



The Corporation of the City of Courtenay

Staff Report

To: Council

File No.: 7320-20

From: Kurt MacDonald, Fire Chief

Date: January 24, 2024

Subject: BC's Emergency Management Legislation: Regulations for Local Authorities Discussion Paper Feedback

PURPOSE:

The new Emergency and Disaster Management Act (EDMA) replaces the old Emergency Program Act and brings comprehensive changes, including updated regulations. The purpose of this report is to highlight some of the key changes as well to submit feedback with respect to the Provincial Regulations for Local Authorities' discussion paper (Appendix A).

EXECUTIVE SUMMARY:

The new Emergency and Disaster Management Act (EDMA) received royal assent on November 8th, 2023, and is now in effect. The legislation includes new and enhanced responsibilities for local governments. As part of its work to develop new local authority regulations, the Ministry of Emergency Management and Climate Readiness (EMCR) published a discussion paper and a series of questions for local authorities to consider. The feedback to these questions is due by January 31st, 2024.

A summarized response to EMCR's Regulations for Local Authorities discussion paper (Appendix B) has been prepared collaboratively by Comox Valley Emergency Management working group made up of bylaw service members and partners, including the

- City of Courtenay, Town of Comox, Village of Cumberland,
- K'ómoks First Nation,
- Mutual aid partners at the City of Campbell River, Island Health, and Health Emergency Management

A draft summary of the compiled responses was prepared by CVRD Emergency Management (EM) staff, reviewed by CV EM Liaisons, and presented to all CAOs on December 7, 2023 at CV EM Admin committee meeting.

The working groups summary response to the 'Regulations for Local Authorities' discussion paper will be submitted to the Ministry of Emergency Management Climate Readiness.

BACKGROUND:

The new Emergency and Disaster Management Act (EDMA) now includes all four phases of emergency management – preparedness, mitigation, response and recovery, whereas the former Emergency Program Act only focused on emergency response. Key changes for local authorities in the proposed legislation that require further details through regulations include:

- The framework for multi-jurisdictional emergency management organizations

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- Clear emergency planning requirements that support equity, the inclusion of Indigenous and local knowledge, and reflect climate driven emergencies
- Requirements to consult and cooperate with Indigenous governing bodies

In order to inform the new proposed regulations for EDMA, Comox Valley Emergency Management service members and mutual aid partners have collaborated to provide feedback on the fourteen questions posed by Minister of Emergency Management & Climate Readiness in the "Regulations for Local Authorities" discussion paper.

The new legislation is consistent with the B.C. Declaration on the Rights of Indigenous Peoples (DRIPA) and is grounded in the United Nations Sendai Framework for Disaster Risk Reduction (Sendai Framework). Key changes to the Emergency Management Legislation include the following:

Consultation, Collaboration, and Cooperation

EDMA presents new legal requirements for consultation and cooperation with Indigenous Governing Bodies (IGB). IGBs are, as defined in DRIPA, 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.

New responsibilities for local governments include incorporating traditional Indigenous knowledge into comprehensive risk assessments and consultation on all facets of our Emergency Management Planning and use of powers during declared states of emergency or recovery. EDMA also aims to promote cultural safety in emergency management practices, recognize the inherent right of self-government of Indigenous Peoples, and recognize the importance of Indigenous worldviews (advice, input, and stewardship).

Note that to support this new responsibility, EMCR recently announced the Indigenous Engagement Requirements Funding Program (IERFP),

"The intent of IERFP is to respect the inherent rights of Indigenous Peoples, enhance the emergency management outcomes for the safety of all, provide for policy improvements that reflect lived experience, and address the disproportionate impacts on Indigenous peoples during emergency events. Regulated entities as defined in EDMA are required to engage through emergency management, and local authorities (regional districts and municipalities) are required to consult and cooperate with IGBs through response and recovery.

Local authorities in the Province will each be eligible to receive funding ranging from \$40,000 - \$65,000, under a contribution agreement, recognizing that the number of IGBs that local authorities engage with will vary."

Risk Assessments

EDMA brings new requirements to identify risks and undertake risk mitigation for identified risks. The EDMA requires local governments to comprehensively identify all reasonably foreseeable hazards and assess the risk posed by each hazard and the potential impacts in the event of an emergency.

Business Continuity Plans

Local Governments and owners of Critical Infrastructure will now be required to have business continuity plans that outline how essential services will be delivered during an emergency. This is a new requirement by the Province, and not be managed by local emergency management organizations.

Multi-jurisdictional Emergency Management Organizations

The new Act allows local governments to create or join a Multi-jurisdictional Emergency Management Organization (MJEMO) with other local governments, Indigenous Governing Bodies, and the Province. This new approach is similar to a regional or sub-regional service. Since the responsibilities within the EDMA are extensive, this concept has been established to provide clear authority for entering into service agreements to meet some or all of the newly assigned responsibilities.

In principle, a MJEMO could be established with multiple parties jointly funding a shared set of bylaws, one emergency management plan, one training and exercise plan, one Emergency Support Services and Emergency Radio Communications program, etc.

There are already successful examples of joint or regional emergency management organizations across Canada and the US. In British Columbia, the Comox Valley Emergency Management service is an MJEMO through the regional emergency management service bylaw and through the existing emergency management partnership with K'omoks First Nation. Other local authorities effectively operate as MJEMOs through contracted service models such as Cowichan Valley RD, Capital RD, RD Central Okanagan, RD Okanagan Similkameen, etc. have proven effective in coordinating overall emergency management.

State of Local Emergency Powers

The repealed Act previously made local authorities responsible for the direction and control of their emergency response. During a State of Local Emergency, a local authority had the power to do everything necessary to prevent, respond to, or alleviate the effects of an emergency. However, this language was not carried forward in the EDMA, which shifts us from the former response-centric legislation. What the absence of this might mean still needs to be determined.

Under the old Emergency Program Act (EPA), a declaration of a SOLE enabled local authorities to use eight broadly defined special powers. However, under the EDMA, these eight broad special powers have been replaced with 32 specific powers. Some of these powers are only available to the Minister, Lieutenant Governor in Council, or an Indigenous Governing Body. It is uncertain whether the EDMA expands SOLE power or, more precisely, defines or limits the powers that existed under the EPA.

Local authorities must now consult and cooperate with Indigenous Governing Bodies when using SOLE powers. If it is not possible to consult due to critical time constraints, a report must be submitted to the Minister within 120 days explaining why consultation was not performed. Additionally, the period for a SOLE has increased from seven to 14 days, reducing the frequency at which renewals must be submitted. Finally, the power to declare a SOLE can be delegated by bylaw, presenting an opportunity to streamline the process. Both changes are beneficial.

Expanded Evacuation Supports

EDMA includes requirements that intersectional disadvantage, support for vulnerable populations, and animals (pets and livestock) be included in evacuation planning and evacuee support services. This raises expectations and requirements that may be difficult to meet with current volunteer-driven evacuee support service programs. This will also require EMCR to demonstrate significant improvements to inter-ministerial advance planning, coordination, consultation, collaboration to better understand and effectively support the response and recovery requirements of local authorities and impacted communities.

Local Government Claims Adjudication & Funding Gaps

EDMA includes a new process for claims made against local governments for damages caused during emergency response activities. It also provides new opportunities for local governments to borrow money for emergency response and recovery costs. The implications of these changes are unclear, particularly whether they are part of a larger strategy to shift costs to local authorities.

Compliance and Enforcement

EDMA includes language regarding mandatory compliance and enforcement. It further includes certainty regarding the Minister's powers to ensure compliance and enforcement. In addition, it enables peace officers to have new powers to assist in implementing compliance and enforcement of emergency measures (use of powers under SOLE). Furthermore, penalties issued under this Act for non-compliance may be up to \$1 million. Penalties for decision-makers in corporations who pursue willful non-compliance are up to \$300,000 and imprisonment. A new regulation specific to this topic is to be introduced. CV EM will be seeking to understand the aim and intent when more information becomes available.

DISCUSSION:

Appendix B – CVEM Responses to EMCR Regulations for Local Authorities Discussion Paper provides an overview of the issues that regional discussions related to the legislation have identified. In the application of the legislative requirements, there are significant unknowns related to operational/planning response requirements as well as staffing and capacity challenges related to the response, recovery and documentation required pursuant to the Act.

Although there are concerns regarding these significant unknowns related to the Act, the Emergency Management and Disaster Act (EDMA) presents many positive aspects from the Emergency Program Act (EPA), which it has replaced. The EPA focused on the response phase of emergency management. In contrast, the new EDMA reflects a comprehensive pivot towards disaster risk reduction within Emergency Management legislation while superseding other relevant legislation (real estate, land use planning, building code, critical infrastructure, health, housing, social and transportation).

The Act acknowledges the importance of an all-hazard, whole-of-government and all-of-society approach when integrating climate adaptation considerations to mitigate disaster risk. In general, staff recognize the importance of moving beyond a response-centric statutory framework and striving to foster equitable and safe community development, prepare residents and businesses, and enhance public hazard awareness. The EDMA represents a significant stride in this direction.

FINANCIAL & ADMINISTRATIVE IMPLICATIONS:

The Emergency Program Act (EDMA) is introducing new requirements, which may result in increased costs for local governments. As the implications related to operationalizing this new legislation are better understood, resources (operating dollars and staffing) to support the regulatory requirements will be presented and considered during the financial planning process for the Comox Valley Emergency Planning Service.

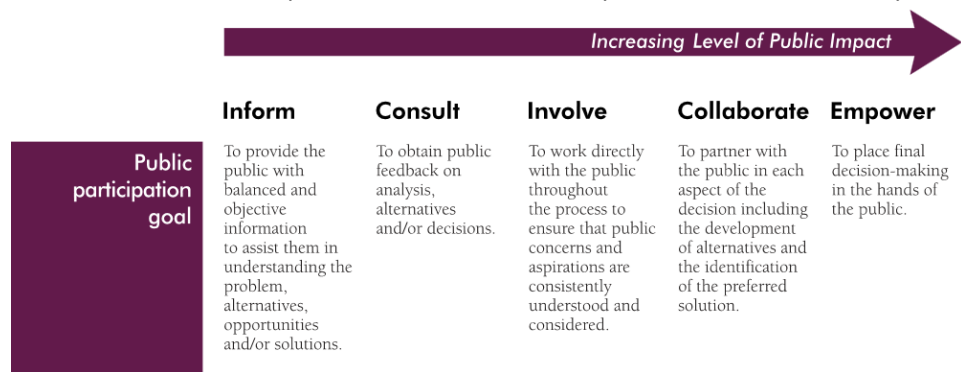
STRATEGIC PRIORITIES REFERENCE:

This initiative addresses the following strategic priorities:

- Public Safety - Build capacity for emergency planning and local response

PUBLIC ENGAGEMENT:

Staff would inform the public based on the IAP2 Spectrum of Public Participation:



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OPTIONS:

1. THAT feedback to the Regulations on Local Authorities Discussion Paper be received and submitted to the Province of BC as feedback by the January 31st deadline.

And FURTHER THAT the City of Courtenay submit a joint letter with Comox Valley Emergency Management Service members and partners to the Premier and Minister of Emergency Management & Climate Readiness requesting a local government emergency management operational working group to collaborate in developing regulations under the Emergency & Disaster Management Act.

2. THAT Council provide alternative direction to staff.

ATTACHMENTS:

1. Appendix A – B.C.s Modernized Emergency Management Legislation Regulations for Local Authorities
2. Appendix B – CVEM Responses to EMCR Regulations for Local Authorities Discussion Paper

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