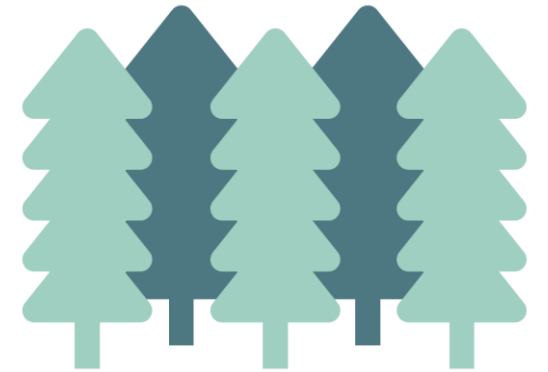


Dispute Resolution Under the *Environmental Assessment Act*

INTENTIONS FOR LEGISLATIVE AND REGULATORY REVISIONS

CONSULTATION AND COOPERATION

January 27th and 29th, 2026



EAO

Environmental
Assessment Office



Today's session: Logistics

Use the Chat Anytime

Share comments or questions throughout.

Raise Your Hand

Pause mid-way and at end for questions.

Not comfortable sharing in group?

Send your question directly to “Chat Moderator”

Your Input Matters

Feedback may be included in public documents (e.g., engagement summary), without names. Let us know if anything should stay in the room.

Technical issues

Message Mabel Martinez-Dussan directly in the chat.



Roadmap for the Session

Welcome, Introductions, Session Logistics

Recap – Challenges, Desired Outcomes, and Problem Statement

Part 1

- What We Learned: Emerging Themes [During Policy Development] Aligned with Proposed Policy Intentions

Break (5 minutes)

Part 2

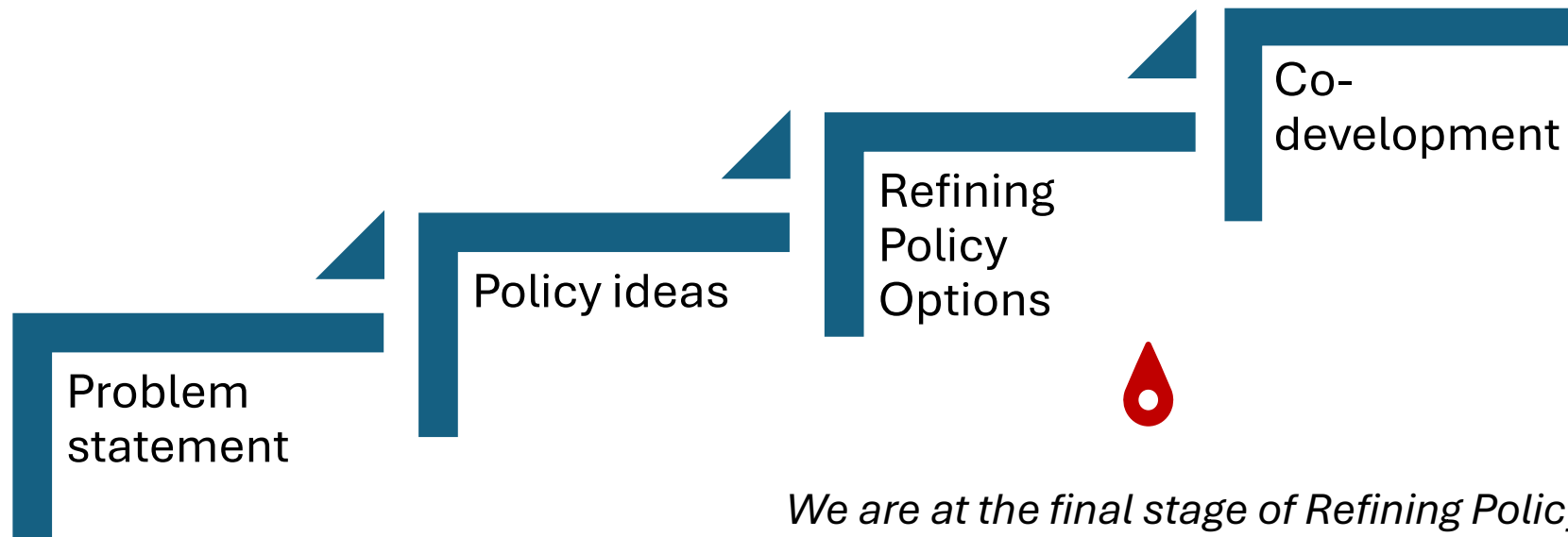
- Intentions for Legislative and Regulatory Revisions & Discussion

What's Next and Wrap Up



Context

Process Design: Reflects Four Stages of Consultation & Cooperation



We are at the final stage of Refining Policy Options before the legislative milestone for approval to move into co-development

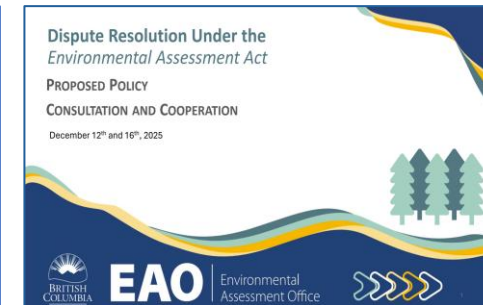
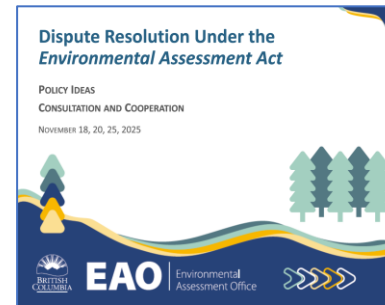
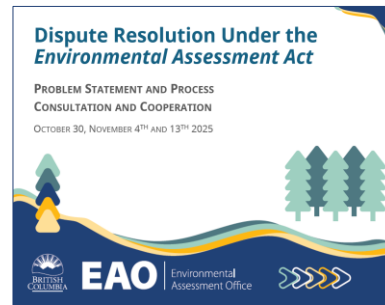


Recap: Consultation and Cooperation on Policy Development

- ▶▶▶▶ Round 1 Focus: problem statement and discussion questions
- ▶▶▶▶ Round 2 Focus: early policy ideas
- ▶▶▶▶ Round 3 Focus: proposed policy direction to achieve desired outcomes
- ▶▶▶▶ Round 4 Focus (today): intentions for legislative and regulatory revisions

Direction to revise dispute resolution regulatory framework by Spring 2026 to address implementation challenges and work in partnership to find path to solve them.

Materials shared previously to support the conversation. Posted on [Act Review webpage](#)



Dispute Resolution: Objectives, Challenges Outcomes

Objectives:

- ▶ To reach consensus at specific milestones
- ▶ To support reconciliation through consistency with UNDRIP
- ▶ To support timeline predictability by supporting consensus

Implementation Challenges

- ▶ Does not effectively support consensus-seeking
- ▶ Ambiguity respecting matters subject to dispute resolution
- ▶ Purpose and appropriateness of confidentiality
- ▶ Viewed as not recognizing the unique rights, laws and governance of First Nations
- ▶ Has significant impact on EA predictability & timelines

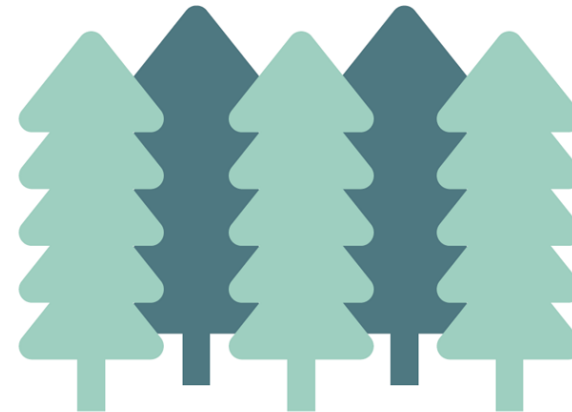
Desired Outcomes

- ▶▶▶ Assist in reaching consensus
- ▶▶▶ Provide EA process and timeline certainty
- ▶▶▶ Support reconciliation
- ▶▶▶ Respect First Nations governance



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.



What We Learned: Emerging Themes Aligned with Proposed Policy Intentions

What We Learned: Strengthening Consensus-Seeking

- Current consensus-seeking can feel performative and does not always support effective issue-resolution.
- A clearer, **stepwise model** would help moving complex issues toward resolution through meaningful, iterative dialogue before formal dispute resolution is needed
- **Genuine collaboration** should be built on good faith and respect for Indigenous governance, knowledge and decision-making.
- A **stronger focus on issue-resolution** should ensure issues potentially outside scope (of EA phase and/or EA) clearly identified and discussed – to avoid unilateral dismissal & reinforce government-to-government relationships consistent with Treaties, agreements and UN Declaration.



What We Learned: Value of Protocols

- Existing protocols developed under Treaties, reconciliation agreements and other government-to-government arrangements may **provide strong models** for an issue-resolution protocol.
 - Many already include mechanisms for resolving issues that could be adapted or referenced, rather than creating entirely new processes.
- Building on existing mechanisms would **support alignment** with established practices and reduce duplication.
- Protocols must be **co-developed** and reflect First Nations' governance systems and legal traditions, with flexibility to accommodate diverse approaches.



What We Learned: Need for Clarity on Timing, Decision Points

- Clarity essential to **build confidence in EAs** & serve intended purpose of dispute resolution.
- Need for clarity on when dispute resolution is available, including timelines for initiation.
- Timelines to **reflect Indigenous governance & culturally appropriate approaches** – compressed timelines compromise meaningful discussion & issue-resolution.
- Dispute resolution **not best tool to resolve all issues** (e.g., outside of scope of EA), but narrow scoping risks excluding relevant issues.
- Caution against limiting access (especially in later stages supporting FPIC) while noting concerns about late-stage issue “stacking”.
- Clear guidance on **how dispute resolution supports consensus-seeking** key to improving process certainty & trust.
- Importance of balancing flexibility with predictability to maintain overall assessment efficiency.



What We Learned: Enhanced Transparency in Implementation

- Need for **greater transparency** throughout dispute resolution, including:
 - when it is initiated,
 - what issues are under dispute,
 - how the process is progressing,
 - the outcomes and next steps, and
 - the selection process and competencies of facilitators
- **Opportunity for others** (PINs, proponents, regulators) to participate in dispute resolution when may be impacted by outcomes or able to support resolution.
- **Balance confidentiality with procedural fairness** so all parties can understand outcomes and implications.
- Practical improvements: plain-language summaries of facilitator reports, timely posting of relevant materials.



Intentions for Legislative and Regulatory Revisions & Discussion

Revising Dispute Resolution

Two major improvements to the dispute-resolution regulatory framework:

1. **Establish 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).
2. **Reframe and Revise Dispute-Resolution Provisions (Section 5 of the Act):**
Focus on implementation of dispute resolution rather than current emphasis on roles & responsibilities of facilitator. Intended amendment includes:
 - Specifics of the who, what and when of dispute-resolution
 - Need for mutual agreement to proceed
 - Specifics for administration of dispute-resolution process



1. Establish a new tool under the Act – the Issues Resolution Protocol

Mechanism	Description	What it does
EA Act (amendment)	Establish formal opportunity for participating Indigenous nation and EAO to develop Issue Resolution Protocol to use as needed throughout EA process.	Adds additional tool to support consensus-seeking, setting out clear pathways to resolve issues.
Consensus-Seeking & Issues-Resolution Framework (policy)	Co-developed with all B.C. First Nations – to set out key elements and build on existing approaches, such as: <ul style="list-style-type: none"> • Identify working/technical teams, leadership table • Identify other parties that may be invited and/or have tools to resolve issues • Process to elevate issues from working table to leadership table to seek resolution 	Provides a template for issue-resolution to use or adapt for Nation-specific Issues Resolution Protocol.
Issue Resolution Protocol (EA process)	A First Nation and EAO can establish a project-specific protocol, developed based on the Framework. Interest expressed during early engagement phase of EA.	Gives clarity on issue-resolution process reflecting Nation’s customs & legal systems, & existing process in Treaty/G2G agreements, if applicable.



2. Reframe and Revise Dispute-Resolution Provisions (Section 5 of the Act)

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

What (“matters pending decision” available for DR)	When
First Nations participation in an environmental assessment <ul style="list-style-type: none"> • 14(1) 14(2) (decision on participating First Nations) 	[In Policy]: Time limits recommended to ensure participation concerns are addressed early & decisions are timely.
Environmental assessment readiness – decision to: <ul style="list-style-type: none"> • 16 (2) (b/c) (refer project for exemption/termination) • 16 (2) (d) (recommend project proceed to EA) 	[In legislation]: Time limit requiring that dispute resolution be initiated before materials for decision are finalized and prohibit cascading dispute resolution processes.
Process order: <ul style="list-style-type: none"> • 19(1) (decision on the process order) 	

Dispute resolution no longer available at end of EA process in effects assessment & recommendation phases. Issues Resolution Protocol, available throughout EA, more effective tool to support consensus at later stages.



Mutual agreement to proceed

Proposed change: Establish that participating Indigenous nation (PIN) and CEAO meet to determine if can mutually agree to proceed with dispute resolution. If mutual agreement not reached, dispute resolution would not proceed. CEAO must provide rationale.

In policy, set out how CEAO and PIN determine:

- *Agreement on issues that are not appropriate for dispute resolution*, such as those:
 - outside the EA regulatory framework (e.g., title and rights matters),
 - not relevant to the decision point,
 - not previously subject to consensus-seeking,
 - not applicable to the project, and
 - any additional categories to be defined.
- *Agreement on participation of additional parties*, e.g. proponent, other PINs, other regulators.
- *Agreement on dispute-resolution facilitator*, including pre-qualified list or recommending another facilitator who meets qualifications set out in the DR Facilitator Regulation.



Administration of dispute-resolution process

Proposed change: The following changes are to improve transparency and clarity in the dispute resolution process and to ensure decisions are not delayed:

- Referral to a facilitator to be publicly posted, when mutual agreement is reached.
- Provide periodic public updates on the progress of dispute resolution (while protecting confidentiality) and publish any final documents relevant to the process.

Note: The pending decision will continue to not be able to be made until the facilitator submits a final report.

In policy: The EAO will include opportunities for parties (e.g., proponents and participating Indigenous nations) to respond to dispute resolution outcomes.



How the Proposed Changes Hold Together

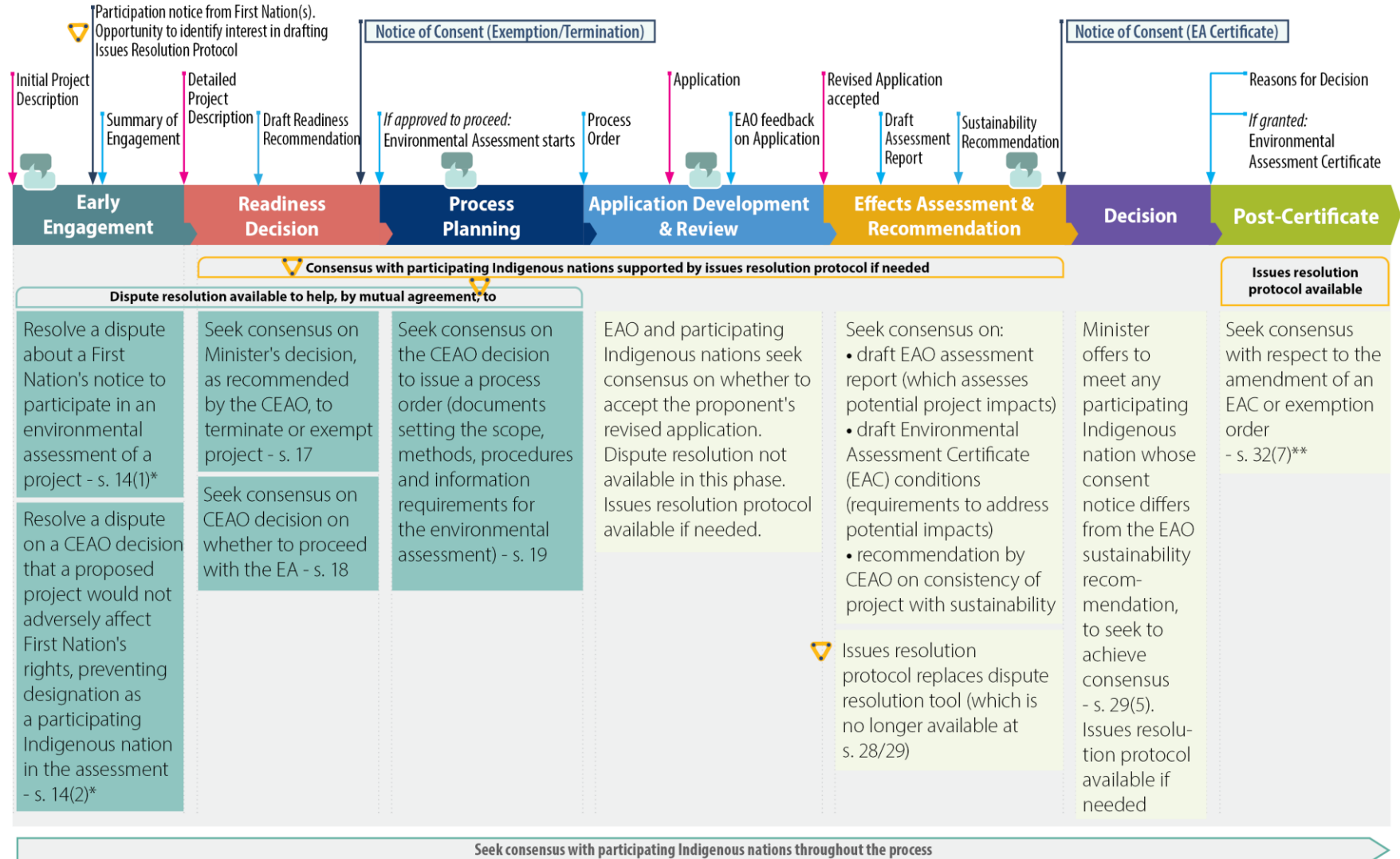


Revising Dispute Resolution

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 mutually agreement. Updated policy on dispute resolution timing and scope to be developed in consultation and cooperation with First Nations.

Legend

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



*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

Next Steps

What's Next

Short Term (February – March 2026):

- ▶ Written submissions on EAO's intentions for legislative and regulatory revisions from First Nations and other interested parties:
 - **Submit by February 3rd, 2026**
- ▶ Request for Legislation milestone
- ▶ Co-development of legislative changes **until March 10th** (sharing consultation drafts under NDA)

Longer Term (March – May 2026):

- ▶ Submit draft legislation for reading during the Spring 2026 legislative session
- ▶ Launch consultation & cooperation on a Consensus-seeking and Issues Resolution Framework



Ways to stay connected

Email

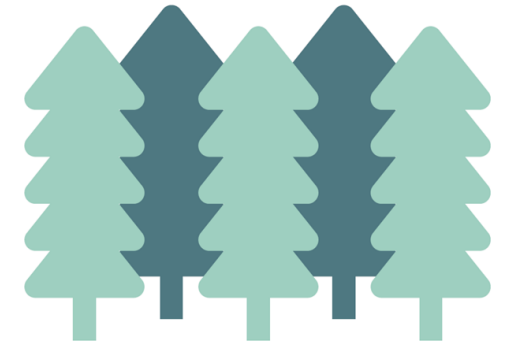
Questions, suggestions, requests, submissions

EAO.ActReview@gov.bc.ca

Website

General information & materials

<https://www2.qa.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/environmental-assessment-process/act-review>



Thank You