

## Fwd: NEW REQUEST - EDPC - possible questions

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**From** Kim Bastow <kim.bastow@gov.ab.ca>

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**To:** Melanie Page <melanie.page@gov.ab.ca>; Michael Selig <michael.selig@gov.ab.ca>; Cayley Macleod <cayley.macleod@gov.ab.ca>; Greg George <greg.george@gov.ab.ca>; Kim Yarmuch <kim.yarmuch@gov.ab.ca>

**Date:** Mon, 25 Jun 2018 10:28:30 -0600

FYI

Sent from my iPhone

Begin forwarded message:

**From:** Kim Bastow <[Kim.Bastow@gov.ab.ca](mailto:Kim.Bastow@gov.ab.ca)>

**Date:** June 25, 2018 at 10:26:31 AM MDT

**To:** Lance Wilson <[Lance.Wilson@gov.ab.ca](mailto:Lance.Wilson@gov.ab.ca)>, Genevieve Turcotte <[Genevieve.Turcotte@gov.ab.ca](mailto:Genevieve.Turcotte@gov.ab.ca)>

**Cc:** Leah Sheffield <[Leah.Sheffield@gov.ab.ca](mailto:Leah.Sheffield@gov.ab.ca)>, Stan Rutwind <[stan.rutwind@gov.ab.ca](mailto:stan.rutwind@gov.ab.ca)>, Cory Enns <[Cory.Enns@gov.ab.ca](mailto:Cory.Enns@gov.ab.ca)>

**Subject:** RE: NEW REQUEST - EDPC - possible questions

Morning – written responses found below in red.

One point – Evan called me this morning to ask whether the MCP could proceed if the FN/MS did not. I advised that at this point, the MCP is not dependent on the FN/MS renewal and could proceed independently.

### Metis Consultation Policy Development

- Regarding the request to approve further engagement on the mechanism for consultation (who, how, and where), how much further engagement is anticipated, and over what time span?
  - It is anticipated that IR will work with the Metis Nation of Alberta and other Metis organizations in July-September 2018 to determine the who, how and where of consultation with Metis.
  - Also during this time, IR will engage to hear input on the development of the Metis Consultation Policy. The procedural aspects of consultation will be the same as those for FNs and Metis Settlements.

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- The mechanism will be outlined in the Fall 2018 Cabinet Report, which will request approval of the actual Metis Consultation Policy.
- What are the risks if the proposals brought forward today do not proceed at this time?
  - Over the past several years, Alberta has been subject to litigation from Metis who seek to be consulted.
  - The existing process does not work – no Metis community has been able to meet the current test. This has increased frustration from Metis who seek to be consulted, but also from industry proponents as they are unsure who to engage with.
  - Approval of the Standards is necessary now to assist IR in identifying the Metis communities that may be able to meet the Standards and be considered for consultation under the Metis Consultation Policy.
  - If the proposals brought forward today do not proceed at this time, Alberta will not be able to provide the certainty that Metis and industry proponents want and need.
  - Not proceeding will essentially mean that a Metis Consultation Policy will not be developed, as the policy would not apply to anyone (as no Metis to date have met the current process).
  - Not proceeding at this time will not make life better for Metis in the province, and will continue to create challenges for Metis and industry – potentially this may increase the legal risk to Alberta.
- Are there any alternatives that can be reasonably considered regarding the MNA's position that it is an indivisible representative of Métis in Alberta?
  - If the proposed Standards are accepted, the authorization and representation of Metis in Alberta should be quite clear.
  - The work related to the mechanism for consultation (who, how, where) will also assist in defining who are the Metis to be consulted, and where.
  - The concern related to the MNA representing all Metis in the province is pertinent to the purposes of consultation only – Metis locals in particular want to have consultation directed to them at the localized level, where impacts of development are felt. The challenges between the MNA provincial office, regional offices and local offices is up to the Metis to figure out.
- What is the status of the MNA in relation to credible assertion and what more will be required?
  - If the proposed Standards are approved, the MNA will have less work to complete. If they are not, there will be significantly more information required, which will be costly and time consuming.
  - Alberta and the MNA have been working closely to ensure sufficient information can be provided on each element of the proposed Standards. The approach is to identify regional Metis communities, which will follow (more or less) the geographic areas of the MNA regional governance boundaries.
  - Alberta may recognize five MNA Regions for consultation.

- o Two of the five MNA Regions have a lot of information already submitted, with some identified gaps.
  - o Three of the remaining five MNA Regions have further gaps to fill; those gaps, we believe, reachable.
  - o Examples of information gaps are a membership list for each MNA Region; family trees to demonstrate that some members are ancestrally tied to the historic community; and, an outline of where some members currently practice harvesting and traditional land uses in each MNA Region.
- Are there any alternative approaches such as just entering an agreement specifically with the MNA? What would the legal issues be with that approach?
- o The mandate provided by Cabinet in October 2015 was for IR to develop a Metis Consultation Policy that is consistent with the principles of the current Metis Settlements Consultation Policy.
  - o Entering into an Agreement with the MNA would be contrary to the mandate provided by Cabinet.
  - o Entering into an Agreement with Metis may also set a precedent that other Indigenous groups may seek to have – FN/MS both have policies that been subject to some dissatisfaction and are currently being renewed. An Agreement is seen as an opportunity to negotiate directly with Alberta on issues of concern. Putting forward an Agreement for the MNA to have directly with Alberta would be inconsistent with how we work with FN/MS and could open up a potential floodgate to have to have Agreements with each First Nation and Settlement.
- Element 2 of the Standards requires that “some members” of the contemporary community must have an ancestral connection to the historic Métis community:
- o How will that be determined? What will that mean for regions that include larger urban centers where there could be large numbers of members who do not have this historic connection?
    - § The “some” is identified on a case-by-case basis.
    - § IR is cognizant that there are some MNA Regions that may have thousands of members. It would be improper for IR to request that every member provide the information to support the connection – the threshold to meet an element of the Standards is LOW.
    - § During the submission of information, IR will work with the MNA Region or other Metis organization to determine the number of Metis in the area, the number of members of the organization, and an appropriate number that could satisfy the LOW threshold.
    - § For example, in MNA Region 5 there are 1,500 MNA members. The MNA stated that they could provide information on 100 of those members. That is 10% of the population. This seems reasonable.
    - § The 10% would be challenging, however, if looking at MNA Region 4 where there are over 10,000 members. In this case, potentially through discussions

with the MNA, it may be appropriate to seek 250 members' connections (2.5%). It depends on what seems reasonable and is not too onerous.

- Under Element 4 of the Standards, how will the majority be determined? What geographic boundary is used for the purpose of this and how can we ensure there would not be competing organizations for overlapping geographic regions?
  - o The majority is determined as 50% +1.
  - o The organization would need to have at least half of the population in an area as members of its organization, representing the Metis in that area for consultation.
  - o The geographic area is determined by the Metis who seek to be consulted.
  - o Once an organization is able to meet the Standards in a certain geographic area, no other claims will be considered.
  - o The mechanism for consultation (being created over the summer) should clarify this concern as well, since the Metis will be identified during this time.
- What is the relationship between the revised Metis Harvesting policy and the Metis Consultation Policy? Is there an interdependence here or is it possible for one to go forward without the other?
  - o **The connections between Metis Harvesting and Metis Consultation relate to the geographic areas of where Metis may harvest, or may be consulted.**
  - o **The two CRs must go together because the geographic areas for where an individual may harvest (Harvesting CR) have been determined in the Consultation Policy CR. The Consultation Policy CR outlines the test for how to determine what those areas may look like.**
  - o The proposed Standards being outlined in the Consultation Policy CR are more flexible.
    - § For example, the "Historic Metis Community" element allows for some information to show that there were Metis in a specific area and are interconnected. The level of information to show this is much less, and we will be able to accept that Metis may be regional in nature.
  - o All of the research reviewed and historic reports analyzed to date were done so against the Standards being this flexible.
  - o Based on the proposed Standards, IR is prepared to accept that there are four regional historic Metis communities in the province, which will be used for Consultation and Harvesting.
  - o If the Consultation Policy CR does not go through, then the new Standards cannot be applied.
  - o Putting the information we have to date against the current process may not support the identification of the four regional communities.
  - o If the regional communities cannot be supported, then the Harvesting policy cannot go forward as presented as it relies on the identification of these communities to outline where harvesters may practice hunting/fishing/trapping activities.

- o If the Consultation Policy CR does not go forward, then both Consultation and Harvesting would need to be withdrawn. The Harvesting policy would not have enough information to support it, and we will have a higher risk of litigation because of this.
- o **We have enough information to be successful if the Standards are accepted and both CRs are approved.**

Thanks,

**Kim Bastow**

Manager, Strategic Initiatives

Phone: 780-218-2830

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**From:** Lance Wilson

**Sent:** Monday, June 25, 2018 8:49 AM

**To:** Genevieve Turcotte <[Genevieve.Turcotte@gov.ab.ca](mailto:Genevieve.Turcotte@gov.ab.ca)>

**Cc:** Leah Sheffield <[Leah.Sheffield@gov.ab.ca](mailto:Leah.Sheffield@gov.ab.ca)>; Stan Rutwind <[stan.rutwind@gov.ab.ca](mailto:stan.rutwind@gov.ab.ca)>; Kim Bastow <[Kim.Bastow@gov.ab.ca](mailto:Kim.Bastow@gov.ab.ca)>; Cory Enns <[Cory.Enns@gov.ab.ca](mailto:Cory.Enns@gov.ab.ca)>

**Subject:** RE: NEW REQUEST - EDPC - possible questions

Ok. Will look at how to divide and conquer on this by 11

Lance

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**From:** Genevieve Turcotte

**Sent:** Monday, June 25, 2018 8:45 AM

**To:** Lance Wilson <[Lance.Wilson@gov.ab.ca](mailto:Lance.Wilson@gov.ab.ca)>

**Cc:** Leah Sheffield <[Leah.Sheffield@gov.ab.ca](mailto:Leah.Sheffield@gov.ab.ca)>; Stan Rutwind <[stan.rutwind@gov.ab.ca](mailto:stan.rutwind@gov.ab.ca)>

**Subject:** NEW REQUEST - EDPC - possible questions

**Importance:** High

Hi Lance,

This just came in from Evan.

Can your team do the best you can to prepare responses to these questions this morning? Just a few bullets for each is enough.

If you could have something back to me for 11 that would be great.

Thank you!

ABJ0000769-005

Gen

**Genevieve Turcotte** | Indigenous Relations  
office. 780.638.4371 | cell. 780.691.0171

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**From:** Justin Cenaiko  
**Sent:** Monday, June 25, 2018 8:32 AM  
**To:** Stan Rutwind <[stan.rutwind@gov.ab.ca](mailto:stan.rutwind@gov.ab.ca)>  
**Cc:** Genevieve Turcotte <[Genevieve.Turcotte@gov.ab.ca](mailto:Genevieve.Turcotte@gov.ab.ca)>  
**Subject:** Fwd: EDPC - possible questions

Hi Stan,

I just received this and you may want to take a look before the meeting today.

Thanks,

JC

Begin forwarded message:

**From:** Evan Jones <[Evan.Jones@gov.ab.ca](mailto:Evan.Jones@gov.ab.ca)>  
**Date:** June 25, 2018 at 8:23:32 AM MDT  
**To:** Phil Johnson <[Phil.Johnson@gov.ab.ca](mailto:Phil.Johnson@gov.ab.ca)>, Justin Cenaiko <[justin.cenaiko@gov.ab.ca](mailto:justin.cenaiko@gov.ab.ca)>  
**Subject:** EDPC - possible questions

Good morning Phil and Justin – please see below for some questions that we anticipate may arise at EDPC today.

Thanks,

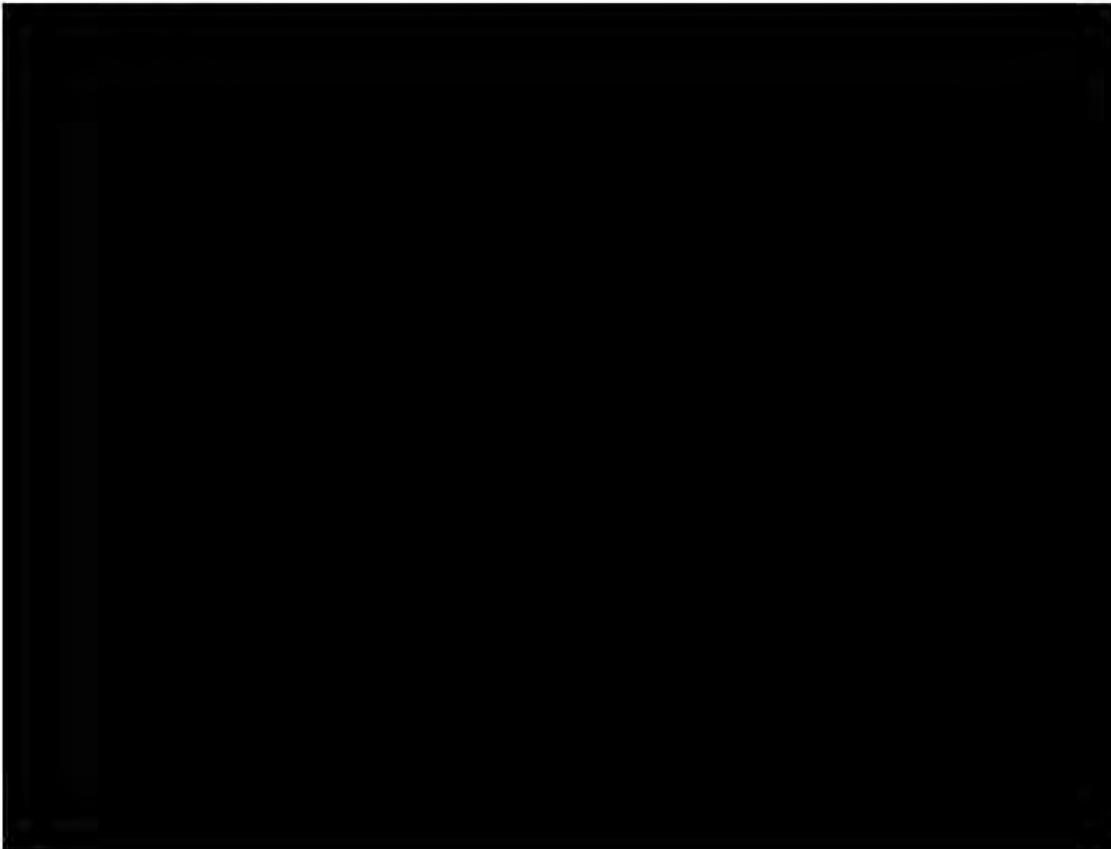
Evan

**Metis Consultation Policy Development**

- Regarding the request to approve further engagement on the mechanism for consultation (who, how, and where), how much further engagement is anticipated, and over what time span?
- What are the risks if the proposals brought forward today do not proceed at this time?

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- Are there any alternatives that can be reasonably considered regarding the MNA's position that it is an indivisible representative of Métis in Alberta?
- What is the status of the MNA in relation to credible assertion and what more will be required?
- Are there any alternative approaches such as just entering an agreement specifically with the MNA? What would the legal issues be with that approach?
- Element 2 of the Standards requires that "some members" of the contemporary community must have an ancestral connection to the historic Métis community:
  - o How will that be determined?
  - o What will that mean for regions that include larger urban centers where there could be large numbers of members who do not have this historic connection?
- Under Element 4 of the Standards, how will the majority be determined? What geographic boundary is used for the purpose of this and how can we ensure there would not be competing organizations for overlapping geographic regions?
- What is the relationship between the Metis Harvesting Plan and the Metis Consultation Policy? Is there an interdependence here or is it possible for one to go forward without the other?





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