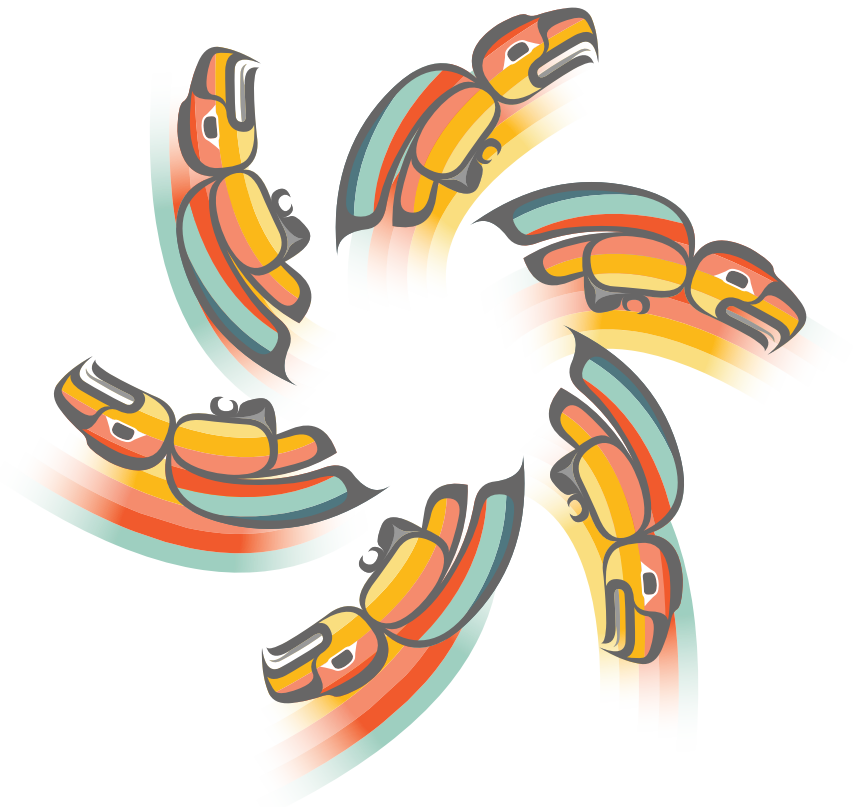




Revising Dispute Resolution in Environmental Assessments:

INTENTIONS PAPER

January 2026



EAO

Environmental
Assessment Office



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AN ACKNOWLEDGEMENT

The revisions to the dispute-resolution framework in the Environmental Assessment Act proposed in this intentions paper have been informed by:

- EAO's October 2025 *Revising Dispute Resolution Discussion Paper*, which provided context, current legal framework and intended outcomes.
- Input gained through consultation and cooperation and engagement with 46 First Nations, Modern Treaty Nations and Indigenous governing bodies, and two First Nations organizations.
- Input from two project proponents with direct experience in dispute resolution, as well as a variety of industry associations, business representatives and environmental assessment practitioners.
- Experiences from dispute-resolution processes during environmental assessments to date, including feedback from First Nations participants in dispute resolution, participating Indigenous nations not party to the dispute resolution, proponents of projects undergoing environmental assessment where dispute resolution was triggered and EAO staff involved in dispute-resolution processes.

The Environmental Assessment Office (EAO) thanks everyone who attended a meeting or a workshop, either in person or virtually, and to all those who contributed to the written submissions that we received.

We sincerely appreciate the time, effort and energy put into the consultation and cooperation and engagement process. Your input has been invaluable.





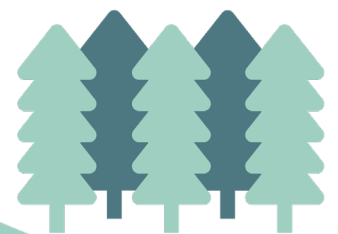
1. INTRODUCTION

In 2018, the provincial environmental assessment process was revitalized with the passage of the current *Environmental Assessment Act* (the Act). The Act sets out how the Environmental Assessment Office (EAO) collaborates with First Nations on the assessment of proposed reviewable projects in support of the implementation of the United Nations Declaration on the Rights of Indigenous People (UN Declaration). First Nations that elect to participate in an assessment process have access to dispute resolution at key decision points of the assessment. Dispute resolution – a tool to support consensus-seeking, using a third-party facilitator, if the Province and First Nation are unable to reach consensus on their own – was included in the Act to help strengthen consensus-seeking, support reconciliation through consistency with the UN Declaration and support the timeliness and predictability of environmental assessments.

Since 2022, eleven dispute-resolution processes have been initiated in relation to the environmental assessments of three proposed projects. These processes provided valuable insight on how dispute resolution is working and whether its stated objectives are being met. The record shows that, far from meeting the objectives, dispute resolution has not been effective in helping parties reaching consensus on issues under dispute, has added unpredictability to the assessment process and has eroded relationships between the Province and First Nations. The failure of dispute resolution to meet its objectives highlights the need to revise the dispute-resolution regulatory framework under the Act to address the various challenges that have emerged from its implementation.

In response to these challenges and as a part of the [legislated review](#) of the Act, the EAO began engagement on the dispute-resolution regulatory framework in fall 2025. Through an iterative process, the EAO consulted and cooperated with First Nations and carried out focused engagement with representatives from industry and project proponents, to develop policy options for revising the regulatory framework. The [Dispute Resolution Discussion Paper](#) was central to these discussions, which were carried out through open online workshop sessions and bilateral meetings, with input also provided through written submissions.

In consideration of the current approach to dispute resolution and the desired outcomes of a revised framework, and drawing from the input received throughout the engagement process, the EAO is pursuing a suite of policy ideas. The proposed revisions to the dispute-resolution regulatory framework are intended to work together in a complementary fashion to achieve the intended outcomes.





2. SUMMARY OF ENGAGEMENT

Through consultation and cooperation with First Nations and engagement with industry representatives, the EAO heard a broad range of perspectives on dispute resolution. While not all participants who engaged on the dispute-resolution framework shared the same views, the following key themes resonated across discussions and connected directly to the proposed policy intentions. Additional input is summarized in [Appendix B](#).

Strengthening Consensus-Seeking

First Nations emphasized that current consensus-seeking processes under the Act do not always support effective issue-resolution. The EAO heard that these processes can feel performative rather than focused on genuine problem-solving, which leads to frustration and mistrust. In particular:

- The existing framework lacks structure to move complex issues toward resolution.
- Current practices do not always support meaningful, iterative consensus-seeking.
- A more explicit, stepwise model would better enable parties to resolve disagreements before the need to enter formal dispute resolution arises.

Several First Nations noted that when consensus-seeking is meaningful and proactive, it reduces reliance on formal dispute resolution and supports better outcomes for all parties. Participants emphasized that this requires addressing issues as early as possible in the environmental assessment process through genuine collaboration built on good faith and respect for Indigenous governance, knowledge and decision-making. The EAO heard strong interest in more meaningfully pursuing consensus-seeking in the assessment process before moving to dispute resolution.

With the focus being on issue-resolution, the EAO heard that issues considered by the EAO to be potentially outside the scope of an environmental assessment should be clearly identified and discussed, to avoid concerns arising from a unilateral dismissal of issues by the Province. The identification of issues for further discussion and decision reinforces government-to-government relationships consistent with Treaties, government-to-government agreements and the UN Declaration.





Value of Protocols

Related to the feedback on the need to strengthen consensus-seeking, some First Nations shared their experience with issues-resolution protocols developed under Treaties, reconciliation agreements and other government-to-government arrangements, with the suggestion that they may provide strong models for an issue-resolution protocol under the Act. In their experience, these protocols can:

- Offer clear structured processes for addressing disagreements
- Establish expectations for roles and responsibilities
- Promote transparency and timely resolution

First Nations also noted that many of these agreements already include mechanisms for resolving issues that could be adapted or referenced, rather than creating entirely new processes. Building on existing mechanisms would help ensure alignment with established practices and reduce duplication. First Nations expressed interest in co-developing protocols that reflect their governance systems and legal traditions, ensuring flexibility to accommodate diverse approaches.

Need for Clarity on Dispute Resolution Timing and Decision Points

Some First Nations and industry acknowledged that challenges have emerged due to ambiguity about when dispute resolution is available and on what matters (i.e., in relation to which decision points in the environmental assessment process). Feedback highlighted support for, or the need for:

- Greater certainty on time limits for when dispute resolution must be initiated;
- Clear articulation of which decisions or steps in an assessment are eligible for dispute resolution;

Participants emphasized that clarity is not just a procedural improvement but essential for building confidence in environmental assessments and ensuring that dispute resolution serves its intended purpose. First Nations indicated that timelines for dispute resolution should reflect Indigenous governance, decision-making processes and culturally appropriate approaches, noting that compressed timelines and procedural steps can compromise meaningful dialogue, issue-resolution and time to consider outcomes and implications. Industry highlighted the importance of balancing flexibility with predictability to maintain overall environmental assessment efficiency.

While participants acknowledged that dispute resolution is likely not the best tool to resolve all issues, scoping dispute resolution too narrowly risks excluding some potentially relevant issues. Many participants see value in dispute resolution supporting early issue-resolution. Some expressed concern about limiting access to dispute resolution across the environmental process, including later stages, in support of free, prior and informed consent (FPIC). Others pointed to confusion around the initiation of late-stage dispute resolution that enable “stacking” of issues and using the process for strategic objectives outside the scope



of environmental assessment. This raised questions about fairness, predictability and integrity of process, especially when initiated late in the assessment.

Collaborative, co-developed identification or confirmation of decision-points where dispute resolution is appropriate, and clear guidance on issues best suited for dispute resolution, was widely viewed as a way to increase process certainty and improve trust.

The EAO also heard that guidance on how dispute resolution interacts with consensus-seeking is needed, or in other words, how dispute resolution is available to support consensus-seeking when other approaches are not able to support reaching consensus on an issue under dispute.

Enhanced Transparency into Dispute Resolution Implementation

Participants emphasized the need for more transparency throughout a dispute-resolution process, particularly for environmental assessment participants outside dispute resolution who may be able to support resolution of issues and/or who are affected by dispute-resolution outcomes. Areas for enhanced transparency include:

- When dispute resolution is initiated
- What the issues under dispute are
- How dispute resolution is progressing
- The outcomes of dispute resolution and next steps

Further, the EAO heard strong interest in greater transparency and an opportunity for other participating Indigenous nations, proponents and/or regulators to have a role in a dispute-resolution process, particularly in those instances when parties external to the process may be impacted by the outcomes of dispute resolution or may be able to support successful resolution of an issue. Participants also emphasized the need for more clarity in the selection process and competencies of dispute-resolution facilitators.

Participants stressed practical measures such as providing plain-language summaries of facilitator reports, timely posting of dispute-resolution materials and balancing confidentiality with procedural fairness throughout the process so all parties can understand outcomes and implications.





3. EAO'S INTENTIONS FOR LEGISLATIVE AND REGULATORY REVISIONS

The EAO intends to advance a suite of policy ideas that work together to form the basis for two major improvements to the dispute-resolution regulatory framework. These changes aim to achieve the following desired outcomes for a revised dispute-resolution regulatory framework:

- *Assist in reaching consensus:* Promote constructive dialogue and cooperative relationships that help resolve issues at key milestones.
- *Provide process and timeline certainty:* Deliver a predictable approach within the scope of the Act to support timely environmental assessments.
- *Support reconciliation:* Work in conjunction with other tools under the Act to implement the principles of the UN Declaration.
- *Respect First Nations governance:* Ensure processes reflect the laws, traditions and governance systems of First Nations.

The two major improvements to the dispute-resolution regulatory framework aim to strengthen consensus-seeking, improve both dispute-resolution and environmental assessment predictability and support timely, transparent and culturally appropriate issue-resolution. These improvements include:

1. **Establishing a new tool under the Act – the Issues Resolution Protocol:** To support effective consensus-seeking, the EAO will seek to enable a new tool under the Act: an Issues Resolution Protocol (Protocol). The intention is that a Protocol would be codeveloped with each participating Indigenous nation that expresses interest, based on the *Consensus-Seeking & Issues-Resolution Framework* (see below) and tailored as appropriate to the Nation's governance context.
2. **Reframing and Revising Dispute-Resolution Provisions:** The EAO will seek revisions to Section 5 of the Act to focus on the implementation of dispute resolution rather than the current emphasis on setting out the roles and responsibilities of the dispute-resolution facilitator. The intent is for dispute resolution to complement the Issues Resolution Protocol in supporting consensus-seeking under the Act early in the process.

The EAO will consult and cooperate with First Nations on these intended policy changes, including co-developing the Consensus-Seeking & Issues-Resolution Framework and other changes to legislation that are proposed for the Government to move forward with.

More detail on the proposed changes in the environmental assessment process follow, along with a diagram on page 13 showing the changes in the process.



Issues Resolution Protocol

If an issues-resolution protocol is added as an available tool, the Act will provide an opportunity in early engagement for participating Indigenous nations and the EAO to develop a Protocol together that can be implemented as needed throughout the course of an assessment. The Protocol will represent an additional tool to support consensus-seeking under the Act and also set out clear pathways to resolve issues should they arise.

How the Protocol would be initiated

- During Early Engagement, the first phase of the environmental assessment process, Indigenous Nations notify the EAO of their interest in being participating Indigenous nations.
- They may simultaneously indicate interest in co-developing a Protocol with the EAO, using the Consensus-Seeking & Issues-Resolution Framework (see below) as a template, with the option to tailor it in consideration of a First Nation's existing Treaty or agreement-based process, if applicable.
- The Protocol is available throughout the assessment process to support consensus-seeking and issue-resolution, including by providing clarity on roles, expectations and pathways for escalation. Legislated timelines would continue to apply in relation to use of the Protocol.

The Consensus-Seeking & Issues-Resolution Framework

The Framework would be developed with all B.C. First Nations, setting out key elements and building on effective existing approaches, to provide a template for issue-resolution that can be adapted to establish a Nation-specific Issues Resolution Protocol that may incorporate/reflect a Nation's distinct customs, traditions, legal systems and approaches to conflict-resolution. The Framework would include:

- The applicable technical and decision-making tables to support achieving consensus and/or resolving issues from a working-group level to the appropriate leadership level
- Process to escalate issues from the technical to senior leadership tables, if necessary and as appropriate
- Tools and actions available for issue-resolution
- Processes for including other participants (proponents, regulators, other First Nations)

Appendix A outlines a draft Framework on which the EAO on which will be consulting and cooperating in the near future.





Reframe and Revise Dispute-Resolution Provisions in the Act

The EAO intends to seek legislative amendments, and develop accompanying policy to support implementation, of revised dispute resolution provisions in the following ways:

Specifics of who, what and when for dispute-resolution provisions

Under the proposed revised dispute-resolution provisions, dispute resolution would be available in relation to the following pending decisions (*see below*). For clarity, dispute resolution would no longer be available at the end of the environmental assessment process during the effects assessment or recommendation phases. The Issues Resolution Protocol would replace dispute resolution to support achieving consensus-seeking at these decision points.

Which Indigenous nations will participate in an environmental assessment

- Notification of an Indigenous nation to participate in an environmental assessment (section 14(1)).
 - Timing: In policy, the EAO will recommend that any initiation of dispute resolution in relation to a First Nation's notification to participate in an environmental assessment be done no later than 30 days after the notification is issued. This will support the objective of addressing any concerns about a Nation's participation in the assessment process as soon as possible to ensure timely decision-making.
- Notification to an First Nation which has requested to be a participating Indigenous nation in an environmental assessment that the chief executive assessment officer has determined there is no reasonable possibility the Nation or its rights under section 35 of the *Constitution Act, 1982* will be adversely affected by the project (section 14(2)).
 - Timing: In policy, the EAO will recommend that any initiation of dispute resolution in relation to the CEO's determination that there is no reasonable possibility a First Nation or its rights will be adversely affected by the project by done no later than 30 days after the CEO's notification. This will support the objective of addressing any concerns about a Nation's participation in the assessment process as soon as possible to ensure timely decision-making.

Environmental assessment readiness

- Recommendation of the CEO to the Minister to issue an exemption order (section 16(2)(b)) or a termination order (section 16(2)(c) on the project; or recommendation that the project proceed with an assessment (section 16(2)(d)).
 - Timing: It is proposed that revised legislation include a time limit requiring that dispute resolution be initiated before the recommendation package is finalized, and prohibit cascading dispute resolution processes. Cascading dispute resolution is possible when the outcome of a dispute resolution leads to a subsequent dispute-resolution process being initiated, which could then continue to be repeated.





Process order

- Process Order (section 19(1)).
 - Timing: It is proposed that revised legislation include a time limit requiring that dispute resolution be initiated prior to the issuance of a process order, and prohibit cascading dispute resolution processes. The intention is to provide a reasonable timeframe within which a participating Indigenous nation may initiate dispute resolution (prior to or following a decision).

Mutual agreement to proceed

With these proposed legislative changes, if an issue or issues were not able to be resolved through the process outlined in the Protocol, a participating Indigenous Nation and the CEAO would meet to determine if the parties can mutually agree to proceed with dispute resolution. The determination would be made based on:

- *Agreement on the issues that are appropriate for dispute resolution* – guided by policy that outlines the types of issues for which dispute resolution may not be the most effective tool, such as:
 - Issues that fall outside of the environmental assessment regulatory framework, such as a Nation's title and rights
 - Issues that are not germane to the environmental assessment decision point in question
 - Issues that have not been subject to consensus-seeking during the assessment process outside of dispute resolution
 - Issues that are not applicable to the reviewable project being assessed
 - Potentially other issues to be determined
- *Agreement on the participation of additional parties* – such as the proponent, other participating Indigenous nations and/or other regulators, guided by policy that specifies the types of issues that would warrant a more inclusive dispute-resolution process.
- *Agreement on the dispute-resolution facilitator* – the participating Indigenous nation and the CEAO could identify an appropriate facilitator from a pre-qualified list or could recommend another facilitator to be appointed to the role if they meet the qualifications set out in the *Environmental Assessment Dispute Resolution Facilitator Regulation*.

Note: if the parties cannot reach mutual agreement to proceed to formal dispute resolution, dispute resolution would not proceed and the CEAO would be required to provide the rationale for their position.





Administration of dispute-resolution process

- *Referral and public posting* – If mutual agreement is achieved, the dispute, with clearly identified issues, would be referred to a facilitator. The referral would be publicly posted.
- *Decision-making paused pending facilitator's report* – no statutory decision may be made until the facilitator's final report is submitted.
- *Periodic public communication* – The EAO would provide periodic updates to other participants of the environmental assessment on the progress of dispute resolution, while maintaining confidentiality as appropriate, will similarly publicly post these updates, and will publish any final documents relevant to the dispute-resolution outcomes, including the facilitator's report, subject to any confidential memos.
- *Opportunity to respond to outcomes* – Proponents and participating Indigenous nations would have an opportunity to respond to outcomes or recommendations to come out of the dispute resolution in advance of the associated decision being made.



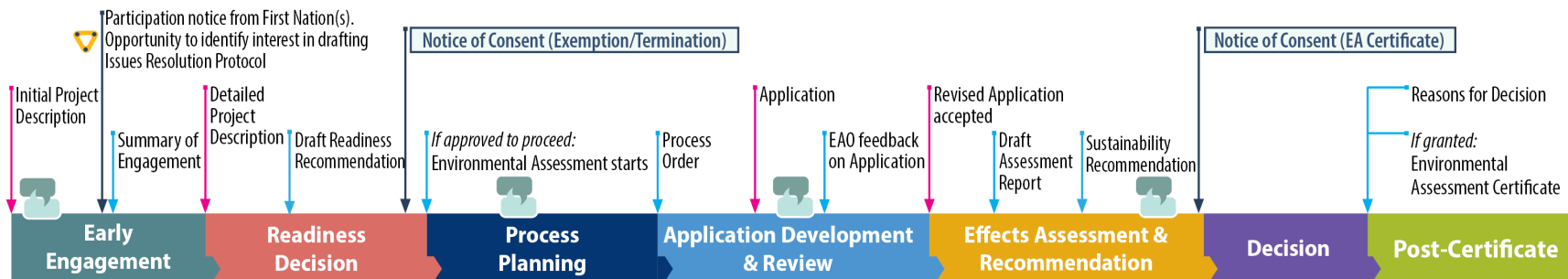


Revising Dispute Resolution

Proposed legislative amendments focus on a new Issue Resolution Protocol available throughout the environmental assessment (EA) process, co-developed to support consensus seeking, with dispute resolution remaining at earlier EA phases available by mutual agreement. Updated policy on dispute resolution timing and scope to be developed in consultation and cooperation with First Nations.

Legend

- Public Comment Period
- Intended Policy Change / Revision
- EAO Produced
- Proponent Produced
- First Nation Produced



Seek consensus with participating Indigenous nations throughout the process						
Dispute resolution available to help, by mutual agreement			Consensus with participating Indigenous nations supported by issues resolution protocol if needed			Issues resolution protocol available
To resolve a dispute about a First Nation's notice to participate in an environmental assessment of a project - s. 14(1)*	To seek consensus on Minister's decision, as recommended by the CEAO, to terminate or exempt project - s. 17	To seek consensus on the CEAO decision to issue a process order (documents setting the scope, methods, procedures and information requirements for the environmental assessment) - s. 19	EAO and participating Indigenous nations seek consensus on whether to accept the proponent's revised application. Dispute resolution not available in this phase. Issues resolution protocol available if needed.		Seek consensus on: <ul style="list-style-type: none"> • draft EAO assessment report (which assesses potential project impacts) • draft Environmental Assessment Certificate (EAC) conditions (requirements to address potential impacts) • recommendation by CEAO on consistency of project with sustainability 	Minister offers to meet any participating Indigenous nation whose consent notice differs from the EAO sustainability recommendation, to seek to achieve consensus - s. 29(5). Issues resolution protocol available if needed
To resolve a dispute on a CEAO decision that a proposed project would not adversely affect First Nation's rights, preventing designation as a participating Indigenous nation in the assessment - s. 14(2)*	To seek consensus on CEAO decision on whether to proceed with the EA - s. 18				Issues resolution protocol replaces dispute resolution tool (which is no longer available at s. 28/29)	Seek consensus with respect to the amendment of an EAC or exemption order - s. 32(7)**

*Dispute resolution over this matter is also available to any First Nation that has provided a notice of their intent to participate in the assessment under Section 14(1) of the Act. In all other sections of the act, dispute resolution is available only to participating Indigenous nations or the Chief Executive Assessment Officer (CEAO).

**Dispute resolution is available related to the participating Indigenous nation designation, per s. 14



4. NEXT STEPS

EAO will work closely with First Nations, industry and other environmental assessment participants to refine the proposed changes. Development of the Consensus-Seeking & Issues-Resolution Framework will begin through consultation and cooperation with First Nations, followed by regulatory drafting and further engagement.

Environmental Assessment Act Review: Revising dispute resolution provisions



What we've done & what's next





APPENDIX A. Draft Consensus Seeking & Issue Resolution Framework

This draft framework is provided to support dialogue on what a framework for an issue-resolution protocol could look like under the Act. It is intended as a starting point for discussion and does not represent a final or approved framework. Future consultation and cooperation with First Nations will be essential to refine and finalize the framework.

1. Background (Recitals)

The protocol could include relevant context related to a particular relationship

Examples:

- Recognition of participating Indigenous nation (PIN) governance (e.g., Treaty Nation, rights affirmed under s.35 of the Constitution Act)
- The Province's commitment to meaningful reconciliation, consultation
- Relevant court decisions, past government-to-government agreements (if needed)

2. Parties

The protocol *should* name representatives at a working level and leadership level to support consensus-seeking and discussing and resolving issues

Example:

The Parties will establish the following

- Collaboration Team – responsible for technical discussions related to the environmental assessment, including seeking consensus, identifying issues and resolving issues (EAO – project team; PIN – technical staff, may be the same as the Technical Advisory Committee representatives)
- Senior Leadership Table – responsible for resolving issues or concerns that cannot be resolved by the Collaboration Team

3. Purpose / Outcomes

The protocol *should* include a brief description of intention, how it supports the relationship, interests and involvement in the environmental assessment

Examples:

- The protocol outlines process for identifying, addressing and resolving issues that may arise during the environmental assessment to support provincial and Indigenous consent-based decision-making
- This protocol supports effective consensus-seeking that is respectful of Nation's preferences and governance, structured to identify tools and avenues for resolution, and assists with addressing issues as early as possible.





4. Guiding Principles

The protocol *should* include 3-6 principles that guide the parties in seeking consensus and resolving issues during the environmental assessment.

Examples:

- Recognition– the parties recognize each other’s jurisdiction and decision-making authority and acknowledge the constitutionally protected rights of the First Nation and the Province of B.C.’s commitment to uphold the principles of the UN Declaration on the Rights of Indigenous People, including the right to make a free, prior and informed decision about whether to consent to the project.
- Transparency– the parties agree to share key information and upcoming decisions early with each other, and to share relevant outcomes or issues with the proponent and affected First Nations
- Good Faith and Collaboration – The parties will engage openly and respectfully, sharing information to support informed decision-making
- Timeliness and Clarity – The parties will seek to identify and resolve issues early, and clarify any other parties that need to be involved, and available solutions
- Purposeful – The parties will seek to focus efforts and issue identification toward solutions that are tied to impacts and support consent-based decisions
- Forward-looking – The parties will seek to identify and resolve issues in a way that plans for the entirety of the environmental assessment and potentially the lifecycle of a project

5. Issue-Resolution Process

The protocol *should* outline the process for the parties to identify and seek to resolve issues that arise during the environmental assessment

Example:

Step 1: Identification of Issues

Any party may raise an issue by providing written notice. The notice should include a clear description of the issue, relevant background and context, and any cultural considerations or protocols that should guide resolution. A written notice must be provided at least prior to 60 days prior to decision under section 28 of the Environmental Assessment Act.

Step 2: Informal Dialogue

Parties will first seek resolution through respectful, informal discussions within [X] business days of notice.





Step 3: Joint Meeting

If unresolved, a joint meeting will be held within [X] business days, including representatives of the Collaboration Team, and, where appropriate, other supporting technical or subject-matter experts.

Step 4: Escalation to Leadership

If the issue remains unresolved, it will be referred to the senior leadership table.

6. Involvement of Other Participants (Proponent, Ministry, First Nations)

The protocol *could* include reference to other participants who may support issues resolution, e.g., the proponent, other ministries or agencies, or other First Nations

Example:

The parties acknowledge that there may be value inviting other participants to support the issues resolution process. If a party wishes to invite another participant, they will inform and solicit the views of the other party in advance.

7. Decision-Making

The protocol *could* include a section reflecting that parties will proceed to a decision if an issue has not been resolved (potentially within X number of days), and that the lack of resolution will be reflected in their decision

Example:

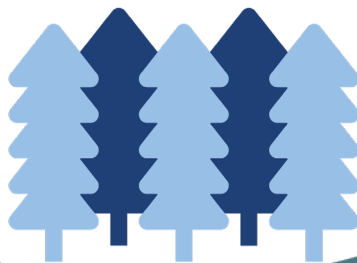
Where the Senior Leadership Table is unable to resolve the issue within X number of days following a meeting at the Leadership Table, each Party may proceed with its decision-making process.

8. Documentation

The protocol *could* include a clause around documentation of issues and resolutions

Example:

All resolutions will be documented and shared among parties, respecting confidentiality and cultural protocols.





APPENDIX B. WHAT WE LEARNED DURING ENGAGEMENT

Overview of Engagement

This section reflects the input the EAO received on potential revisions to the dispute-resolution (DR) provisions in the Environmental Assessment Act (the Act) from First Nations, Modern Treaty Nations and Indigenous governing bodies during consultation and cooperation from October to December 2025, along with feedback during engagement with First Nations organizations and industry representatives over the same period.

In advance of consultation and cooperation and related engagement, the EAO published a [*Discussion Paper on Revising Dispute Resolution in Environmental Assessments*](#). This included questions and considerations intended to foster conversation and feedback during consultation and cooperation with First Nations and engagement with others involved in the environmental assessment (EA) process to help inform changes to the dispute-resolution framework.

Building on the discussion paper as consultation and cooperation and related engagement progressed, the EAO sought feedback on a [proposed problem statement](#), policy ideas and then proposed policies for dispute resolution. Summaries of feedback below are organized according to questions in the discussion paper but reflect input received across all stages of engagement including virtual workshops, bilateral meetings and written submissions. Where comments responded to specific policy proposals introduced in the final stage of sessions and meetings, this is noted.

Engagement on potential policy ideas to revise dispute resolution began initially with discussion on the problem statement and the desired outcomes of the revised framework.

While there was support for the problem statement overall, input received from First Nations, Indigenous governing bodies, First Nation organizations, industry associations and project proponents pointed to more fundamental concerns with the effectiveness of consensus-seeking activities conducted throughout the environmental assessment process. Modern Treaty Nations also noted wanting to see strategies to improve trust and pointed to the EAO's responsibility as a regulator to ensure First Nations' rights and Treaty Rights are protected. All of this input was critical in shaping the policy direction the EAO intends to pursue.

Problem Statement: Dispute resolution under the Act is not achieving the intended outcomes to support consensus-seeking, contribute to reconciliation and increase environmental assessment predictability. Recent dispute resolution processes point to rising conflicts, extended assessment timelines and deepening mistrust.



First Nations, Indigenous Governing Bodies & First Nations Organizations

The questions found in the [discussion paper](#) helped shape early feedback. The following summarizes the feedback we heard in relation to those questions.

Effectiveness of current dispute resolution process (What worked well, challenges and suggested improvements)

Several First Nations that participated in DR let the EAO know about the issues that led to the initiation of DR. It was often suggested that wider issues in the EA and consensus-seeking process should be addressed to avoid the need for DR. Some Nations were frustrated with proponent-driven processes and feeling their contributions or Indigenous knowledge was not valued. The EAO also heard about proponents that engage respectfully and proactively. First Nations wanted the EAO to more actively hold proponents accountable for their obligations to work with First Nations. There was interest in involving proponents in DR if appropriate.

Some feedback indicated that consensus-seeking can feel superficial and procedural, accompanied by a reluctance from proponents to modify their plans. There were also views that the Province makes decisions without regard for the outcomes of consensus-seeking. These perceptions diminish confidence in EA and DR, increasing the likelihood of disputes heading to litigation.

The EAO heard that the DR process is insufficiently aligned with the Declaration on the Rights of Indigenous Peoples Act (Declaration Act) and principles of free, prior and informed consent (FPIC), failing to reflect shared decision-making or recognition of Indigenous jurisdiction, legal orders and governance structures. There were concerns about the use of strength-of-claim which could potentially create adversarial dynamics.

Feedback stressed that DR facilitators need a combination of skills, including EA process knowledge, cultural and legal competency and understanding of Indigenous worldviews.

Some First Nations stated frustration that DR participation can be costly and time-intensive, with concerns about inadequate funding and timelines consumed by process setup (e.g., terms of reference), leaving little time for actual dispute resolution. Participants felt there should be clear redirection pathways for issues the EAO determined were not in scope of DR.

Engagement Statistics

8 Virtual Workshops | 9 Written Submissions | 9 Bi-lateral Meetings





The EAO heard some successful examples of DR when embedded in broader, principle-based government-to-government arrangements. Participants expressed interest in earlier, Nation-specific consensus-seeking tools and clarity on decision rationale and alternative issue-resolution options. They also shared concerns that DR not become discretionary or prematurely abandoned, given its potential to produce positive outcomes even when full consensus is not achieved.

The EAO also heard feedback from First Nations that didn't participate in DR, but were participating Indigenous nations on the project where DR was initiated. They shared that DR was unclear and destabilizing, especially when initiated late in the EA process. DR was described as a "black box," with insufficient transparency about what occurred, what changed, how much time remained and when key steps were taken. Late-stage DR (e.g., at the conclusion of the environmental assessment, just before the project is referred to ministers for decision) was flagged as creating uncertainty and practical barriers for other participating Indigenous nations to convene decision-makers and consider their consent for the project.

Nations supported more proactive, public-facing transparency such as immediate posting of DR-related materials, clearer timelines and plain-language summaries of outcomes (especially where facilitator reports were limited or confidential). Ongoing updates to participating Indigenous nations not involved in DR were identified as essential, with time and capacity to review any outcomes that affect the broader assessment.

The EAO heard requests for clearer information on who participates (and at what level) and how DR and its outcomes affect other groups in the EA such as the Technical Advisory Committee (TAC).

There were also some concerns about facilitator selection and perceived conflicts of interest linked to parties inside and outside of a dispute but participating in the project EA.

Modern Treaty Nations stressed the need for DR processes that reflect their distinct legal status, rather than treating Treaty Rights the same as asserted rights. They highlighted that frameworks allowing other Indigenous governments to delay or influence decisions on Treaty Lands through DR undermine the purpose of Treaties, create unpredictability and erode confidence in Treaty implementation. The EAO heard questions about how Treaty Rights would be protected within a proportionality model, noting concerns that proportionality could become a gatekeeping tool that limits access to DR or reduces consideration of Treaty impacts. Modern Treaty Nations cautioned against approaches to DR that rely on the UN Declaration in ways that dilute constitutionally protected Treaty Rights and emphasized that reconciliation in a Treaty context must reinforce the government-to-government relationship established by Treaties, promote trust and support respectful inter-Nation relationships rather than produce conflict or uncertainty.





Feedback on key desired outcomes (Consensus-seeking, governance, certainty, proportionality, reconciliation)

Assist in reaching consensus

The EAO often heard that DR should not be the primary mechanism for achieving consensus, but rather a last resort when genuine, well-implemented consensus-seeking has failed. Improving consensus-seeking was seen broadly as an effective way to reduce reliance on DR altogether. The EAO also heard recognition that consensus-seeking through DR cannot resolve every issue. Concerns that fall outside the EAO's mandate require clear pathways for resolution under a whole-of-government approach so that issues are directed to the appropriate forum.

A recurring concern was the lack of clarity and shared understanding of what "consensus" means in practice. Nations and the EAO may hold different interpretations and some feedback suggested that the nature, scope and limits of consensus-seeking should be clearly defined and mutually agreed upon by parties early in the process.

Initial feedback on a proposed Issues Resolution Protocol were positive, especially if deployed earlier in the EA process and tailored to a First Nation. There were some concerns about adding another process and potential longer timelines to an EA but the EAO also heard that this could be mitigated by using broad government-to-government protocols as the framework for agreements.

Respect First Nations governance

The EAO heard support for the DR framework to formally recognize Indigenous law and traditions and Indigenous-led decision-making as equal legal authority, aligned with the UN Declaration, Declaration Act and FPIC.

Participants emphasized the need for greater specificity in how First Nations' governance authorities are reflected in EA and DR processes, particularly for Nations with their own established assessment processes.

The EAO also heard some feedback that the DR process treats established Treaty Rights as equivalent to asserted rights, undermining the distinct legal and governance status of Treaty Nations.

Provide process and timeline certainty

There is strong support for greater process and timeline certainty related to DR. The EAO heard the need for clarity on when DR can be initiated, while also noting that rigid deadlines could unintentionally undermine meaningful consensus-seeking. Improved resourcing, including capacity funding, and greater transparency through timely communication to all participating Indigenous Nations and proponents, as well as clear opportunities to participate, were identified as key contributors to certainty.



Be proportional to potential impact

While there was some support for applying DR proportionally based on the potential impacts of a project, others opposed this approach due to concerns about who would define proportionality and how it would be implemented.

Support reconciliation

The EAO heard that DR must support reconciliation, with some agreement that in its current form it is not successfully doing so. Many participants noted that for DR to support reconciliation, continued focus on building and rebuilding relationships and trust for the long term is essential. This is important to address what are often the fundamental drivers of conflict (e.g., lack of trust and communication, different worldviews).

The EAO heard that procedural, “check-the-box” approaches undermine trust and do not resolve underlying concerns, particularly given ongoing mistrust rooted in historical and current government decision-making processes. It was communicated that trust takes time and requires transparency, meaningful consultation and cooperation and respect for Indigenous governance and decision-making. It was widely agreed that issues are easier to resolve when relationships with government and proponents are strong. Conversely, when trust is lacking, DR is often the only avenue to try to meaningfully influence outcomes.

Supporting Consensus-Seeking throughout the EA Process (How DR can assist at different EA phases)

The EAO heard that clarification is needed regarding which “matters pending decision” are eligible for DR. Clearly identifying eligible matters would help prevent misuse, missed opportunities and unrealistic expectations.

When the EAO proposed the opportunity for mutual agreement between the parties to proceed to dispute resolution, participants were receptive to the concept, but expressed concerns about mutual agreement in practice. Participants noted that if the EAO can unilaterally refuse dispute resolution based on its own decision rationale, the process is no longer genuinely mutual and effectively positions the EAO as a gate-keeper. It was stressed that any provincial ability to veto DR must be tightly constrained, with a narrow scope for refusal. One commenter pointed to Treaty arbitration models as examples of mutual decision-making and suggested that, if mutual agreement is required, parameters should exist to ensure it cannot be unreasonably withheld.

The EAO heard concerns about efforts to improve timeline certainty in the EA process restricting the availability of dispute resolution at later stages of an EA. Some First Nations emphasized that DR should





remain accessible throughout the EA lifecycle, including near decision-points, to support the meaningful pursuit of First Nations' free, prior and informed consent. While limiting access to dispute resolution in the later phases was viewed by many participants as undermining reconciliation, particularly where unresolved issues persist after years of engagement, there was agreement that achieving consensus through dispute resolution can be particularly challenging in the later stages of the assessment process.

While acknowledging that the likelihood of achieving consensus late in an assessment is generally low, the EAO did hear from some participants that this reality should not be used to justify restricting access to DR. For many participating Indigenous nations – particularly those without Treaties or project consent agreements – late-stage consensus-seeking and DR may represent the only meaningful opportunity to influence whether a project proceeds. From this perspective, the limited effectiveness of late-stage dispute resolution reflects broader systemic constraints, rather than a failure of DR at those phases.

When presented with the intention to introduce an Issues Resolution Protocol for use in the later phases of an EA rather than dispute resolution, there was some support, provided the Protocol is designed to be meaningful and fosters the development of trust between a First Nation and the Province.

The EAO also heard concerns about overlap in the legislative framework governing when DR can be initiated. Confusion around the initiation of DR at sections 28 and 29 of the Act was seen as enabling “stacking” of issues and creating opportunities for strategic or bad-faith behavior, such as delaying the initiation of DR until the final stages of the EA on issues previously addressed. This raised questions about fairness, predictability and the integrity of the process.

There was some discomfort with leaving decisions about whether an issue is legitimate for late-stage DR to a facilitator who enters the process at the end of a multi-year assessment. The EAO heard that a facilitator introduced late may lack sufficient familiarity with the history, context and technical complexity of the issues.

Impacts and inclusivity of dispute resolution (Respect for all EA parties, Indigenous laws, diverse interests)

Feedback consistently emphasized that DR can only be meaningful and respectful if it is rooted in strong, early consensus-seeking, trust-based relationships and respect for Indigenous governance, legal orders and decision-making processes. The EAO heard that to minimize unintended effects on others, the process must be transparent, with timely communication to all affected parties about when DR is initiated, how it is progressing and how outcomes affect the assessment, while protecting Indigenous Knowledge. Further, effective DR requires clear mandates and authority to resolve issues, trusted and culturally competent facilitators jointly selected by parties, flexibility to accommodate Indigenous decision-making and assurance that outcomes meaningfully influence decisions. The EAO also heard that the DR process is meaningful if it is consistent with the UN Declaration, FPIC and genuine government-to-government relationships.





Feedback emphasized that DR can only respect the diversity of Indigenous laws and traditions if it is flexible, co-developed and grounded in the specific legal orders, governance systems and decision-making practices of the First Nations involved, rather than relying on a uniform, Western DR model. The EAO learned that Indigenous legal traditions must meaningfully shape the process from the outset – including timelines, facilitation approaches, confidentiality rules and decision-making – and should not be left to facilitator discretion or constrained by legislated timelines that conflict with Indigenous governance. Facilitators (ideally jointly selected) who understand distinctions between different First Nations and Indigenous legal systems were seen as essential. There was strong opinion that respecting external participants requires transparent communication, regular updates and clear pathways for involvement or input—particularly for other affected First Nations and technical bodies – without undermining Indigenous governance or confidentiality of Indigenous Knowledge.

The EAO heard that DR can address the interests of parties with divergent or opposing interests only if it is structured to be transparent, clearly scoped and supported by active communication and trust between parties. Many First Nations agreed that disputes arise because they are initiated late, issues have accumulated without resolution or parties outside the DR process are left uninformed. To manage divergent interests, feedback included the importance of clearly defining what issues are in scope for DR, what outcomes are possible and how DR results will influence the broader EA, so expectations are realistic and disputes do not become a proxy for unresolved frustrations. The EAO heard that transparent initiation of DR (including public notices, clear timelines and timely posting of letters and materials), regular updates to participating Indigenous nations, TAC members and other affected parties and structured checkpoints for reviewing substantive changes were seen as essential to prevent polarization and mistrust. Comments included that trusted facilitators, selected through a transparent process and free from real or perceived conflicts of interest, are critical to balancing opposing views.

The EAO heard some support for flexibility to allow proponents or other Nations to participate when appropriate and with consent, with some recommending that participation should be automatically available under defined criteria. There was strong emphasis that sufficient time, clear reporting and meaningful opportunities for review and consensus-seeking on proposed are necessary to ensure that competing interests are heard and addressed fairly.

Feedback from Modern Treaty Nations emphasized that DR processes must meaningfully recognize and respect Treaty rights. They noted that current DR processes can conflate Treaty rights with asserted rights, and often fail to account for overlapping territorial claims or differing legal foundations. The EAO heard that inclusive DR requires facilitators who understand Treaty agreements and the distinct rights and interests of Treaty Nations.





Industry Representatives and Project Proponents

This section reflects the input the EAO received from November to December 2025 from representatives of B.C. industry associations, the business community, EA practitioners and project proponents with where a dispute resolution process took place during the assessment. Similarly to First Nations, the EAO first held discussions regarding a problem statement and policy ideas for dispute resolution before presenting some proposed policies.

The EAO heard concerns that the current DR process lacks clarity, transparency and focus, and is often experienced as a “black box,” particularly for proponents who are unaware of the key issues being advanced through DR or how decisions are shaped in the process. DR is frequently perceived as being misused to address matters unrelated to the EA rather than clearly defined, project-specific issues. The scope of issues entering DR is seen as too broad and uncertain, contributing to confusion, adversarial dynamics and significant delays in EAs. The EAO heard the need for clearer criteria defining what qualifies as a DR issue, availability of DR as proportional to potential impacts on a First Nation from a proposed project and a more disciplined focus on matters directly relevant to the EA.

The EAO also heard strong feedback that proponents want to be part of the solution and should be meaningfully included in consensus-seeking and DR processes. Excluding proponents – who hold critical project information and bear financial and reputational risks – was viewed as unfair and counterproductive, reinforcing mistrust and limiting opportunities for resolution. There was support for the policy proposal to create transparency in the process by involving proponents as fully and early as possible in issues resolution and DR processes. Further, industry representatives wanted more clarity on what information is treated as confidential and that requests for confidentiality by First Nations are reasonable.

Feedback stressed the importance of clearly distinguishing between consensus-seeking and consent, noting that conflating the two has led to deadlock and delays, despite the Crown retaining final statutory decision-making authority. Strengthening early and inclusive forums – such as improved Technical Advisory Committees – was widely supported as a way to clarify issues sooner, support consensus-seeking and reduce the need for late-stage DR. Overall, the EAO heard a call for a more transparent, narrowly scoped and inclusive DR process that enables proponents to contribute constructively, supports reconciliation through fair process and remains grounded in the core purpose of the EA.

Engagement Statistics

2 Virtual Sessions

1 Written Submission

1 Bi-lateral Meeting





When the EAO presented the policy proposal to introduce an Issues Resolution Protocol, some feedback raised concerns that it may not account for the complexity of First Nations' governance structures and could replicate legal tools that are not effective at bringing parties together to solve problems. There was support for its potential to bring forward issues earlier in an EA to avoid stalling its progress. It was noted that reaching resolution is itself a process that needs defined timelines and should consider whether issues affect other parties. There was some agreement that the proponent's role should be reflected in a clearly structured issues-protocol framework but some concern that formalizing this tool in legislation could increase legal risk, uncertainty and delays. However, the EAO did not hear any initial opposition to the use of an Issues Resolution Protocol instead of dispute resolution in the latter stages of an EA.

There was support for introducing mutual agreement as a condition for dispute resolution, provided the process isn't overly complex and doesn't contribute to additional delays for the EA. The EAO heard that the proponent's role in the dispute should be clearly defined.



Acknowledgement

The artwork used in parts of the intentions paper was created by Andy Everson, an accomplished artist from the K'omoks First Nation on Vancouver Island. He draws upon his roots amongst the Kwakwaka'wakw, Salish and Tlingit peoples to create artwork that reflects the convergence of ancient traditions with modern society.

Additional graphics were developed by EAO staff.





List of Direct Engagements

First Nations, Treaty Nations, Indigenous Governing Bodies and First Nations Organizations

The following is a list of all First Nations and First Nations groups that engaged with the EAO between October and December 2025 via virtual sessions, bi-lateral meetings and written submissions.

First Nations

'Namgis First Nation	Musqueam Indian Band	Tobacco Plains Indian Band
Binche Whut'en First Nation	Nisga'a Nation	Toquaht Nation
Cowichan Tribes	Quatsino First Nation	Ts'kw'aylaxw First Nation
Gitxaala Nation	Pacheedaht First Nation	Tsawout First Nation
Halfway River First Nation	Saulteau First Nation	Tsawwassen First Nation
Ka:'yu:'k't'h'/Chek'tles7et'h' First Nations	shishalh	Tseshah First Nation
K'omoks First Nation	Shuswap Band	Tsleil-Waututh Nation
Kwadacha Nation	Simpco First Nation	Uchucklesaht Tribe
Kwikwetlem First Nation	Snuneymuxw First Nation	Upper Similkameen Indian Band
Lheidli T'enneh Nation	Snpink'tn Indian Band (Penticton)	Westbank First Nation
Liard First Nation	Stk'emlupsemc te Secwepemc Nation	Yekooche First Nation
Lyackson First Nation	Taku River Tlingit First Nation	Yaqit?aknuqli'it First Nation
Malahat Nation	Tla'amin Nation	Yuulu?il?ath Government (Ucluelet First Nation)
Metlakatla First Nation	Tl'azt'en Nation	?akisq'nuk First Nation

Indigenous Governing Bodies

Citxw Nlaka'pamux Assembly
 Gitanyow Hereditary Chiefs
 Ktunaxa Nation Council
 Tahltan Central Government

First Nations Organizations

Alliance of BC Modern Treaty Nations
 First Nations Leadership Council



Industry and Proponent Engagement

The Business Council of BC and the EAO hosted two virtual sessions with other industry representatives in November and December 2025, representing about 30 organizations and firms interested in EA and DR. The EAO also held a bilateral meeting in December 2025 with project proponent representatives that had experienced DR during the assessment of their projects.

