

INVESTIGATION: LOOKING AHEAD FAIRNESS IN A CHANGING CLIMATE

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Fairness in a changing climate: Ensuring disaster supports are accessible, equitable and adaptable

Fairness in a changing climate

Tens of thousands of people were displaced across the province as a result of wildfires and floods in 2021. Our investigation has focused on whether two provincial assistance programs – Emergency Support Services and Disaster Financial Assistance – were administered fairly to people who were impacted by long-term displacement. As became clear in our analysis, both ESS and DFA have significant limitations in their scope, and these limitations have real impacts on people who are displaced by disasters.

As a matter of fairness, we expect public bodies to be attentive to the ways in which climate change may impact the lives of the people they serve and to consider climate change in their decision-making. Despite the warnings arising from disasters in 2017 and

2018, Emergency Management BC was not fully prepared to respond fairly to the wildfires and atmospheric river events in 2021.

In 2017 and 2018, the province was behind in its climate change planning and emergency preparedness, and the devastating experiences of extreme weather at that time seemed to motivate new commitment to and greater impetus for better preparedness, response and recovery. The province endorsed the Sendai Framework for Disaster Risk Reduction 2015-2030, consulted on *Emergency Program Act* modernization, developed the Preliminary Strategic Climate Risk Assessment, and began work on a climate adaptation and preparedness strategy. It highlighted emergency preparedness in its work on implementing the *Declaration on the Rights of Indigenous Peoples Act*.

However, despite these steps, the province did not anticipate and better prepare for the impacts of the extreme weather events of 2021. This lack of readiness, particularly in relation to the ESS and DFA programs, which provide essential support for people who are evacuated or displaced, was unreasonable under section 23(1)(a)(v) of the *Ombudsperson Act*. Particularly after 2017 and 2018, the potential harms of extreme weather and of overwhelmed support programs were foreseeable, and the province should have been better prepared.²⁴¹

Finding 9: The Ministry of Emergency Management and Climate Readiness does not have adequate provincial plans and resources in place to meet the needs of people experiencing the impacts of extreme weather and to respond to long-term displacement. This is an unreasonable procedure under section 23(1)(a)(v) of the *Ombudsperson Act*.

This finding is not a critique of the individual public servants, volunteers, organizations and communities who worked diligently for many months to respond to the significant impacts of the 2021 extreme weather events, and to provide services and supports to the many thousands of people who were affected. We note that they did this work to respond to the impacts of extreme weather events in the midst of a pandemic that had also necessitated the use of emergency powers under the EPA. Rather, it is a criticism of the way in which successive leaders in government have, so far, failed to respond to clear direction for improvement in the province's disaster response programs and capacities. This failure has had significant impacts for individuals and communities affected by extreme weather disasters.

In this section we discuss broader gaps in the scope and implementation of ESS and DFA that have been identified or experienced by the people who have been displaced. We also recommend improvements so that those displaced by future extreme weather events are better served by provincial supports. We have recommended specific changes to improve fairness in the existing programs in the discussions above, and here we address larger shifts – strategic shifts, in the language of *Addressing the New Normal* – to incorporate in ongoing work on modernization. The creation of a new Ministry of Emergency Management and Climate Readiness is a welcome development in this direction and an indication that government is giving new priority to the work. To date, BC has not planned for and is not prepared to support long-term evacuees and people displaced by extreme weather events. We underscore the importance and urgency of doing so.

Meaningful modernization: beyond ESS and DFA

In our investigation, we heard repeatedly that the core assistance programs, ESS and DFA, are not designed to – and do not – address the complexities of long-term, climate change-related displacement.²⁴² While the ESS and DFA programs provide some important supports, they were not designed for long-term evacuations or displacement. In the wake of 2017 and again after the events of 2021, the province has started to undertake important work in this regard. This work must be accelerated and expanded to ensure that the province can act fairly to support the people of British Columbia next time. Adopting a person-centred approach in line with the Sendai Framework would better enable support along a continuum from evacuation to recovery. Such an approach would integrate response and recovery – whether through ESS and DFA or other programs – to support those experiencing long-term displacement.

More than five years ago, Chapman and Abbott made the case for strategic shifts and systemic change in emergency management in their report, *Addressing the New Normal: 21st Century Disaster Management in British Columbia*.²⁴³ Other reports about that time also addressed extreme weather, climate change and emergency management. The T̓silhqot'in National Government issued a report on the 2017 fires, which had substantial impacts on its communities,²⁴⁴ and the Secwepemcúlecw Restoration and Stewardship Society reported on recovery after the Elephant Hill fire.²⁴⁵ The province supported a GBA+ report on the social impacts of the 2018 Grand Forks flood.²⁴⁶ In 2017, the BC Auditor General reported on flood risks and wildfire management in the context of managing climate risks.²⁴⁷ All of these reports include lessons learned and recommendations for government action, many of them on similar themes related to better preparedness, improved

communications, cross-jurisdictional collaboration, and recovery supports for the people impacted.²⁴⁸

Addressing the New Normal, in particular, prompted some early responses from the province, which developed an action plan to address the recommendations in the report,²⁴⁹ and then provided a six-month progress update and a 12-month progress update, concluding that most recommendations had been addressed.²⁵⁰ That conclusion has been questioned,²⁵¹ and our findings suggest that at least the recommendations related to ESS and DFA still require provincial action. Nonetheless, the report is often mentioned by the province as influential in the context of its emergency management and climate change planning.²⁵²

Since 2017 and 2018, the province has also been more actively engaged in climate change planning. In 2019, the province developed the Preliminary Strategic Climate Risk Assessment to better understand climate-related risks in BC. The risk assessment noted that “displacement due to wildfires, along with loss of possessions and livelihoods, could contribute to extreme psychological distress and long-term impacts to health as well as economic losses to individual citizens.”²⁵³ In 2021, the province released its draft Climate Preparedness and Adaptation Strategy for consultation, listing proposed actions for 2022 to 2025, including to “improve and promote understanding of the disproportionate effects that climate change has on distinct human populations, including the potential for displacement, and integrate this knowledge into government initiatives, including climate risk assessments and adaptation plans.”²⁵⁴

The extreme weather events of 2021 – including the heat dome, in addition to the wildfires and flooding – again seemed to motivate new commitment and re-energized efforts to modernize for better preparedness,

response and recovery. Climate change planning continued with the release of the *CleanBC Roadmap to 2030* in October 2021, and the *Climate Preparedness and Adaptation Strategy* in June 2022. However, the strategy does not address climate change-related displacement.

In early December 2022, the new Ministry of Emergency Management and Climate Readiness took over responsibility for EMBC, which moved from its previous location in the Ministry of Public Safety and Solicitor General. Among other work, the minister is expected to support “urgent coordinated government response to communities in times of emergency and review systems to ensure they are prepared for urgent response, incorporating lessons learned from previous emergencies.”²⁵⁵ In February 2023, the new ministry, together with the Ministry of Environment and Climate Change Strategy and the Ministry of Water, Land, and Resource Stewardship, launched ClimateReadyBC, a new online hub for information and data related to climate change and emergency preparedness.

The province has continued with *Emergency Program Act* modernization. The ministry is also working to modernize the related regulation. In the interim, the existing *Compensation and Disaster Financial Assistance Regulation* remains in effect. And, as we have discussed, the province is modernizing ESS through a renewed program guide and the Evacuee Registration and Assistance online tool. The ministry has informed us that its intention is to consult broadly with Indigenous Peoples, local governments and the public on this modernization. The ministry’s 2023/24 to 2025/26 service plan also confirms these priorities, as does the most recent technical paper on modernization.

These are all important foundational steps, but the province must do more now so it is ready for the next extreme weather event and prepared to support the people who will be displaced. In *Addressing the New Normal*, Chapman and Abbott recommended 14 “strategic shifts” that would set the province on a stronger and more proactive path for emergency management. Recommendation 105 (Strategic Shift #14) speaks directly to DFA.²⁵⁶

Consistent with the Sendai principle of Build Back Better, the Disaster Financial Assistance (DFA) and Disaster Financial Assistance Arrangements (DFAA) programs provide greater flexibility to restore damaged sites in ways that reduce the likelihood of repeat events. BC create a fund for the acquisition of lands and properties which, while legally created and/or constructed, are no longer viable given disaster or climate-related events.

Implementing this strategic shift would modernize DFA in a manner that considers climate change, builds resiliency, and better supports fairness through increased flexibility in providing assistance. It would also address some of the limitations of the current DFA program identified in our investigation, such as loss of land, inaccessibility of insurance, or need to relocate from areas at risk.

The more recent *Resilient Pathways Report*, commissioned by Natural Resources Canada, also emphasizes the importance of a shift from a reactive to a proactive approach.²⁵⁷

The current governance mechanism and budgeting for disaster risk management in all hazards is built on response and recovery approaches of the past. As a result, the design of policies, funding, and programs are mostly reactive — including to the most recent disaster events in BC. A more strategic and proactive approach would apply our

understanding of hazards and risks alongside climate change impacts, sources and drivers of vulnerabilities, priority objectives, and long-term goals for safety and prosperity. The current and ongoing process of the EPA Modernization, the National Adaptation Strategy, and BC’s Climate Preparedness and Adaptation Strategy, along with the political and social momentum for managing the climate crisis, triggered by catastrophes in BC in 2021, provide excellent opportunities to shift from reactive to anticipatory governance and financing for reducing disaster and climate risk.²⁵⁸

In our investigation, we heard from service providers that both DFA and ESS needed to make this shift to reflect the realities of extreme weather displacement. For example, we heard:

“So much of the structure of response and recovery is incredibly antiquated. The ESS and DFA rules and thresholds are rooted in mid-90s legislation and plans. . . There are inconsistencies regarding losses in the same geographic area but in the ‘wrong year’ getting entirely different support.”

We heard about the need for the province to develop a plan for how people who experience long-term displacement will be supported. However, the ministry continues to lack a strategy or plan for responding to long-term displacement. With the increased likelihood that climate-related extreme weather will continue to displace British Columbians, it is unreasonable that, almost two years after the extreme weather events of 2021, the ministry does not have a plan for long-term displacement.

At the same time, ESS continues to operate under rules that treat assistance beyond 72 hours as “exceptional,” requiring an additional layer of approval and creating anxiety for evacuees who are uncertain about how long they can count on receiving

support. This approach is reflected even in the updated ESS Program Guide (2022). One experienced professional we heard from in our investigation stated:

“Part of the challenge is there is no real planning beyond 72 hours in the literature or planning. In the new ESS Program Guide, they say only going past that in extraordinary circumstances, but the reality is 7 days has become a norm.”

In addition, an April 3, 2023, news article reported that people in BC are being evacuated for approximately 22 days on average.²⁵⁹ Our investigative findings above also suggest that requiring ESS beyond 72 hours is routine, not exceptional. For example, the ERA data we analyzed showed that between June and December 2021, 90 percent of households received ESS for longer than 72 hours. On average, households received ESS for 20 days.

The DFA program also no longer reflects the realities that British Columbians face in coping with disaster in a changing climate, where insurance is increasingly unavailable, and rebuilding in the same way in the same location may not be feasible or wise.

In light of this, and the events of 2021 (or even those of 2017), we would have expected the ministry to have a clear plan and process in place for addressing long-term displacement. However, this is not the case. For this reason, we are recommending that the ministry prioritize developing a plan for evacuee support that extends beyond 72 hours and reflects the realities of longer-term displacement and recovery.

The lack of a clear plan to support people experiencing long-term displacement, together with the undeniable limits on the extent to which people can access DFA to rebuild, raises serious concerns that too many people are being left behind. It also risks compounding the trauma experienced

by those impacted by extreme weather events and expands the long-term human and financial costs.²⁶⁰

The Sendai Framework calls for a broader and more people-centred approach to disaster risk that is multi-hazard and multisectoral, inclusive and accessible.²⁶¹ Such an approach will also be more efficient and effective, and it should be developed through engagement with a wide range of relevant partners and stakeholders, including women, children and youth, persons with disabilities, Indigenous Peoples, seniors, volunteers and practitioners.²⁶²

As the province continues to work on modernization, it is imperative that the experiences of evacuees are at the centre of that work. We saw in our investigation that receiving support both in the immediate aftermath of a disaster and for rebuilding in the following days and weeks is critical to individual, family and community well-being. Putting people, rather than programs, at the centre of emergency response would envision supports as a continuum rather than as separate programs that may or may not be accessed, depending on a person’s social location.

Related to this issue, during our investigation we also heard from people who described the challenges of resolving matters with other public bodies related to their displacement or the destruction of their property. For example, people identified challenges in coordinating with municipalities on accessing property or removing debris, with receiving mail while displaced, or handling vehicle issues with ICBC. For a person who is displaced, who has lost their home and their community, having to navigate various government processes on their own can be extremely difficult.

As the ministry considers the future of programs such as ESS and DFA, it should examine the extent to which these programs can be retooled or reimagined to ensure

they are adequately meeting the broader challenges BC will face in mitigating the impacts of climate change – that the programs support individual and community adaptation and resilience. A person-centred approach would facilitate people being provided with information, assistance (financial and otherwise) and culturally appropriate supports to navigate the systems they need. This is a fundamental component of “Build Back Better” in recovery.²⁶³

Recommendation 18: The Ministry of Emergency Management and Climate Readiness develop plans and a policy framework to meet the needs of people experiencing long-term displacement, considering the impacts of climate change and how people-centred programs might better support climate change adaptation and future resilience, by:

- a. consulting broadly with the public by December 31, 2024, on modernization of Emergency Support Services and Disaster Financial Assistance as related components of disaster recovery,
- b. working with local authorities and First Nations, and across government, to develop and implement by September 30, 2025, integrated plans and policies to support people who experience long-term displacement due to disasters and that are consistent with the principles of administrative fairness, the Sendai Framework for Disaster Risk Reduction, and the *Declaration on the Rights of Indigenous Peoples Act*.

Reconsidering the role of insurance

Given the important relationship between private insurance and provincial supports for people displaced by extreme weather events, there must be ongoing work to address the interplay between private insurance and both the DFA and ESS programs. This must occur within the context of larger discussions of climate change, equity, disaster assistance, and insurance that are happening nationally and globally. At present, the most common and costly disasters are related to flooding, but other extreme weather events, including wildfires, are also increasing with climate change and may present similar issues related to risk, insurance availability and affordability, and reliance on public recovery funding.²⁶⁴

In 2020, the federal government created the Task Force on Flood Insurance and Relocation “to explore solutions for low-cost flood insurance for residents of high-risk areas and consider strategic relocation in areas at the highest risk of recurrent flooding.” The province participated in the task force, and one of the key public policy objectives was to consider a flood insurance solution to replace or reduce the burden on government financial assistance for residential flooding. Indigenous Services Canada and the Assembly of First Nations undertook a complementary initiative to explore the needs of First Nations.²⁶⁵

The task force’s August 2022 report, *Adapting to Rising Flood Risk: An Analysis of Insurance Solutions for Canadians*, provides an analysis of potential arrangements for a national approach to flood insurance. Among other things, it notes the disadvantages of current responses to flooding, such as DFA programs and ad hoc disaster relief: “Erratic or frequent government interventions, including providing ad hoc disaster relief, undermines the incentives for risk reduction and the system of risk transfer, penalizing those who made the decision to purchase

insurance.”²⁶⁶ The task force also specifically addressed issues of equity, noting that the affordability of flood insurance premiums is key for equitable access and that insurance may not always be an appropriate solution for some individuals and communities.²⁶⁷

The Indigenous Services Canada and Assembly of First Nations engagement with First Nations on flood insurance needs identified gaps in insurance information within some communities and gaps in coverage for communities with very high flood risk.²⁶⁸ The report notes that participants from First Nations communities and insurance providers shared the views that:

- access to competitive insurance options is limited,
- many homes and tenants are not insured for any kind of property damage,
- flood insurance is not available or not affordable for on-reserve residences with very high flood risk,
- many reserves do not have access to accredited fire services and fire hydrants, which impacts the cost and availability of insurance,
- insurance claim payments may be inadequate to repair flood damage, and
- there may be no coverage for damage to personal belongings or for additional living expenses due to evacuation or while people are out of their homes.²⁶⁹

The report states that government has a role to play, working with communities to protect those at high risk of flooding and engaging with the insurance industry to ensure fair and adequate flood coverage for on-reserve communities.²⁷⁰

In its 2023 budget, the federal government announced its intention to launch a low-cost flood insurance program as a measure to improve access to affordable insurance and support disaster resilience. The budget proposes funding for three years to create a

low-cost flood insurance program aimed at protecting households that are at most risk and without access to adequate insurance. The program would create a new Crown corporation to provide reinsurance and a separate insurance subsidy program for high-risk areas.²⁷¹ In addition, starting in 2023/24, the government will create a publicly accessible online portal where people can find information on their flood risk. The budget also provides funding “to identify high-risk flood areas and implement a modernized Disaster Financial Assistance Arrangements (DFAA) program, which would incentivize mitigation efforts.”²⁷²

Work to modernize the federal DFAA program is underway. The independent expert advisory panel tasked with reviewing the effectiveness and long-term viability of DFAA has issued a report with recommendations on how to modernize DFAA, which include shifting program focus to proactive measures and expanding funding for actions that support vulnerable and disadvantaged populations.²⁷³

These steps at the federal level align with the analysis of the task force that emphasizes equity and points out that flood insurance alone is not the solution to the question of how to address and allocate risk in our changing climate. Insurance must be deployed in conjunction with information, investments and incentives to reduce risk, and at the same time, there must be changes to recovery funding for residential properties through disaster financing programs to avoid undermining the insurance system.²⁷⁴

Action at the provincial level faces similar constraints. Currently, in the private sector DFA program, provincial policy distinguishes between losses due to wildfires and those due to floods based on residential insurance availability.²⁷⁵ Fire damage, including damage from wildfires, is insurable, and fire insurance is “reasonably and readily available for single family residential homes across

all of BC.”²⁷⁶ According to ministry policy, “readily available” means that a person could obtain the insurance from a local agent or broker, and “reasonably available” means that the price of the insurance was reasonable in relation to the risk.²⁷⁷ It does not consider affordability for the person seeking insurance in determining the availability of fire insurance. Although this limits assistance for those without insurance, this distinction is not unreasonable in light of the wider availability of fire insurance in Canada at present. However, this may change as BC increasingly experiences the impacts of climate change, including more severe wildfire seasons.²⁷⁸ Some regions will likely experience more frequent and more severe wildfires, which may in turn affect the availability of private insurance. The ministry should develop a policy and process for regularly reassessing any categorical determinations that insurance is reasonably and readily available.

In contrast to the categorical determination about residential fire insurance, EMBC has taken a more individualized approach regarding the availability of overland flood insurance in BC and the eligibility of individual applicants when DFA is authorized for a flooding disaster event:

EMBC is closely monitoring the availability of overland flood insurance in BC and will continue to deliver DFA in accordance with existing legislation. **If a flooding disaster occurs and DFA is authorized for a disaster event, an applicant who could reasonably and readily have purchased overland flood insurance would NOT be eligible for DFA.** [emphasis in original]

Over the next several years as additional insurance options roll out, EMBC will apply discretion in how it determines eligibility. For example, a homeowner or tenant would not be expected to amend their existing policy as soon as overland

flood insurance becomes available. But, DFA may be denied if overland flood insurance was available on renewal and they chose not to purchase it.²⁷⁹

At the time of the atmospheric river events in 2021, overland flood insurance was not reasonably and readily available for many homeowners and residential tenants. In its assessment, EMBC continued to define “reasonably and readily available” to mean that a person could obtain the insurance from a local agent or broker and that the price of the insurance was reasonable in light of the risk.²⁸⁰ Again, EMBC did not consider affordability in its assessment.

Both the national task force report and the First Nations engagement report identify challenges with affordability as a significant barrier for homeowners and residential tenants in accessing overland flood insurance. We also heard this from questionnaire participants and others in our investigation. We appreciate the challenges that may exist in considering affordability for residential flood insurance, but equity and reconciliation require attention to this important dimension of insurance availability.²⁸¹ As with wildfire, the ministry should develop a policy and process to regularly reassess any categorical determinations that overland flooding insurance is reasonably and readily available.

The availability and affordability of insurance is also relevant for ESS. For homeowners and residential tenants, it would typically be the same policy that provides Additional Living Expense coverage for both short-term expenses from evacuation and expenses related to repairing or replacing belongings and repairing damage to the home. While our investigation indicated that the rules around insurance are applied more flexibly in the context of ESS, this can lead to confusion in the provision of supports. In addition, as climate change makes it more likely that

people will not be able to access insurance, this will increase the burden on programs like ESS and DFA.

When an extreme weather event, such as the 2021 flooding and wildfires, occurs and severely damages a person's home, there is likely no program (public or private) that can restore the person to where they were before the event.²⁸² This difficult reality has implications in terms of the long-term impacts to a person, family or community: having to use up savings or accrue debt to rebuild, mental health impacts of being displaced and being in a precarious financial situation, negative impacts on livelihoods, relocations and so on. Insurance and provincial programs such as ESS and DFA each have an important role in supporting people who have been displaced, though neither offers a full solution, particularly in the context of a changing climate. Extreme weather events like those in 2021 are only becoming more common, with potentially devastating impacts for many British Columbians.

The *Addressing the New Normal* report recommends that the province “mandate the insurance industry to create an incentive program to encourage a proactive approach to emergency preparedness, such as insurance-saving for building structures with fire-resistant materials.”²⁸³ As the province proceeds with modernizing emergency management and integrating climate readiness, it must take into account these recommendations and any developments at the federal level. Modernizing recovery supports such as those currently provided through ESS and DFA must ensure that equity, timeliness, flexibility and accessibility are at the forefront.

Recommendation 19: By June 30, 2024, the Ministry of Emergency Management and Climate Readiness develop and implement public communications that reflect the current impacts of insurance on the availability of financial supports for disaster response and recovery, and by June 30, 2025, develop a policy and process to reassess insurance availability in BC as risks increase with the impacts of climate change, and a national flood insurance program is implemented.

Indigenous-led emergency management

Indigenous people and communities have expertise and knowledge to contribute to emergency management across the four pillars of mitigation, preparation, response and recovery.²⁸⁴ More than this, providing emergency response and recovery leadership in their communities is inextricably linked to First Nations jurisdiction over their land and resources. We echo Abbott and Chapman that emergency management policies must “ensure the long term economic, environmental and cultural survival of Indigenous communities” and the “inalienable rights of self-determination, Aboriginal title and rights and Treaty rights.”²⁸⁵ The province's work with First Nations and Métis must occur within a rights-based framework, and legislation must be co-developed and recognize the fact that First Nations and Métis communities have the experience, skills and knowledge about how to best care for community members. Despite the disproportionate impacts of the fire and flooding events of 2021, Indigenous communities and organizations are increasingly developing and exercising their capacity for emergency response and leading recovery efforts throughout the province.

As described earlier in this report, First Nations governed by modern treaties are considered local authorities under the *Emergency Program Act* and are thereby empowered to declare local states of emergency; they also have the corresponding responsibility to develop and execute local emergency plans.²⁸⁵ Emergency planning by First Nations further includes ongoing and new efforts to train and integrate community members as emergency responders and advisers.²⁸⁷ Elders and other community members bring a wealth of knowledge related to weather, climate and geographical conditions, as well as awareness of sensitive cultural and archeological sites that need preservation.²⁸⁸

In 2019, the First Nations Leadership Council, the province and the federal government signed a memorandum of understanding outlining the goal of deepening a collaborative working relationship for emergency management, while acknowledging both the disproportionate effects of climate-related disasters on Indigenous people and the distinctive capacities that First Nations bring to disaster preparation and response.²⁸⁹ The goals of the memorandum include integrating First Nations experiences into disaster management, making use of the strategic advice of First Nations, and coordinating responses to future events.²⁹⁰

First Nations have specifically stated that true co-development of the new emergency management legislation is critical to addressing reconciliation and the right of self-determination in the context of emergency management.²⁹¹ The provincial government has committed to the co-development of modernized emergency management legislation with First Nations.²⁹² The province can also help fulfill its obligations by facilitating Indigenous-led responses to disaster management that incorporate the expertise of local community members, specialized knowledge of the land, and

traditional practices.²⁹³ The province has stated that the new legislation will recognize Indigenous Peoples' law-making authority in relation to emergency management.²⁹⁴

In our investigation, we were reminded by the Minister's Advisory Council on Indigenous Women and other Indigenous leaders that Indigenous Peoples and communities relate to the land and one another in a sacred way. The council shared the importance of thinking holistically when considering the impacts of extreme weather on Indigenous communities and the contributions that those communities make to response and recovery. The council also emphasized that Elders and Knowledge Keepers who have a connection with the land through generations can share knowledge on the state of the land or what a fire or flood will do to the land.

A holistic approach means that Indigenous-led emergency management can be seen as encompassing traditional Indigenous approaches to land stewardship, such as controlled burning. Such practices can increase biodiversity and preserve fire-sensitive species,²⁹⁵ in addition to reducing the size and intensity of subsequent fires.²⁹⁶ As part of the legacy of colonialism, such practices were historically banned in BC, but efforts to reinvigorate this method of fire management are now underway.²⁹⁷ By contrast, an approach to fire management that emphasizes reactivity at the expense of prevention has been linked to more severe events. For example, a key finding in a report on the 2017 Elephant Hill wildfire was that a lack of prevention contributed to the event.²⁹⁸ The report further highlighted how a lack of coordination with First Nations communities during evacuation tended to frustrate the resiliency of local efforts. It calls for improved coordination and for incorporating Indigenous knowledge and capacity in emergency management to prevent issues that hindered an effective response to the 2017 event. We echo this call.

In their report on the events of 2017, Chapman and Abbott also emphasized the need for new thinking and approaches in responding to First Nations and other Indigenous people in emergency situations.²⁹⁹ They noted that First Nations have expertise, knowledge and resources, and reported wanting a greater sense of involvement when emergencies affect their lives. However, “plugging into Indigenous and local knowledge” will only be successful if it occurs as part of relationship-building before emergency events occur.³⁰⁰ Role clarification in emergency situations is another vital aspect of planning and preparedness that is currently under-resourced, and many Indigenous communities identified a preference for the First Nations’ Emergency Services Society (FNESS) to provide response support.³⁰¹

FNESS is specifically mentioned in the tripartite Emergency Management Services Memorandum of Understanding, and the society plays important roles in supporting First Nations emergency preparedness, response and recovery.³⁰² FNESS has started an ESS support division to support First Nations in implementing their own ESS programs and to raise awareness of how the current system works and how to navigate it. It is encouraging communities that are close together to work together to build capacity and redundancy.

In our investigation, we also heard about the value of FNESS involvement and the importance of Indigenous-led response, as described earlier in our report. However, capacity and funding remain crucial. Métis Nation British Columbia (MNBC) has emphasized the importance of a distinction-based approach in emergency preparedness. MNBC members turn to their chartered communities or to MNBC to provide support in crisis situations, and they do not have adequate funding to provide this. MNBC has an emergency preparedness committee and

is currently working to expand its capacity and support capacity development in chartered communities.

Our report aims to stand beside First Nations and Métis Nation British Columbia by emphasizing that the modernization of the *Emergency Program Act* must be carried out in a way that is fair – and that fairness means meaningful co-development and full recognition of Indigenous rights underpinning emergency management activities. Prioritizing Indigenous-led emergency management is rooted in improving the effectiveness of disaster prevention and emergency response systems, as well as governmental commitments to reconciliation and recognition of Indigenous Peoples’ right to self-determination. Ensuring that the province fulfills its commitment to reconciliation in the emergency management context is critically important in this aspect of public administration.

Thirty years ago, in our office’s 1993 report on the Clayoquot Sound land-use decision and government’s consultation with the Nuučaanuł (Nuu-chah-nulth) Nation, we stated that “administrative fairness demands . . . [that] the provincial government meaningfully consult affected First Nations in the process leading to pre-treaty land use decisions.”³⁰³ This view has only been strengthened over time. The honour of the Crown obligates government to consult with and accommodate Indigenous Peoples in relation to administrative decision-making.³⁰⁴ The province has acknowledged that it “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.”³⁰⁵ BC’s *Declaration on the Rights of Indigenous Peoples Act* requires government to bring provincial laws into alignment with the UN Declaration on the Rights of Indigenous Peoples. Articles 18 and 19 of the declaration affirm that Indigenous Peoples “have the right to participate in

decision-making in matters which would affect their rights” and that governments must consult and co-operate in good faith with Indigenous Peoples to obtain their free, prior and informed consent regarding legislative or administrative measures that may affect them.³⁰⁶

Full implementation of the declaration requires recognition of Indigenous laws, rights and traditions, through an inclusive, distinctions-based framework that acknowledges the diversity of Indigenous cultural and legal traditions. In this context, administrative fairness requires the government to support Indigenous-led emergency management through capacity-building, adequate funding mechanisms and meaningful legislative change.

Recommendation 20: The Ministry of Emergency Management and Climate Readiness work with Indigenous governing bodies to advance Indigenous self-determination in emergency management including by prioritizing capacity building for Indigenous-led emergency response and recovery and ensuring consistent, appropriate funding for Indigenous communities and organizations. The ministry report on specific actions taken as part of its Declaration Act Annual Report for the duration of the 2022-2027 Action Plan.