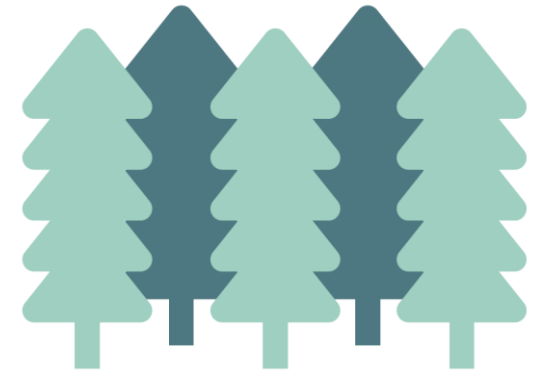


Dispute Resolution Under the *Environmental Assessment Act*

PROCESS DESIGN AND PROBLEM STATEMENT
CONSULTATION AND COOPERATION

OCTOBER 30 & NOVEMBER 4, 2025



EAO

Environmental
Assessment Office



Today's session: Logistics

Use the Chat Anytime

Share comments or questions throughout the session.

Raise Your Hand

We'll pause mid-way and at the end for live 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
Consensus Seeking and Dispute Resolution	10:10 – 10:15
Part 1	10:20 – 10:50
<ul style="list-style-type: none"> • Experiences Implementing Dispute Resolution • Proposed Problem Statement 	
<i>Break (5 minutes)</i>	10:50-10:55
Part 2	10:55– 11:45
<ul style="list-style-type: none"> • Proposed Outcomes • Consensus Seeking • Parties in the Process 	
Dispute Resolution C&C Process Design	11:45 - 11:55
Closing and Wrap Up	11:55 – 12:00

Let's start the conversation....



Act Review - preliminary timeline



* "Engagement" includes consultation & cooperation with First Nations + engagement with government agencies, industry & others

Note: Timelines are estimated and may be adjusted in response to engagement and as policy work gets underway.

Consensus Seeking & Dispute Resolution

Consensus Seeking in the Act

In supporting reconciliation and the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), the *Environmental Assessment Act* (the Act) includes specific provisions for the EAO to seek consensus with participating Indigenous nations* at key decision points in the environmental assessment (EA) process in a manner that supports the free, prior and informed consent of First Nations

* A First Nation that has indicated they would like to participate in the environmental assessment of a project as a **participating Indigenous nation** and seek consensus with the EAO during the process, under section 14 of the *Environmental Assessment Act*.



Dispute Resolution in the Act

Dispute Resolution

There are times that consensus cannot be reached - dispute resolution is a tool available to support reaching consensus.

It is a non-binding and time-limited process.

The objectives of dispute resolution are to:

- ▶▶▶ Assist participating Indigenous nations and EAO to **reach consensus** at specific EA milestones
- ▶▶▶ **Support the reconciliation purpose** of EAO through consistency with UNDRIP, particularly article 40
- ▶▶▶ **Support timeline predictability** for environmental assessments by supporting consensus seeking



Implementing Dispute Resolution under the Act

Experience Implementing Dispute Resolution

Dispute Resolution has been initiated 11 times across three environmental assessments. Experiences have provided valuable insights into several challenges that have emerged.

Challenges with the Current Dispute Resolution Framework

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



Proposed Problem Statement

Reflecting on the challenges with the dispute resolution framework, here is a proposed statement to support a shared understanding of the problem we're trying to address:

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.

Question:

How does this proposed problem statement resonate with you?



Your Experience with Dispute Resolution

As we consider how to revise the dispute resolution framework, we are seeking to understand your experience with dispute resolution under the Act.

Questions:

- What is your experience with dispute resolution under the Act?
- What worked well? What challenges did you experience?



Break (5 minutes)



Outcomes and Ideas

Proposed Outcomes from a Revised Dispute Resolution Regulatory Framework

The EAO has identified five key desired outcomes in a revised dispute resolution regulatory framework

- ▲ **assist in reaching consensus**
- ▲ **respect First Nations governance**
- ▲ **be proportional to potential impact**
- ▲ **provide EA process and timeline certainty**
- ▲ **support reconciliation**

Question:

Do you have any initial ideas on how the current dispute resolution framework could be revised to achieve the desired outcomes above?



Consensus Seeking & Dispute Resolution

Dispute resolution was included in the Act to support reaching consensus at key decision points in an assessment process. The intent was that dispute resolution is available at each of these points to help address specific issues relevant to the specific assessment phase:

- ▲ **Readiness** – decision to commence an assessment
- ▲ **Process Order** – decision on scope, procedures, information requirements
- ▲ **Assessment Report and Recommendations** – decision on final materials that will be referred to ministers

Questions:

- How can a revised dispute resolution framework better support consensus at different phases of the assessment process?
- What suggestions do you have to make DR at each of these phases more effective?



Parties in the Dispute Resolution Process

Dispute Resolution under the Environmental Assessment Act is a facilitated process between two parties. The way it is currently set up, however, affects everyone involved in the environmental assessment.

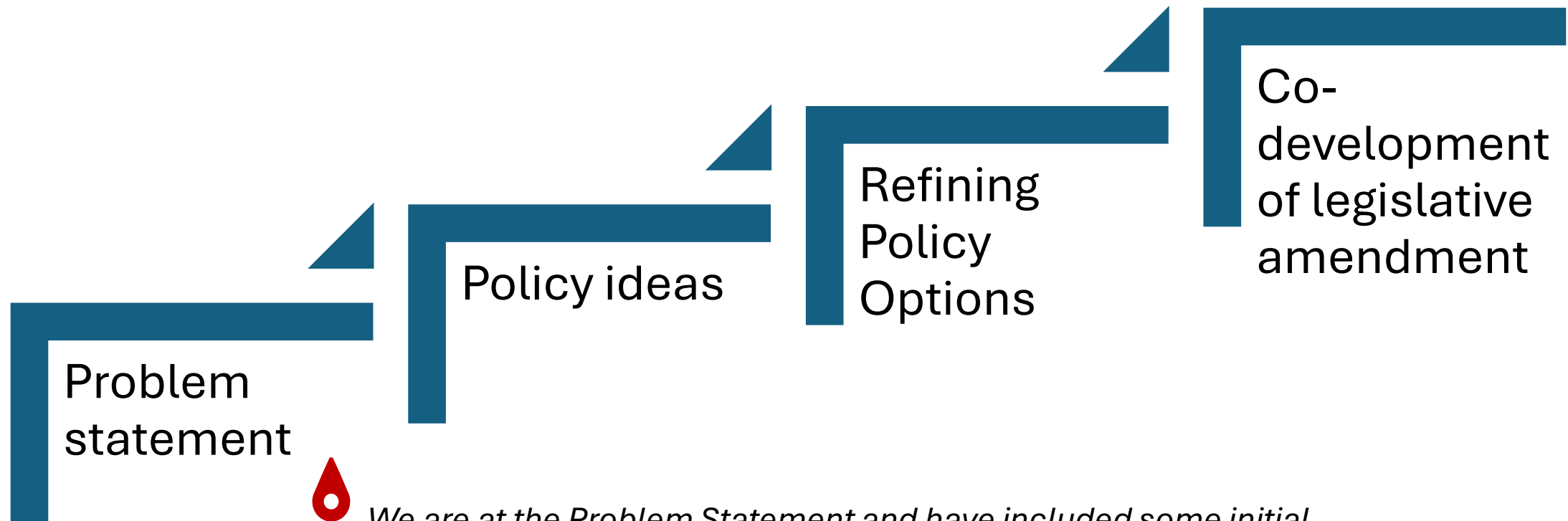
Questions:

- How can dispute resolution be meaningful and respectful of the parties involved, and minimize unintended effects on others?
- How can dispute resolution be respectful of the diversity of Indigenous laws and traditions and respect participants that are external to the dispute?
- How can dispute resolution be structured to address the interests of parties with divergent or opposing interests?



Process Design

Proposed Process Design – Reflects Four Stages of Consultation & Cooperation



We are at the Problem Statement and have included some initial discussion to inform a deeper dive into Policy ideas as a next step



Discussion: Process Design

To support consultation & cooperation for revising dispute resolution under the Act, EAO is proposing:

- ▲ Staged approach to policy development, including co-development of legislative amendment
- ▲ Multiple options for consultation & cooperation, with opportunity to request other options
- ▲ Managing timelines to allow for maximum consultation & cooperation

Questions:

- Do you have suggestions or feedback on the proposed approach to consultation and cooperation?
- How does your Nation want to be involved?



What's Next

Short term (Oct/Nov):

- ▲ Feedback from the Process Design & Problem Statement sessions to:
 - help shape the next phase of policy idea development; and,
 - make adjustments to the process to address feedback
- ▲ Sessions on policy ideas

Medium Term (Nov-Jan):

- ▲ EAO to bring forward early policy ideas to Government
- ▲ Written submissions from First Nations and other interested parties: **Deadline December 5th**
- ▲ Refine policy options to mid-December & into January as needed

Longer Term (Jan-March):

- ▲ Co-development in support of legislative changes to begin in new year for Spring 2026 amendments



Final Questions & Wrap Up

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

Appendix

Dispute Resolution Framework under the Act

Environmental Assessment Act

- Section 5 prescribes basic elements of dispute resolution, including its availability at key decision points in an EA

Environmental Assessment Dispute Resolution Facilitator Regulation

- Dispute resolution facilitator qualifications
- Facilitator powers & obligations
- Time limit of dispute resolution processes

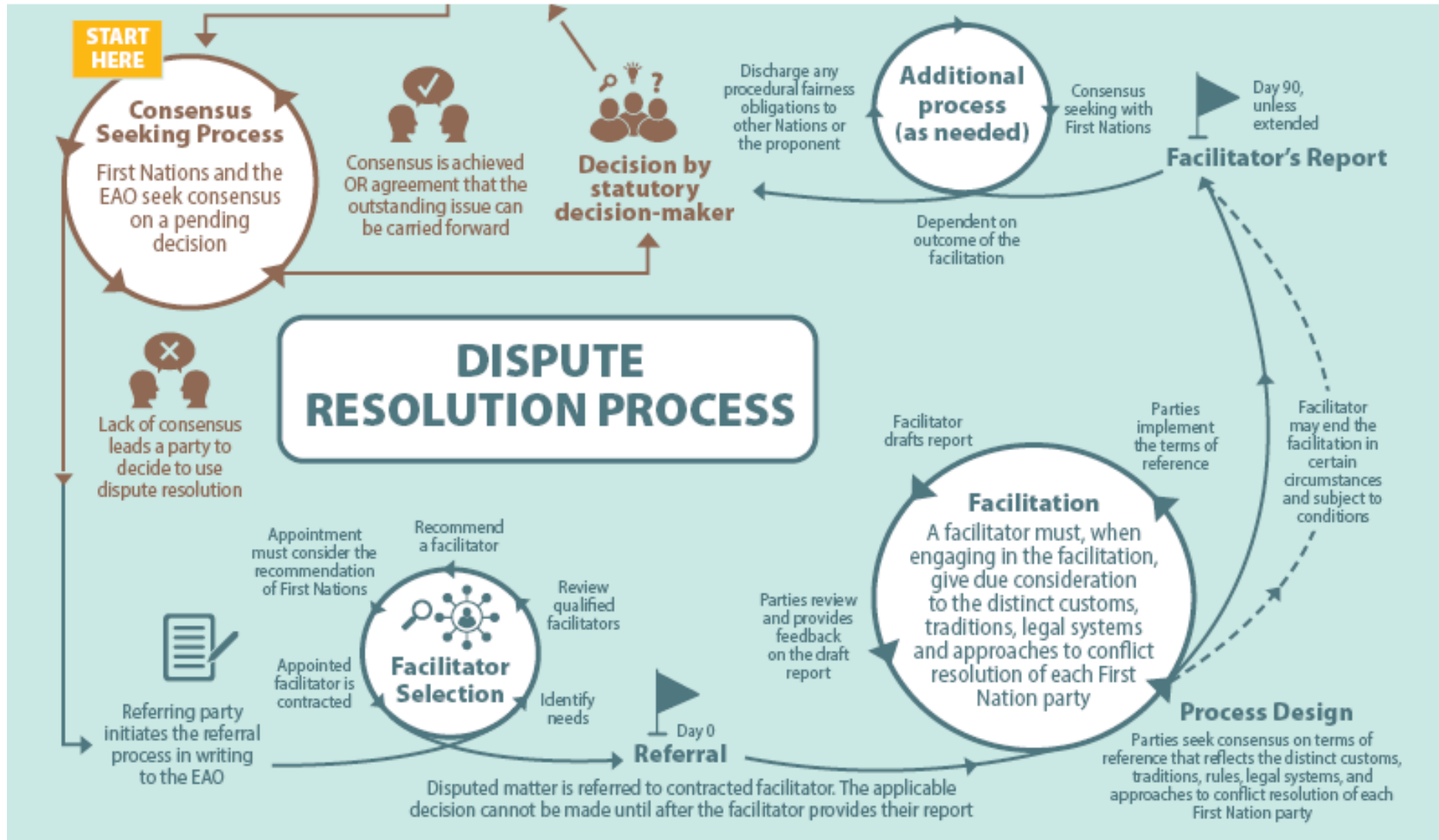
Policy, Guidance, & Tools

- Process for appointing facilitator
- Preliminary list of approved facilitators



ENVIRONMENTAL ASSESSMENT PROCESS

Decision or recommendation where dispute resolution is available



Note: This draft process graphic illustrates the basic steps of the dispute resolution process defined by the Environmental Assessment Act and the Dispute Resolution Facilitator Regulation. The EAO will continue to undertake consultation and cooperation with First Nations to develop the policy, guidance, and tools that are needed for implementation.

The EAO acknowledges that this graphic does not demonstrate the First Nations make their own decisions about dispute resolution, as well as decisions throughout the environmental assessment process, based on their inherent jurisdiction, laws, and authorities.

Discussion Paper

For more detail on the challenges with the current dispute resolution framework, please refer to [“Revising Dispute Resolution in Environmental Assessments Discussion Paper”](#).

The Discussion Paper is also linked on the [Webpage](#) and in the notification of consultation and cooperation on revising dispute resolution under the Act.



Proposed Process Design: Draft Framework for Consultation & Cooperation on Revising Dispute Resolution Under the Act

- ▶▶▶ Guided by the [Interim Approach to Implementing the Requirements of Section 3 of the Declaration Act](#)
- ▶▶▶ First Nations engaged on a suite of consultation & cooperation mechanisms
- ▶▶▶ Respecting First Nations' time & resources
 - Leverage existing project assessment meetings with Nations
 - Identify clear contacts @ EAO
 - Validate & draw on previous input (EA Act Revitalization, Act Review preparation, project EAs)

