

Questions and Answers

DISPUTE RESOLUTION AND ISSUE RESOLUTION PROTOCOL

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EAO

Environmental
Assessment Office

QUESTIONS AND ANSWERS

To support implementation of the [April 16, 2026 amendments](#) to the *Environmental Assessment Act*, the Environmental Assessment Office (EAO) is now pursuing policy development in consultation and cooperation with First Nations and Indigenous governing bodies and engagement with proponents.

Policy development will include clarifying how the amendments will be implemented to achieve the intended outcomes. Engagement opportunities will include information sessions, written submissions and bilateral meetings, if requested. The EAO is aiming to release the final policy materials in the summer of 2026.

DOES CONSENSUS-SEEKING UNDER THE ACT CHANGE?

Consensus seeking under the *Environmental Assessment Act* (the Act) refers to the EAO and participating Indigenous nations seeking to achieve agreement at specific decision points in the environmental assessment (EA) process and is an important way for resolving outstanding issues. This has not changed with the amendments to the Act.

Amendments to the Act are intended to strengthen consensus-seeking by providing additional structure and clarity to support moving complex issues toward resolution. The optional tools set out in **Parts 4.1 and 4.2** of the Act are available to participating Indigenous nations where consensus-seeking discussions do not lead to consensus and there is value in taking additional steps in reaching consensus. In this context:

- the new **Issue Resolution Protocol (or Standard Protocol)**, may be used throughout the EA process to support attempting to achieve consensus respecting matters of concern, including a clear escalation pathway of complex issues from a technical table to a leadership table; and,
- **Dispute resolution** remains available as a tool where a third-party facilitated process could assist the parties in resolving EA matters at defined phases of the EA.

Dispute Resolution Process

1. What changes are being made to Dispute Resolution?

Targeted amendments to the *Environmental Assessment Act* create structure to areas where the Act needed more clarity to ensure that dispute resolution is an effective tool in resolving issues related to the EA of the reviewable project.

The focus of dispute resolution (DR) provisions in the Act shifts to implementation of dispute resolution rather than the current emphasis on roles and responsibilities of facilitator.

Availability of dispute resolution has been adjusted, with a focus on early issues resolution, and is no longer available at end of EA process in the effects assessment and recommendation phases. The Issue Resolution Protocol (IRP) available throughout EA, is a new tool to also support issues resolution at later stages.

An agreement to proceed with DR is now required between a participating Indigenous nation and the Chief Executive Assessment Officer (CEAO) in order for DR to proceed. If agreement is not reached, dispute resolution would not proceed. The CEAO must provide a rationale in cases where they decide to discontinue attempts to reach agreement, published on the project-specific site on [EPIC](#).

To increase transparency, the EAO must publish the referral to a facilitator, when agreement on the terms of the dispute is reached. In addition, periodic public updates on the progress of dispute resolution (will include options

for protecting confidentiality) and any final documents relevant to the process will be published on the project-specific site on [EPIC](#).

2. What policy is being developed to support DR

The EAO is developing policy to support implementation of the Act amendments, including the development of a **Dispute Resolution Policy and Procedures** and an **Issue Resolution Protocol Policy and Procedures**, including a **Standard Protocol** to be used for existing projects in an EA. This work will be done in consultation and cooperation with First Nations and engagement with First Nations organizations and proponents.

3. How does agreement to proceed to DR work?

The requirement for agreement to proceed with dispute resolution was added to ensure that dispute resolution is used only where it is an appropriate tool for addressing issues within the scope of the environmental assessment. If agreement is not reached, dispute resolution would not proceed and the CEAO must provide a rationale in those cases where the CEAO decides not to proceed with DR.

If DR is to proceed, agreement on the terms respecting the following must be reached:

- **The substance of the dispute.**
- **Who, in addition to the parties to DR, may participate in the dispute resolution process such as** the proponent, other participating Indigenous nations, subject-matter experts, other regulators.
- **The individual who will serve as the dispute-resolution facilitator.** The parties may use a pre-qualified list or recommend an individual who meets the qualifications set out in the [Dispute Resolution Facilitator Regulation](#). Previous to the amendment, the Minister alone would appoint a facilitator.

To support agreement on the appropriate use of dispute resolution, the Act and policy identify examples of matters that are generally outside the scope of DR, recognizing that not all concerns raised during an assessment can be resolved through DR. Those matters are:

- outside the EA regulatory framework,
- not relevant to the decision point,
- not previously subject to consensus-seeking,
- not applicable to the project, and
- other matters to be determined through discussions.

4. How is the participation of additional parties to DR going to be determined?

Participants in DR are to be identified by the parties to DR (e.g., the CEAO and a participating Indigenous nation) when discussing the terms respecting the dispute resolution. How participation in DR may work can be further discussed with the facilitator. Invitations to participants would require the advance consent of both the parties to DR. These participants may include the proponent, other participating Indigenous nations, subject matter experts, other regulators, etc.

Participants in an EA who are not invited to participate in a DR process may be provided with periodic updates on the progress of the dispute. A description of the dispute being referred to a facilitator, along with any final documents relevant to the process, including the facilitator's report, will be published on the project-specific site on EPIC. Once the CEAO receives a report from the dispute resolution facilitator, the CEAO must share a copy of the report with the proponent and any other participating Indigenous nation that was not party to the dispute.

5. Will changes be made to the Dispute Resolution Facilitator Regulation?

Yes, consequential changes to the [Regulation](#) are required as a result of the amendments to the *Environmental Assessment Act*. The EAO will consult and cooperate with First Nations on proposed changes and engage with proponents. At this time, the EAO is not proposing any additional amendments to the Regulation beyond those necessary to align it with the amended Act.

Issue Resolution Protocol

6. What is the purpose of the Issue Resolution Protocol?

The Act amendment establishes a formal opportunity for a participating Indigenous nation and EAO to develop an Issue Resolution Protocol (IRP) to use as needed throughout EA process to assist with consensus-seeking. It will support issue-resolution by embedding defined roles, clear steps and escalation pathways.

The IRP Policy and Procedures will include a Standard Protocol that can be used, but is not required, including:

- as a starting place for discussions on an IRP; and,
- where the CEAO and a participating Indigenous nation do not agree on an IRP.

For transition projects, the legislation sets out the Standard Protocol for use.

An IRP may be used throughout the EA process, including at EA phases where dispute resolution is no longer available. While an IRP is not a prerequisite for dispute resolution, reasonable efforts to seek consensus are required before initiating dispute resolution, and effective use of issue resolution tools may reduce the need for formal third-party facilitated dispute resolution.

7. How will the Issue Resolution Protocol be developed?

The EAO will enter into discussions to develop an IRP where a participating Indigenous nation indicates an interest in doing so early in the environmental assessment process, alongside their notice to participate in the EA process under section 14.1.

IRPs may be generally informed by the Standard Protocol, which the EAO uses as a practical starting point to support clarity and consistency. While the Standard Protocol is required for transition projects under the legislation, it is not required for Nation-specific IRPs. For non-transition projects, the Standard Protocol may be adapted, in whole or in part, based on discussions between the EAO and the participating Indigenous nation.

Where an Indigenous nation expresses interest in developing an IRP later in the assessment, the CEAO may consider whether to proceed with discussions, having regard to considerations set out in the Issues Resolution Policy and Procedures.

For participating Indigenous nations who are not interested in or do not have the capacity to develop a Nation-specific IRP, the Standard Protocol can be used to support issue resolution.

8. What will the IRP include?

The IRP will clearly outline how issues raised by a participating Indigenous nation are discussed, escalated and resolved with the EAO. As outlined in the amendments to the Act, an IRP must, at a minimum, include terms respecting:

- (a) the establishment of a technical table,
- (b) the establishment of a leadership table, and

(c) a process for escalating matters of concern from the technical table to the leadership table.

9. What happens if a participating Indigenous nation does not give notice of their intent to co-develop an IRP with the EAO at the same time as the notice to participate in the EA?

The requirement to indicate interest in developing an Issue Resolution Protocol (IRP) at the time of an Indigenous nation's notice to participate in an EA is intended to support both the participating Indigenous nation and the EAO by:

- aligning with existing timelines and reducing potential administrative burden associated with providing two separate notices;
- allowing for an IRP to be available as soon as possible to support issue resolution in early EA phases such as the readiness decision and process planning;
- building from discussions occurring during the first 80 days of the early engagement phase, which is meant to be a preparatory phase where meaningful conversations happen, including to identify engagement approaches, potential interests, issues, and concerns early in the EA process and chart a path for resolution.

The EAO is developing policy that outlines how the EAO seeks to implement new discretionary provisions in the Act, most notably those related to the IRP and including on the timing of this notice. The EAO is looking to understand the perspectives of First Nations during the development of this policy. First Nations will have an opportunity to engage on a policy that allows for some flexibility where appropriate and that ensures there is predictability and fairness for all participants.

10. Will a participating First Nation have the flexibility to develop an IRP that applies across multiple projects?

The Act establishes Issue Resolution Protocols as project-specific tools. However, this does not limit the EAO from considering, where appropriate, an Issue Resolution Protocol that applies to multiple projects in which a participating Indigenous nation is involved.

11. Is the IRP available for projects that have already entered the EA process at the time that the legislative amendment came into force, and how will the Standard Protocol be used while it is being developed?

For transition projects that have submitted a detailed project description to the EAO, the legislation provides that the Standard Protocol applies and the opportunity to develop a project-specific IRP is not available.

For non-transition projects, participating Indigenous nations may indicate interest in developing a project-specific IRP per section 18.1.

While the Act amendments are now in force, an Issue Resolution Policy and Procedures that includes a Standard Protocol is still under development. As an interim measure, the EAO may use the [draft Consensus Seeking & Issue Resolution Framework](#) included in Appendix A of the January 2026 intentions paper to support discussions, while consulting and cooperating with First Nations on the policy and procedures.