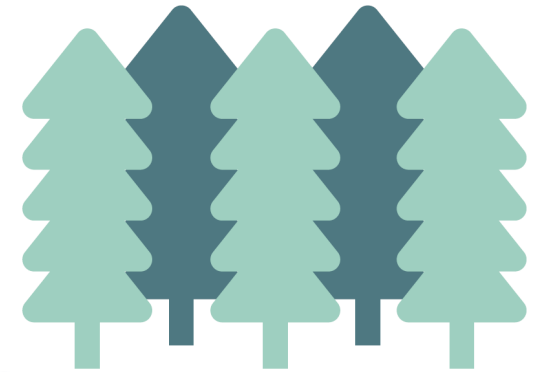


Dispute Resolution Under the *Environmental Assessment Act*

PROPOSED POLICY

CONSULTATION AND COOPERATION

December 12th and 16th, 2025



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 “Tech issues?” directly in the chat.



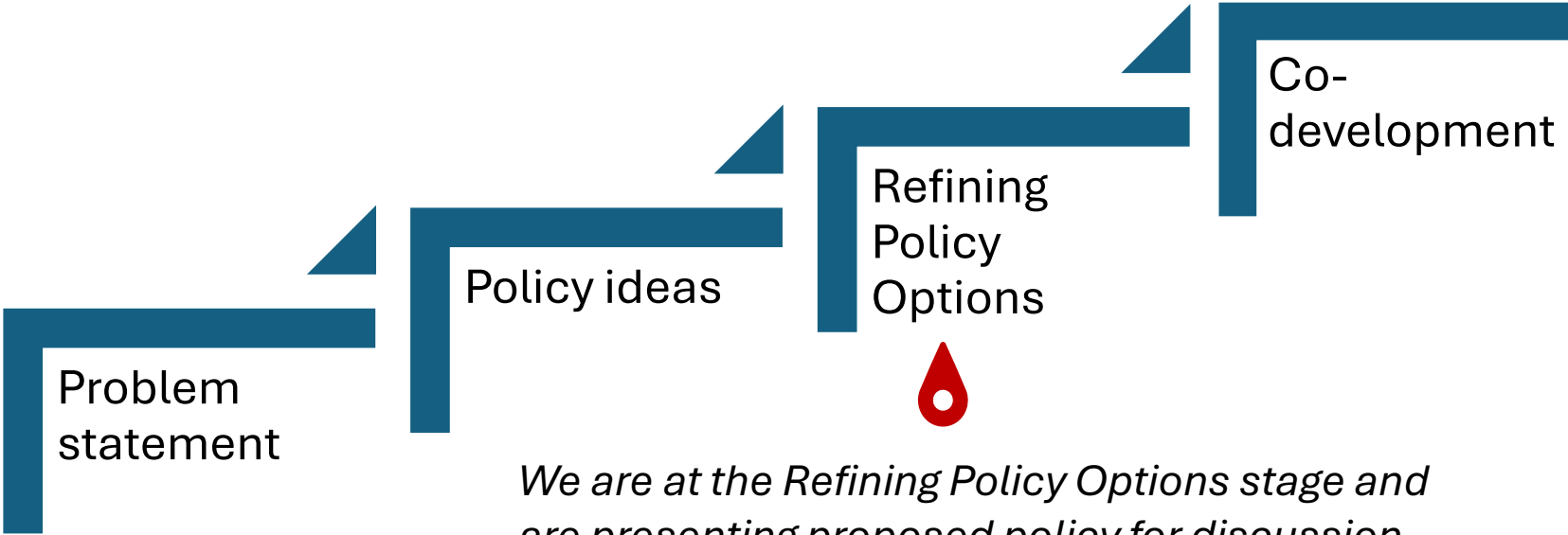
Roadmap for the Session	Anticipated Time
Welcome, Introductions, Session Logistics	10:00 – 10:10
Recap – Challenges, Desired Outcomes, and Problem Statement	10:10 – 10:20
Part 1	10:20 – 10:50
• What We Learned: Input on Discussion Paper Questions	
<i>Break (5 minutes)</i>	10:50 - 10:55
Part 2	10:55 – 11:50
• Proposed Policy and Discussion: Time, Scope, and Transparency; Mutual Agreement; Alternative Consensus Seeking Tool	
What's Next and Wrap Up	11:50 – 12:00



Context

Process Design

Reflects Four Stages of Consultation & Cooperation



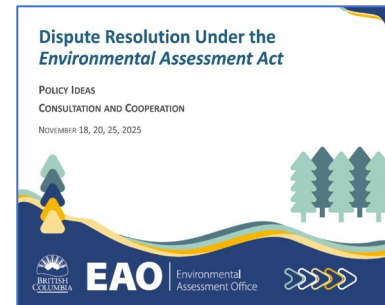
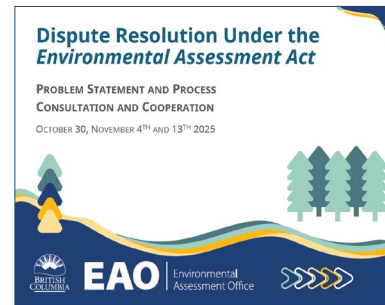
We are at the Refining Policy Options stage and are presenting proposed policy for discussion



Recap on Policy Ideas

- Direction to revise dispute resolution regulatory framework by Spring 2026 to address implementation challenges
- Want to work in partnership to find path to solve them
- Round 1 Consultation & Cooperation focus: problem statement and discussion questions
- Round 2 Consultation & Cooperation focus: early policy ideas
- Round 3 (today) Consultation & Cooperation focus: proposed policy direction to achieve desired outcomes

Materials shared previously to support the conversation



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
- ▶▶▶ Be proportional to potential impact

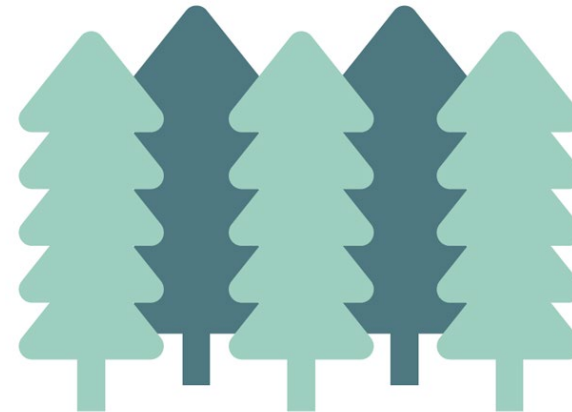


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Problem Statement

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

What We Learned: How to Improve the Dispute Resolution Framework

- **Assist in reaching consensus:**
 - Dispute resolution could be avoided by **strengthening consensus-seeking**—First Nations feel their concerns are often minimized or deferred
 - Also heard examples of **collaboration agreements with successful issues resolution protocols**
- **Provide process and timeline certainty:**
 - Support for **clarity on when dispute resolution can be initiated**, with recognition that deadlines could potentially have unintended impacts on consensus-seeking
 - Resourcing (capacity funding) and transparency (timely communication to all participating Indigenous nations and proponents, and potential to participate) would help create more certainty
- **Support Reconciliation:**
 - DR must be **co-designed with Nations**, respect internal governance processes, and provide adequate time and resources for Nation-based decision-making
 - Some support for concept of dispute resolution based on potential of project impacts (proportionality) but also opposition due to questions on how proportionality is implemented



What We Learned

How dispute resolution can support consensus-seeking

- Again, strong focus on improving consensus-seeking; shouldn't be treated as a “checkbox.”
 - **Implement early, relationship-based consensus-seeking**
 - Effective consensus-seeking requires issue-by-issue dialogue, clear problem-solving authority and meaningful proponent accountability
- Recognition that DR cannot resolve every issue but concerns outside the EAO's mandate should have a **clear process for where issues should be addressed** under a whole-of-government approach.
- Clarification is necessary for exactly **which “matters pending decision” are eligible for DR.** Clear identification would prevent misuse, missed opportunities and unrealistic expectations.
- Some support for dispute resolution to remain available at key decision points, with some agreement that it can be challenging to reaching consensus at the late stages of an EA through dispute resolution.



What We Learned

Minimizing unintended effects on other parties

- There is a **lack of transparency** before, during and after dispute resolution: infrequent updates or release of documents, unclear timelines, lack of notices of decision and little explanation of outcomes.
- Late initiations of dispute resolution and timeline changes without notice can cause governance and consent challenges for participants in the assessment outside of dispute resolution.
- **Regular updates** should be provided to those participants outside dispute resolution including opportunities to **review proposed changes** coming out of dispute resolution with sufficient time and capacity.
- **Proponents and additional Nations should have the ability to participate** in dispute resolution, although views on approach ranged from requiring consent of the initiating Nation to automatic opportunity to participate under certain criteria



Proposed Policy

Revising Dispute Resolution

- **EAO has identified a suite of policy ideas** intended to work together to meet the desired outcomes of dispute resolution.
- **They are responsive to First Nations input on the need for:**
 - Improving consensus-seeking in assessments overall
 - Co-designing of dispute resolution process to ensure First Nations governance and approach to decision-making is respected
 - Effective alternative approaches to issues resolution
 - Clarity on eligible matters for dispute resolution and appropriate venues to address other issues
- **And take into account:**
 - Best practice in alternative dispute resolution
 - Unintended effects of the current legislation
 - Experience with dispute resolution implementation



Proposed Policy: Timing, Scope, and Transparency

- **Define scope of dispute resolution**
 - Specify the decision points for which DR is available
 - Define what issues can reasonably be addressed through dispute resolution
 - Specify issues that are not within the EAO's jurisdiction to regulate
- **Establish timelines on dispute resolution availability**
 - Set time by which dispute resolution must be initiated and concluded
- **Create transparency in the process**
 - Ensure other participating Indigenous nations and proponents have visibility into the process and opportunity to participate when appropriate, for example, when the issue under dispute has implications for other participants

Question: What feedback or input do you have on this proposed policy?



Proposed Policy: Mutual Agreement to Use Dispute Resolution

- When dispute resolution is initiated, parties (the Province and the participating Indigenous nation) meet to **confirm that the issue** under dispute is within:
 - scope of the decision for which dispute resolution is available;
 - scope of relevant issues that can reasonably be addressed through dispute resolution; and,
 - EAO's jurisdiction to regulate.
- The opportunity for the parties to reach mutual agreement to proceed ensures dispute resolution is used as intended and is **an effective tool to address the issue** in question
- **Decision rationale** (i.e., reasons for decision) required if EAO were to not agree

Question: What feedback or input do you have on this proposed policy?



Proposed Policy: Alternative Consensus-Seeking Tool

- In later phases of the assessment process, bring in a more responsive consensus-seeking tool to address issues under dispute
- At the start of an environmental assessment, opportunity for the Province and each participating Indigenous nation to co-develop a **consensus-seeking & issues resolution protocol**:
 - Could be tailored to the unique governance structure and/or approach to issues resolution used by the First Nation;
 - Builds on many existing and proven approaches;
 - Supports more proactive *issues resolution* if consensus-seeking activities are unsuccessful;
 - Could result in issues raised to leadership level for resolution and decision;
 - Embeds principles of transparency and early issues resolution.
- This alternative consensus-seeking tool would replace dispute resolution under sections 28 and 29, but not meetings with the Ministers during the Decision phase of the assessment

Question: What feedback or input do you have on this proposed policy?



Cont'd: Alternative Consensus-Seeking Tool

Mechanism	Description
EA Act	Establish formal opportunity early in the assessment for a participating Indigenous nation to implement a consensus-seeking & issues resolution protocol with the EAO (not binding)
Framework	Co-developed with all B.C. First Nations, it would set out key elements and build on existing approaches, such as: <ul style="list-style-type: none">• Identify working / technical teams• Identify 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
Project-specific Protocol	A participating Indigenous nation and EAO can establish a project-specific protocol, developed based on the Framework, to clarify the process they will undertake to resolve disputes



Proposed Revisions to Dispute Resolution – How it Holds Together

- The proposed suite of changes are responsive to feedback, address discrete challenges and incorporate established practices.
- Dispute resolution would continue to be available to support consensus-seeking at the project readiness and process planning phases. Requiring mutual agreement will ensure dispute resolution is used to address disputes that are within the EAO's regulatory scope and germane to the decision at hand.
- Also early in the assessment process, the Province and each participating Indigenous nation that opts in, would establish a consensus-seeking and issues resolution protocol to be used to resolve issues and reflects the First Nation's governance, culture and legal orders.
- Additional amendments to the dispute resolution regulatory framework will create clarity on the decision points where dispute resolution is available, issues not in the EAO's jurisdiction to regulate and the timeline for dispute resolution to be initiated.



Next Steps

What's Next

Short Term (December - early February 2026):

- ▶ Continue consultation & cooperation with First Nations and Indigenous governing bodies on proposed policy
- ▶ Engagement with First Nations organizations and industry representatives
- ▶ Release Intentions Paper with invitation to First Nations, Indigenous governing bodies and First Nations organizations to co-develop documents to support the legislative amendment

Longer Term (early February – May 2026):

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



Ways to stay connected

Email

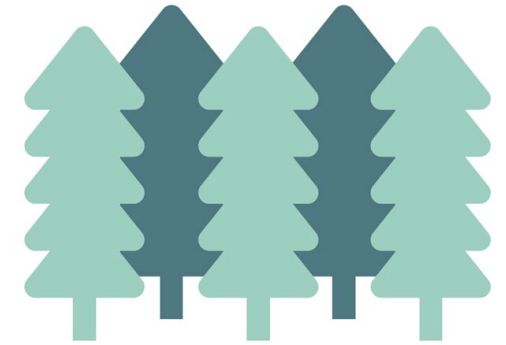
Questions, suggestions, requests, submissions

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