

MEMORANDUM

Municipal Perspectives and Recommendations on the Mandate and Structure of IRAC

To: Rory Francis, Commissioner, Independent Review of the Island Regulatory and Appeals Commission

From: Satya Sen, Executive Director, Federation of Prince Edward Island Municipalities

Date: July 31, 2026

Re: A more timely, accessible, expert, and accountable regulatory and appeals system

Purpose and Basis of Submission

The Federation of Prince Edward Island Municipalities (FPEIM) appreciates the opportunity to contribute to the independent review. This submission is informed by feedback from member municipalities, together with FPEIM's experience supporting municipalities in regulatory, planning, and local-governance matters. The examples identify recurring procedural and capacity concerns; they are qualitative and not presented as a statistical review of every IRAC proceeding. The recommendations focus on the areas in which municipalities have direct experience and identifiable concerns.

IRAC combines appellate, regulatory, and administrative responsibilities under many statutes. In 2024-2025, IRAC processed 883 files and issued 686 decisions, orders, approvals, and recommendations. These functions demand substantially different legal, technical, and policy expertise. FPEIM has not received sufficient municipal evidence to recommend changes to *Lands Protection Act* administration. It therefore takes no detailed position on that function. Any structural reform should nevertheless preserve the relative timeliness and administrative capacity of the existing process.

FPEIM's institutional position. Functional separation and subject-matter specialization should be the required outcome. This may be delivered through legally independent bodies or distinct divisions within a reorganized IRAC, provided that each function has separate leadership, qualified panels, adequate staff, clear service standards, and public accountability. The legal form should be selected through an implementation assessment, not by structure alone.

Priority Recommendations

1. Establish statutory service standards for completeness reviews, hearings, preliminary rulings, and final decisions, with written reasons for any extension.
2. Require a preliminary ruling on jurisdiction, standing, appeal validity, and properly appealable issues within 30 days after the minimum threshold record is available.
3. Create a proportionate, formula-based rate process for smaller municipal water and wastewater utilities.
4. Create specialized Land and Local Governance and Energy and Utilities functions with panels matched to each matter.
5. Strengthen appointment transparency, conflict and recusal rules, adjudicative independence, and public performance reporting.

6. Implement reform through a legislated transition plan that protects pending proceedings, existing orders, staff, records, and institutional knowledge.

1. Energy and Utility Regulation

FPEIM's direct member evidence in this category concerns municipal water and wastewater utilities. IRAC regulates those utilities except in Charlottetown, Summerside, Stratford, and Cornwall. Smaller municipalities report that rate applications involve extensive paperwork and may require external accounting assistance that costs large sums of money for budget-constrained, smaller municipalities. Members also described lengthy, unclear reviews and repeated information requests, although individual IRAC staff were identified as helpful and responsive.

FPEIM recommends:

1. A single, comprehensive submission checklist, standard financial templates, plain-language guidance, and a named, knowledgeable case manager;
2. Published standards for completeness reviews, information requests, and decisions, with consolidated information requests wherever practicable;
3. An expedited, formula-based annual or biennial adjustment for smaller utilities, defined by connections, revenue, requested increase, and complexity, with prescribed evidence, public notice, ratepayer protection, and periodic full review; and
4. A specialized Energy and Utilities Board or division with collective expertise in utility finance, accounting, economics, engineering, infrastructure, energy policy, and consumer protection.

FPEIM does not take a detailed position on electricity or petroleum rate-setting. It recommends that those functions remain independent, transparent, properly resourced, and accountable to the public interest. Government should determine whether the specialized body would also regulate automobile insurance and waste-management fees.

2. Appeals Processes

Municipalities report that planning appeals increasingly resemble court proceedings. Legal counsel is not formally required, but municipalities may find effective participation difficult without counsel and, at times, an independent planner. Development permits may expire before an appeal is resolved, and prolonged uncertainty can affect municipalities, applicants, residents, and investment.

Threshold issues can generate substantial legal, administrative, and operational costs before an appeal reaches the merits. Municipal members have reported participating in appeals that were ultimately dismissed on jurisdictional or standing-related grounds, but only after legal counsel had been retained, appeal records prepared, staff time committed, and mediation or other procedural steps undertaken. These experiences demonstrate the importance of determining jurisdiction, standing, and appeal validity at the earliest practicable stage.

Members have also raised concerns about role clarity where government or non-party communications relate to a separate ministerial approval that may follow the municipal appeal. Clear rules should govern standing, participation, and the evidentiary treatment of those communications so that the appeal and subsequent ministerial decision remain procedurally distinct.

IRAC already triages appeals, offers mediation, and may determine jurisdiction through a preliminary hearing. Its rules also provide for final filing deadlines, rejection of late material, and consideration of prejudice and prior adjournments. These are useful foundations, but their use is discretionary and is not tied to measurable service standards. IRAC's 2024-2025 report recorded 18 new planning appeals, 23 carried-over files, 31 appeals still at various stages, and five final planning appeal decisions; it does not report median processing times or an aged case inventory.

FPEIM recommends:

1. A preliminary ruling on jurisdiction, standing, appeal validity, and properly appealable issues within 30 days after the notice of appeal and minimum threshold record are received. Where a threshold objection is reasonably raised, full preparation on the merits should normally await that ruling;
2. Statutory standards for scheduling and deciding matters, with differentiated timelines for straightforward and complex appeals and extensions allowed only through written reasons;
3. Consistent application of filing deadlines and adjournment criteria, with exceptions supported by written reasons addressing the explanation, prejudice, previous extensions, and effect on the overall schedule;
4. Early case-management conferences; plain-language forms and guides; and written, virtual, or simplified hearings where appropriate;
5. In-house planning capacity or neutral tribunal-appointed expertise, with limits on unnecessary or duplicative expert evidence;
6. Published rules governing standing, interveners, government submissions, evidentiary records, and the separation of an appeal from any subsequent ministerial approval;
7. Narrowly defined statutory authority to award a reasonable contribution toward costs where a party has acted frivolously, vexatiously, or abusively, or has caused material avoidable expense through serious procedural non-compliance. Costs should not follow merely because a party is unsuccessful; and
8. A *Planning Act* amendment suspending the unexpired validity period of a permit where an appeal prevents it from being exercised, with a defined restart when the appeal concludes.

Manitoba provides a useful benchmark: for many planning matters, its Municipal Board must hold a hearing within 120 days after a filing is complete and issue its decision or report within 60 days after the hearing. A PEI framework should use similarly measurable standards while preserving flexibility for exceptional cases.

Planning, land-use, property-assessment, and heritage appeals should be assigned to a specialized Land and Local Governance Commission or tribunal, or to an independently managed division with equivalent expertise and safeguards.

Early screening and any costs mechanism should preserve meaningful access to independent appeal and should not penalize good-faith appellants who raise reasonably arguable issues.

3. Governance and Organizational Structure

IRAC's mandate spans planning, tenancy, environmental, assessment, taxation, heritage, and other appeals; electricity, petroleum, water and wastewater, insurance, and waste-management regulation; *Lands Protection Act* administration; and municipal establishment, restructuring, and dissolution. The breadth of these functions supports specialization, but the destination of every statutory responsibility must be resolved before any restructuring.

Under the *Municipal Government Act*, IRAC receives municipal establishment, restructuring, and dissolution proposals, manages notice and objection processes, undertakes mediation and hearings where required, and reports with recommendations to the Minister. A Land and Local Governance function should assume and strengthen this work using clear criteria concerning financial viability, administrative capacity, services, infrastructure, taxation, neighbouring municipalities, community identity, and long-term sustainability. Existing statutory timelines should be preserved and procedural gaps addressed.

The current *IRAC Act* combines the offices of Chair and Chief Executive Officer, assigns primary responsibility for land matters to the Vice-Chair, and requires part-time commissioners to have knowledge in listed fields. It does not ensure that each panel contains expertise directly relevant to the proceeding.

Governance reforms should include:

1. A published competency framework, merit-based appointments, staggered terms, transparent reappointment criteria, and panels matched to each proceeding;
2. Public conflict-of-interest, disclosure, and recusal protocols, together with transparent panel-assignment practices;
3. Review of whether adjudicative leadership and administrative executive leadership should remain combined;
4. Continuing education in administrative law, procedural fairness, and relevant technical fields; and
5. Annual reporting by function on median and 90th-percentile processing times, aged inventory, adjournments, extensions, outcomes, and performance against service standards.

Recommended Functional Allocation

Function	Recommended treatment
Land and Local Governance	Planning, property-assessment, and heritage appeals; municipal establishment, restructuring, and dissolution; and related land-use matters.
Energy and Utilities	Electricity, petroleum, municipal and private water and wastewater regulation. Government should determine whether automobile insurance and waste-management fee regulation also belong here.
Other Administrative Appeals	Residential tenancy, environmental, taxation, highway-access, unsightly-property, and other statutory appeals should be assigned after a mandate and workload assessment. FPEIM does not prescribe their final institutional home.

Implementation and Accountability

Reform should be phased through legislation and a published implementation plan addressing governance, staffing, budget, case-management technology, records, existing orders, transfer of pending proceedings, shared administrative services, and continuity for parties. Comparable models include New Brunswick's Local Governance Commission and its adjudicatively independent Assessment and Planning Appeal Tribunal, Nova Scotia's separate Energy Board and Regulatory and Appeals Board, Ontario's Land Tribunal, and Saskatchewan's specialized committees within its Municipal Board.

If land and local-governance matters and energy and utility regulation are assigned to independent bodies, the Province should determine whether the remaining responsibilities constitute a coherent and sustainable mandate for a residual IRAC. IRAC should be continued, reorganized, or wound up only after every function has been allocated and transitional protections are in place. The reformed system should undergo an independent review within five years.

Conclusion

FPEIM's principal concerns are timeliness, accessibility, affordability, independence, and subject-matter expertise. Functional specialization, statutory timelines, proportionate procedures, transparent appointments, adequate resources, and public performance reporting would provide a stronger foundation for consistent and trusted decision-making. FPEIM would welcome the opportunity to discuss these recommendations further with the Commissioner.

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