

MEMORANDUM

Municipal Response to the Interim Report of the Independent Review 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: October 2, 2026
Re: FPEIM response to the Interim Report

Purpose and Basis of Submission

The Federation of Prince Edward Island Municipalities (FPEIM) appreciates the opportunity to respond to the Interim Report released by the Independent Review of the Island Regulatory and Appeals Commission. This response follows FPEIM's July 31, 2026, submission and its in-person discussion with the review. It is informed by municipal experience with water and wastewater regulation, Planning Act appeals, municipal restructuring, and the practical consequences of cost and delay.

FPEIM supports the Interim Report's central conclusion that the institutional model created in 1991 no longer reflects the breadth, complexity, and specialization of IRAC's responsibilities. The proposed separation of energy and utility regulation from land, appeals, and local government functions responds directly to the principal institutional concern raised by FPEIM's submission.

FPEIM supports the Interim Report's proposed structural reform. The final report should retain the two specialized boards, shared administrative capacity, transparent appointments, and phased transition, while adding practical measures to make the reformed system timely, accessible, affordable, and effective for municipalities and their residents.

FPEIM Position

FPEIM supports the following directions in the Interim Report:

- the creation of independent Energy and Utilities and Land and Appeals Boards, supported by shared specialist administrative capacity;
- full-time Commissioners with expertise matched to the subject matter of each board's work;
- merit-based appointments, predictable terms, Commissioner training, stronger conflict-of-interest rules, and public accountability;
- early attention to standing, jurisdiction, and other threshold issues in Planning Act appeals; and
- a legislated, phased transition that protects pending proceedings, existing orders, staff, records, and institutional knowledge.

FPEIM also welcomes the report's recognition that a provincial land use plan is necessary to give clear policy direction in rural land use matters. That policy work must proceed alongside, rather than be deferred until after, tribunal reform.

Priority Refinements for the Final Report

1. Measurable and Enforceable Service Standards

The Interim Report identifies delay as a serious institutional concern and recommends published timelines, case management, and public reporting. FPEIM asks that the final report go further by recommending statutory, measurable standards for completeness reviews, preliminary rulings, hearings, and final decisions. Standards should distinguish between straightforward and complex matters, while requiring written reasons for extensions.

For Planning Act appeals, legislation or regulation should require a 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. This would preserve access to appeal while preventing avoidable municipal legal and professional costs.

Annual reporting should include median and 90th-percentile processing times, aged-file inventory, extensions and adjournments, outcome data, and performance against the established standards. The Interim Report's proposed reporting on unresolved matters is a useful start but should be more specific.

2. Practical Reform of Planning Act Appeals

FPEIM supports statutory clarification of the standard of appeal, retaining a clear test that addresses both procedural fairness and the application of sound planning principles. The appeal should remain a meaningful independent review, but should not routinely require municipal councils, applicants, and residents to relitigate a matter from the beginning.

FPEIM supports the recommendation that standing be put to the parties at the outset of every planning appeal, the development of plain-language guidance, and earlier dismissal of plainly defective appeals. The final report should also address the following complementary measures:

- A Planning Act amendment suspending the unexpired validity period of a permit where an appeal prevents it from being exercised, with a defined restart once the appeal is concluded.
- A narrowly defined authority to award a reasonable contribution toward costs where a party has acted frivolously, vexatiously, abusively, or in serious procedural non-compliance. Costs should not follow merely because a party is unsuccessful.
- Dedicated planning capacity within the Land and Appeals Board's support organization and, where necessary, neutral tribunal-appointed expertise. This expertise would improve the quality and efficiency of the process and help limit unnecessary or duplicative expert evidence.
- Clear rules for government submissions, non-party communications, and the evidentiary record where a municipal appeal is related to a separate ministerial approval. The appeal process and any subsequent ministerial decision must remain procedurally distinct.
- Expanded use of early case-management conferences and proportionate written, virtual, or simplified hearings where appropriate.

3. A Proportionate Process for Smaller Water and Wastewater Utilities

This is the principal municipal operational issue that is not resolved in the Interim Report. FPEIM's members value IRAC's assistance and the professionalism of its staff. At the same time, smaller municipal utilities have reported paperwork burdens, repeated information requests, external accounting costs, and unclear or lengthy rate reviews.

FPEIM supports a formal memorandum of understanding between the regulator and the Department of Land and Environment, but that measure alone will not address the municipal rate-setting process. The final report should recommend:

- a single comprehensive submission checklist, standardized financial templates, plain-language guidance, and a named case manager;
- published standards for completeness reviews, consolidated information requests, and final decisions; and
- an expedited, formula-based annual or biennial adjustment for smaller utilities, defined by such factors as connections, revenue, requested increase, and complexity, with prescribed evidence, public notice, ratepayer protection, and periodic full review.

4. Land and Local Government Expertise

FPEIM supports placing Planning Act, property assessment, heritage, and Municipal Government Act functions within the proposed Land and Appeals Board. The final structure should preserve a dedicated Land and Local Government function or panel within that board. Its mandate should be clear, and its Commissioners and staff should have demonstrated expertise in land use planning, municipal governance, administrative law, local finance, and procedural fairness.

For municipal establishment, restructuring, amalgamation, and dissolution matters, the reformed system should preserve current statutory timelines and apply transparent criteria addressing financial viability, administrative capacity, services, infrastructure, taxation, neighbouring municipalities, community identity, and long-term sustainability. The new board should be equipped to address any future increase in municipal restructuring, amalgamation, or regional-governance activity.

5. Governance and Public Accountability

FPEIM supports the Interim Report's recommended merit-based appointment process, staggered terms, performance review, orientation, conflict-of-interest rules, and regular external review. The final report should also require that panel assignments be matched to the subject matter of each proceeding and that conflict, disclosure, recusal, and panel-assignment protocols be public. The relationship between the boards' adjudicative leadership and the shared administrative support organization should remain clear and protect decision-making independence.

The proposed three-year implementation assessment and recurring six-year independent review would provide an appropriate accountability cycle.

6. Transition and Implementation

FPEIM strongly supports the report's transition principles. The final report should require a published implementation plan that identifies the legal allocation of every function, the staffing and budget required for the new structure, the transfer of records and information systems, the treatment of active files, and the shared services to be maintained. No current appeal, utility application, municipal restructuring proposal, or order should be delayed, restarted, or prejudiced by the change.

FPEIM should be included among the stakeholders consulted during implementation, particularly on Planning Act appeal procedures, water and wastewater regulation, and Municipal Government Act matters.

Conclusion

FPEIM supports the Interim Report's proposed structural reform and urges the review to retain two specialized boards, shared administrative capacity, transparent appointments, stronger reporting, and phased transition in the final report. The final report should also add clear and enforceable service standards, practical planning-appeal reforms, a proportionate water and wastewater rate-setting process, and dedicated land and local government expertise. Together, these measures would provide municipalities and Island residents with a regulatory and appeals system that is more timely, accessible, expert, and accountable.