin, Chair
CSRD Board of Directors

cc Charles Hamilton, Chief Administrative Officer
Chief Administrative Officers, BC Regional Districts