

# Shared Decision Making

BC First Nations - All Chiefs' Forum  
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# NEW RELATIONSHIP VISION

The New Relationship vision states an agreement:

to establish new processes and institutions for shared decision making about the land and resources and for revenue and benefit sharing, recognizing, as has been determined in court decisions, that the right to Aboriginal title "in its full form", including the inherent right for the community to make decisions as to the use of the land and therefore the right to have a political structure for making those decisions, is constitutionally guaranteed by section 35. These inherent rights flow from First Nations' historical and sacred relationship with their territories

# GOALS OF SHARED DECISION MAKING

## 1. Principle Based Approach

- Results in a systemic framework for shared decision-making discussions to go forward, but would not impose outcomes or models on First Nations

## 2. Reconciliation

- The Supreme Court of Canada has placed reconciliation at heart of Aboriginal - Crown relationships
- Shared decision-making can significantly advance reconciliation

# GOALS OF SHARED DECISION MAKING

## CONT...

### 3. Certainty

- The *status quo* of unilateral Crown decision-making often leads to conflict with First Nations about land and resource decisions
- Including First Nations in the decision-making will provide greater certainty to tenure holders and industry

### 4. Mutual Interests and Goals: Taking Care of the Land

- Shared decision-making can bring parties together and integrate the best features of Aboriginal and non-Aboriginal legal systems, knowledge and cultures to solve problems that neither system can solve alone

# SHARED DECISION-MAKING vs. CONSULTATION

## Shared decision-making:

- is a process in which decision-makers with respective jurisdictions, authorities and laws engage in a “joint process of decision-making” towards reaching a compatible or common decision

## Consultation:

- consultation is a process where Crown decision-makers seek input from First Nations into the Crown’s decision-making process, but final decision-making authority rests with the Crown

# MODELS OF SHARED DECISION MAKING

- All models of shared decision-making stem from the recognition that there are Crown and First Nation(s) titles and jurisdictions that each government must each make a decision with respect to land and resource decisions
- Based on this recognition, the core question becomes: How will Crown and First Nation decision-makers interact in making their respective decisions?

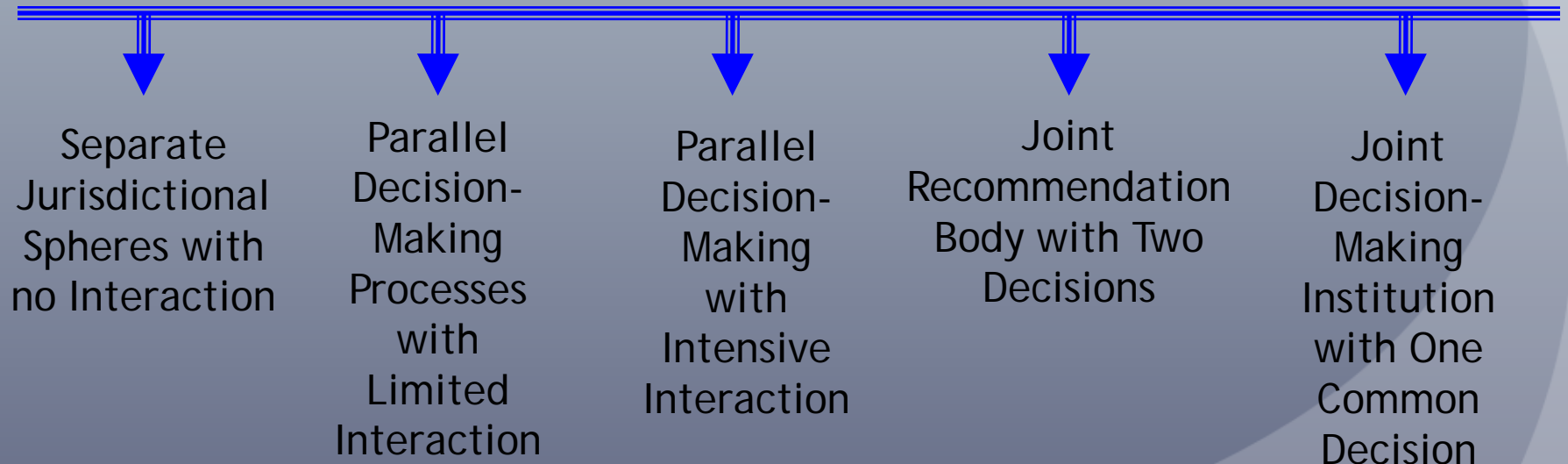
# MODELS OF SHARED DECISION MAKING

Crown/First Nation Decision Making Spectrum: measuring the degree of integration of the Crown and First Nation decision-making processes.

## Crown / First Nation Decision-Making Spectrum

Lowest Level of Interaction

Highest Level of Interaction



# KEY CHALLENGES

1. **Current Crown Engagement - Unilateralism:**
  - the Province's insistence on retaining final and sole decision-making authority - the "fettering" issue
2. **Dispute Resolution Processes to Resolve Inconsistent Decisions:**
  - any option that has the potential to result in two decisions on a similar issue runs the risk of inconsistency and inequity. The parties will need definitive methods of dispute resolution to address this
3. **Addressing proper Title and Rights holder**
4. **Shared Territory/Overlap resolution**
5. **The need to create baseline information, capacity and management**