



Environmental Appeal Board

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About the Board and the Appeal Process

The Environmental Appeal Board (the “Board”) is empowered by the [Environmental Management Act](#) to hear appeals. Nine acts provide appeal rights to the Board. The Board is independent from the authorities that make the decisions that are appealed to the Board. This allows the Board to decide appeals fairly, impartially and independently.

The Board’s powers are contained in the [Environmental Management Act](#), the [Environmental Appeal Board Procedure Regulation](#), the [Administrative Tribunals Act](#), and the statutes that provide appeal rights to the Board. The Board also has [Rules](#) that apply to appeal processes. Explanations are available in the Board’s [Practice and Procedure Manual](#) and [Information Sheets](#). Board staff is also available to answer questions.

Board Members

The Board’s members are the people who decide appeals. Cabinet appoints the members based on their knowledge and experience. Members are experts in law, natural resource stewardship, and the environment. They include professional engineers, biologists, foresters, and lawyers.

While most members work part-time, the Board has a full-time Chair and a Vice Chair. The Chair manages the Board and assigns appeals to other members. The full-time Vice Chair helps the Chair with management of the Board. Both the Chair and Vice-Chair also decide some appeals.

Parties and Participants

The parties to an appeal are the people or organizations who have a chance to make a case to the Board. Parties can present evidence and arguments to persuade the Board, and can challenge the evidence and arguments presented by other parties. There are two to three kinds of parties in any appeal:

- **the appellant** is the person or organization that filed the appeal;
- **the respondent** is the person who made the decision being appealed and responds to the appeal; and

- **a third party** is a person or organization that could be significantly impacted by the appeal. For example, someone that holds a licence or permit that is appealed would risk losing their licence or permit, and would be added as a Third Party to that appeal.

The Board may also allow a person or organizations to take part in an appeal as a **participant or intervener**. The Board may do this if the person or organization:

- may be affected by the appeal or has a specific interest in the appeal, and
- has some information the Board thinks would be helpful to decide the appeal.

Participants and interveners generally do not have all the rights of a party in an appeal. The Board will decide what rights to give participants and interveners on a case-by-case basis.

Parties, participants, and interveners can represent themselves or be represented by someone else. Representatives do not need to be lawyers. If a party, participant, or intervener wants to be represented by a lawyer, they must pay the cost of the lawyer.

Board's role in an appeal

The Board receives appeals. It screens appeals to make sure they are valid, and it dismisses ones that are not. It resolves appeals by helping parties settle their disputes or by making binding decisions on the appeals.

Settling an appeal

Parties may settle an appeal on their own at any time. Sometimes, the Board helps parties through a mediation. If the parties cannot settle the appeal, the Board will hold a hearing to decide the appeal. If settlement was unsuccessful, what happened as part of settlement discussions is confidential and cannot be used as evidence in the hearing. Participants and interveners do not get any input into whether an appeal settles or what the settlement agreement might be.

Overview of the appeal process

Although appeals can end in a settlement at any time, all the main stages in an appeal are:

- The appellant starts the appeal by filing a document called a Notice of Appeal with the Board.

- The Board confirms that it got the Notice of Appeal and sends the appellant more information. The Board also sends a copy of the Notice of Appeal to the respondent and any third parties the Board can identify.
- The Board holds one or more pre-hearing conferences to give information to the parties and to help manage pre-hearing processes. These processes include helping parties share documents, dealing with any pre-hearing applications, mediating the disagreement, deciding whether a hearing will take place live or in writing, and scheduling the hearing.
- The Board holds the hearing, either live or in writing. The parties provide evidence and arguments to help the Board make its decision. Any participants or interveners provide evidence or statements the Board allows them to give.
- The Board issues a written decision.

For more information on different parts of the appeal process, please see the Board's [Information Sheets](#).

The hearing

A hearing might take place live or in writing. If it is live, it might be in person or by telephone or videoconference. In some cases, hearings might be done partly in writing and partly live. The Board consults with parties before deciding what type of hearing is appropriate to let the parties fairly and efficiently make their cases.

An appeal is decided by a “panel” of one or three members assigned by the Chair. The Chair decides which members to assign to an appeal based on the members’ expertise and the needs of the appeal. A panel has all the powers and duties of the Board.

Before a hearing takes place, there are several deadlines that parties, participants, and interveners have to meet. The Board will decide on those deadlines in pre-hearing conferences, after consulting with everyone involved. The Board will confirm those deadlines in writing.

Knowing what evidence to give and what arguments to make in a hearing is a challenge! The Board’s Information Sheets “[Preparing for an Oral Hearing](#)” and “[Preparing for a Written Hearing](#)” might help you prepare.

Decision-making

The panel will decide the appeal based on the evidence and arguments provided in the hearing. The panel may also consider previous, similar decisions. You may want to review

the Board's previous decisions, searchable on its website, to prepare your arguments. Once the panel has decided the appeal, it issues a written decision.

Freedom of Information (Public Process)

Generally, appeals are open to the public. The names of parties, participants, interveners, and witnesses are generally available to the public. Any documents provided to the Board are too, unless the [*Freedom of Information and Protection of Privacy Act*](#) says they cannot be shared or the Board orders that they be held in confidence.

The Board posts its decisions on its website. It may also provide its decisions to publishers of legal information.