

MANAGING CONFLICT

A Snapshot View of the Chapter

BE PREPARED FOR CONFLICT

Conflict is normal in society and in sustainable development processes. There is often conflict in environmental assessment processes. It is not in itself a bad thing. It is only when it develops to the point of open dispute and hostility that it can prove to be a danger. Remember, you can view an environmental assessment process as an opportunity to manage conflict. See **6.1** for more information.

UNDERSTAND CONFLICT IN YOUR PROCESS

Analyse the underlying conflicts within the context of your environmental assessment process. Do this at the start of the process. By doing this, you will understand where conflicts exist between the relevant stakeholders. It will help you to plan for running the process, participating in it, or taking a decision about it. See **6.2** for more information.

DESIGN THE PROCESS TO MANAGE CONFLICT

Don't wait for a dispute. Rather see the environmental assessment process as an opportunity to create a solution acceptable to most stakeholders. Find ways to turn the process into an exercise of collaborative problem solving. When you do this, ensure that the process is carefully structured to maximise the opportunities for reaching agreement at each stage of the assessment. See **6.3** for more information.

DISPUTE RESOLUTION APPROACHES

When your process does erupt into an open dispute, use one of the many approaches to resolving dispute. Draw in a skilled professional to assist in finding a solution. The table highlights some of the most common approaches to resolving disputes. See **6.4** for more information.

Approach	Description
Traditional negotiation	This is when opposing parties confer or bargain to achieve a mutual agreement. It is a voluntary process, not required by law. It is at the core of conciliation and mediation approaches.
Mediation	This is a private, confidential, non-legal process that draws on the services of an independent third party mediator agreed to by both

Approach	Description
Indigenous or traditional methods	Indigenous or traditional approaches draw on traditional community-based judicial and legal mechanisms to manage and resolve conflict. It is widely used in diverse settings to address local disputes. Typically, these approaches are based on attempting to build consensus with traditional leaders or elders often acting as mediators. This approach, while often time-consuming, can lead to long-term benefit and the avoidance of many of the negative pitfalls of a dispute.
Arbitration	This is a voluntary process in which the parties to the dispute select an independent and neutral arbitrator to adjudicate, or make a ruling, on the issue in dispute. Ideally, the arbitrator would be accredited with a recognised body. It is a more formal process than mediation, as the arbitrator's decision is final and legally binding, but arbitration does not automatically involve the courts. While it is voluntary, it can be highly adversarial, much like the approach in a normal civil court.
Adjudication or litigation	This is when a process of dispute resolution involves a lawsuit in court with legally binding results. It is both confrontational and expensive with the result not necessarily being in the interests of all parties.

6 MANAGING CONFLICT

This chapter is a general guide to dealing with conflict in environmental assessment processes. Whether you are a practitioner, a member of civil society, a developer or a government official, conflict is important to you. In this chapter we encourage you to be creative with conflict. We urge you to see it as an opportunity and not a threat.

The chapter gives you broad overview of how to understand conflict. It suggests ways in which you can implement an environmental assessment process so that you manage conflict. It also gives you ideas about how to deal with disputes when they blow up in a process you are involved in. The chapter is meant as a general guide to start you on your way to dealing with conflict.

6.1 Conflict

Conflict is normal in every society. It is a normal part of the process of sustainable development. Environmental assessment processes are often the context for significant conflict between stakeholders with contending interests and positions.

Conflict is not in itself a bad thing. It is only when conflict develops to the point of open dispute and hostility that it can prove to be a danger. Once this occurs, there are a

Typical Conflicts: There is often conflict and disputes within environmental assessment processes. The conflict can relate to the process, relationships or to substantive issues. Do you recognise these examples?

Conflicts around the Process:

- Disagreement on the design of the process;
- Stakeholders believing they have inadequate opportunities to get involved;
- Disputes over access to all relevant information;
- Demands for the right to be part of decision-making; or,
- Objections to the professionals involved in the environmental assessment process.

Conflicts around Relationships:

- Conflicts over power or other issues within stakeholder groups;
- Conflicts between stakeholders and the professional team over professional ethics and practices; or,
- Conflicts between stakeholders and government.

Conflicts over Issues:

- Major disagreements on the key issues investigated in the environmental assessment; or,
- Disputes on issues outside the scope of the environmental assessment that spill over into the process.

Many environmental assessment processes experience these conflicts. Are they well dealt with?

range of methods and approaches available to address and resolve it. But, there are also approaches that can manage conflict before it develops into open disputes.

You can treat an environmental assessment process as an opportunity to manage conflict. You can see it as an opportunity to find common ground between groups with very different views on the matter being assessed. This will only happen, however, if you deliberately take it on. If you do not, the environmental assessment process will be nothing more than an independent process of intellectual investigation that draws conclusions and makes recommendations. Wouldn't it be so much better if the process led to an agreement between all of the stakeholders involved?

6.2 Understand the conflicts in your process

When you start an environmental assessment process, analyse the underlying conflicts within the context of your environmental assessment process. Conflict analysis will allow you to understand where conflicts exist between and within the parties involved. It will contribute to a better understanding of the issues involved in the assessment process, as well as provide guidance on how to best conduct the process, whether you are a practitioner, government official, civil society stakeholder or the developer.

If you can, involve other stakeholders in doing the conflict analysis. This will help you to conduct a thorough analysis. It may also encourage all stakeholders to adopt a conflict management approach.

Guidelines and Questions for a Conflict Analysis

- Develop an understanding of the relationship between, and within, all stakeholder groups. Where does power lie? Do particular groups control access to resources and interaction? Who has influence? Which groups are marginalised? Why is the situation like this?
- What have been the major issues and situations of conflict and dispute in the past? Why was this so?
- Review the proposed development. Where might conflict develop in relation to it?
- What are the perceptions of practitioners and stakeholders about other assessment and sustainable development processes in the area? What does past experience tell you?

6.3 Process Design

Don't wait for a dispute to develop within your environmental assessment process. See the environmental assessment process as an opportunity to create a solution acceptable to most stakeholders, if not all. Look at the continuum of public participation.

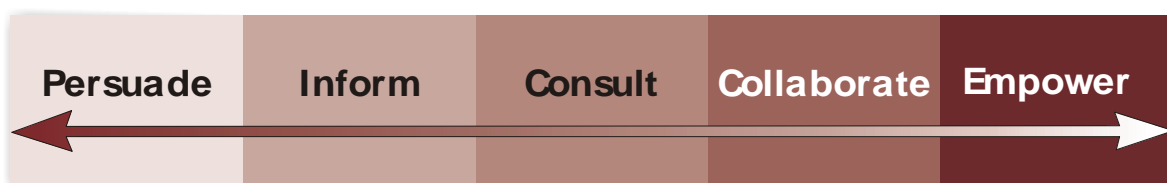


Figure 5: Simplified continuum of public participation approaches

In most environmental assessment processes, the emphasis of public participation is on informing and consulting. Think about your process. Can you build the public participation process, and the environmental assessment itself, around the collaboration approach? Is there scope to conduct the process as an opportunity to find solutions with the support of all stakeholders, rather than simply consulting them for their views?

If you choose the collaborative approach, think about each stage of the environmental assessment process. Design each stage as an opportunity to build agreement among the stakeholders. In this way there will be a gradual – or incremental – building of agreement.

The stages might include the following:

- Understand the problem;
- Develop a long-term vision for the future;
- Generate alternative solutions;
- Evaluate and debate the alternatives;
- Select and agree on a preferred alternative; and,
- Agree on mitigation measures.

In each of the stages use methods and techniques that encourage dialogue and agreement building. See Annexure B for ideas on the best techniques. You may think about establishing a joint committee or forum of stakeholders. It should be representative of all of the stakeholders involved in the process and can be a forum where issues are debated and agreed. Use all of the public participation activities and events as opportunities to build agreements. See the ideal outcome of the process as being an agreement between all of the stakeholders.

Case Study

In the environmental assessment on container handling in South Africa's Port of Durban, all stakeholders participated in a visioning activity early in the process. This contributed by building commitment, trust, as well as an early agreement on a key issue regarding the long term.

The entire process was designed and implemented as a collective problem solving exercise. This meant that the project team had to ensure that all stakeholders endorsed each step of the process. This included the appointment of consultants and commissioning of professional work. A forum was established to negotiate the outcome of the process.

6.4 Dispute Resolution Approaches

Often in environmental assessment processes, conflict builds to the point where it is necessary to engage in processes of resolving disputes. Below you will find a table of the major dispute resolution approaches. These approaches range from traditional negotiation through mediation, to adjudication.

Approach	Description
Traditional negotiation	This is when opposing parties confer or bargain to achieve a mutual agreement. It is a voluntary process, not required by law. It is at the core of conciliation and mediation approaches.
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Indigenous or traditional methods	Indigenous or traditional approaches draw on traditional community-based judicial and legal mechanisms to manage and resolve conflict. It is widely used in diverse settings to address local disputes. Typically, these approaches are based on attempting to build consensus with traditional leaders or elders often acting as mediators. This approach, while often time-consuming, can lead to long-term benefit and the avoidance of many of the negative pitfalls of a dispute.
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Assess your process. Has conflict deepened to the point of open dispute? Do you wish to see the dispute resolved? Do the other stakeholders also want to see this outcome? Reflect on the possible resolution approaches. Identify the best way in your circumstances to resolve the dispute. You may not be able to do this on your own. Think about drawing in a specialist practitioner with skills in dispute resolution.

6.5 Dispute Management

Most of us feel fear as our immediate reaction to conflict. Draw strength from the fact that you are like virtually all other people in this. Our fear of conflict and attempting to take it on turns most of us away from it.

But before you turn away, remember:

- Conflict is real and can undermine good sustainable development processes if not managed;

- Conflict will always be present;
- Conflict needs to be managed; and,
- Conflict can be a creative force in your process.

Adopt a creative approach to conflict. See yourself harnessing it for the benefit of your process. Attempt to design your process so that you manage conflict from the start. If disputes arise in the course of your process, take immediate steps to intervene creatively and decisively.

Caution:

A dispute resolution process can only work if all of the parties agree to it. Make sure that everyone buys-in to the process before you embark on it.

Take the conflict on. It gets easier every new time you do so!