

Mediation and Impact Assessment: Revisting Propsects for Sustainability Goals

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Agenda



- Background on ADR
- Role in IA
- Case studies
- Lessons
- Potential approach

Alternative Dispute Resolution

What's mediation?

Alternative Dispute Resolution (ADR)

- Solving disputes outside of the courts
- Tailor the outcome and process

Mediation

- A form of ADR
- An impartial third party
- Identifies needs and interests and aids in overcoming impasses



ADR & Impact Assessment

Potential?

Increasingly complex issues

Opportunities for conflict

Balancing efficiency with effectiveness a continuing challenge

Addressing procedural justice



State of ADR in IA

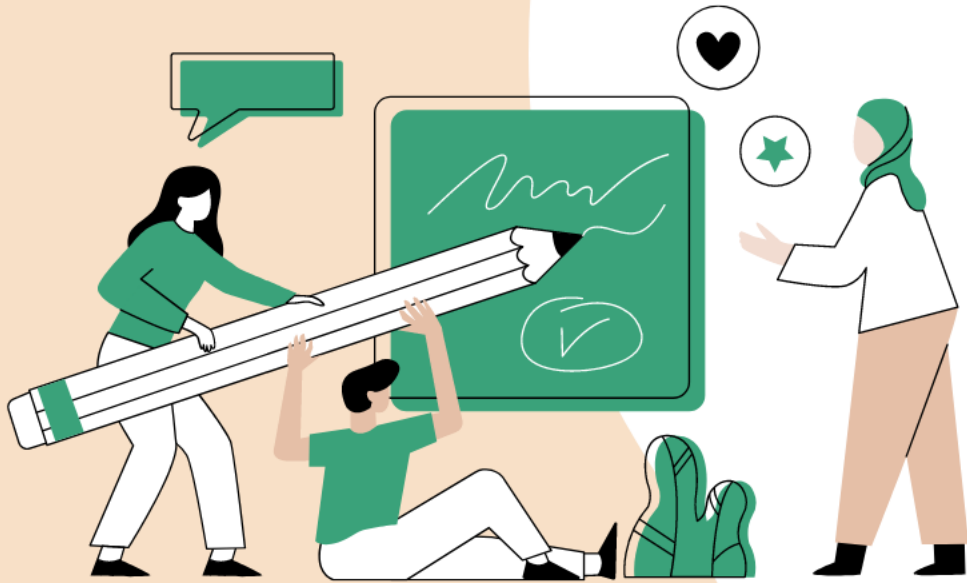
1980-1990 - Rise of mediation in legal practice providing precedent

Legislation

- CEAA 1995
- Ontario Environmental Assessment Act
- Ontario Land Tribunal
- BC Environmental Assessment Act
- Quebec Q-2, r. 23.1
- Manitoba

Research gap & underused

Concerns with mediation



Case Studies

Sandspit Small Craft Harbour, B.C.



- First formal use of mediation in IA (1992)
- Plan for harbour in federal-provincial agreement
- Parties agreed to mediation to address issues
- Consensus after 14 months (\$250,000 - \$400,000)
- Time and communication largest issues
- Parties largely positive of process

Rothsay Rendering Plant, Manitoba

- Maple Leaf Foods Ltd.
- Odour emissions
- Community & proponent engage in mediation (2001)
- Agreement reached (2002)
- Communication strategy & ongoing relationships



Ontario Land Use Cases



- Rose & Suffling, 2001
- Reviewed 6 cases of mediation use
- Established process and outcome criteria
- 5/6 cases successful in producing an "environmentally-sound" decision
- Access to information and distance/isolation were challenges

Lessons Learned

- Mediated IAs can be successful!
- Major concerns
 - Cost
 - Time
 - Access
 - Inclusion
 - Communication
- A need to evaluate the process and monitor outcomes

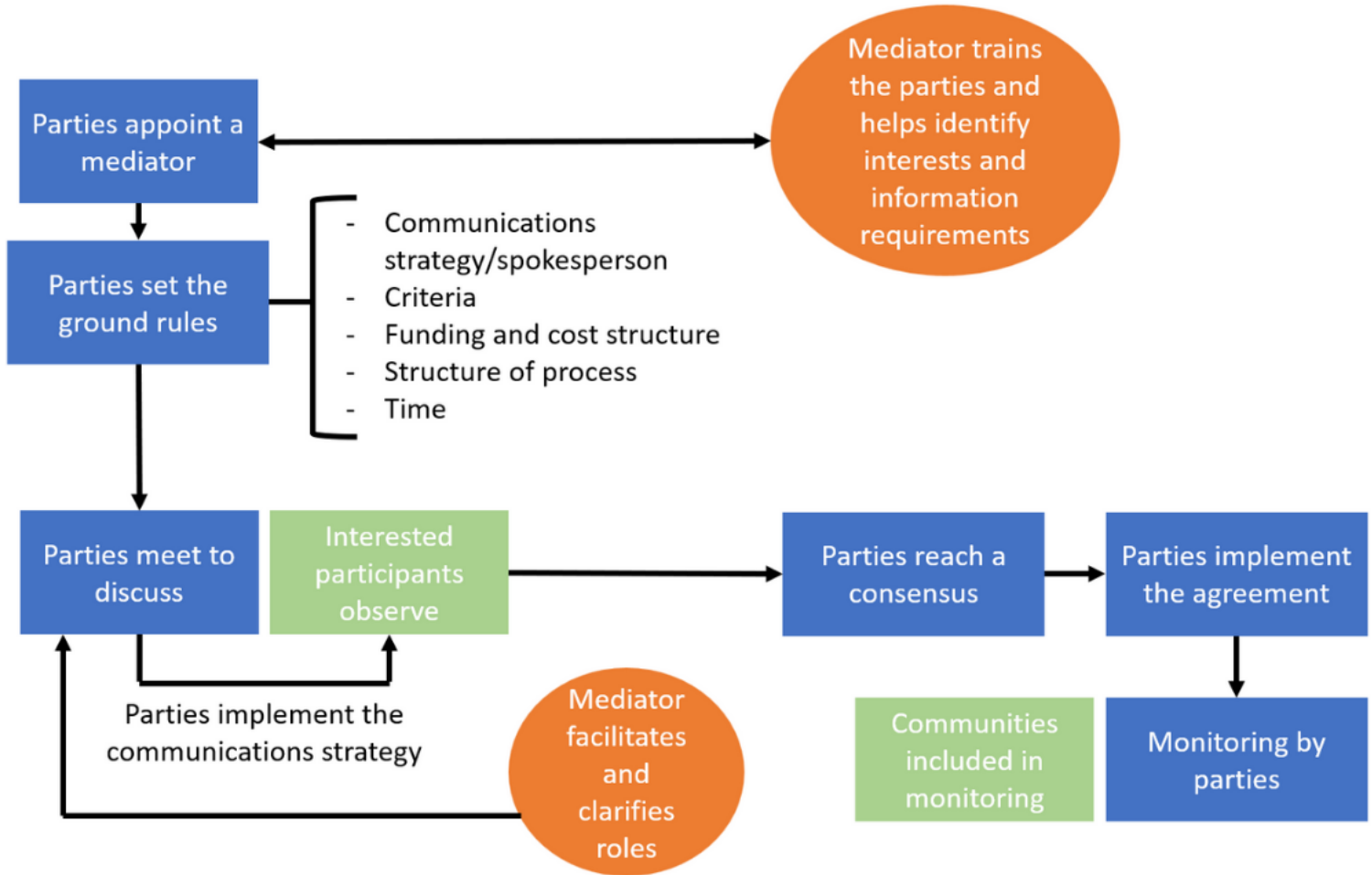


An Approach

National Roundtable on the Environment and the Economy (1996)

10 Principles for Building Consensus

1. Purpose driven
2. Inclusive
3. Voluntary
4. Self design
5. Flexibility
6. Access to information
7. Respect for diverse interests
8. Accountability
9. Time Limits
10. Implementation



Issues to Consider



Differences between Indigenous and settler approaches to mediation

How to represent interests without voice (the environment, future generations, etc.)

Where can mediation be most effectively used in the IA process?

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