

Proposed Crown Response:

The Crown acknowledges that Condition 17 was not shared during the Commission's hearing process for comment and that neither Indigenous communities nor Pouce Coupé had an opportunity to comment on and share views about how this specific condition might work prior to the issuance of the Recommendation Report. Therefore, there are uncertainties around how the condition will be implemented.

The Crown acknowledges Indigenous communities' concerns relating to the specificity of Condition 17 and the implementation of the Committee. The CCC contemplated recommending the addition of prescriptive requirements to the formation, governance, and scope of the Committee; however, the Crown is of the view that prescribing these elements would be counter to the Commission's stated intention for the collaboration and "mutual agreement" regarding establishment of the Committee.

As currently set out in the Commission's Recommendation Report, Condition 17 would require Pouce Coupé to file three submissions with the CER:

- 1) At least 30 days before starting construction, an update on the status of the measures [outlined in Condition 17], incorporating any input received from interested and participating communities;
- 2) No later than 12 months after starting construction activities, a report summarizing the membership and activities of the committee (subsection (d)(i)); and
- 3) No later than 15 months after starting operations, a final report on the committee, summarizing the activities and outcomes of the committee (subsection (d)(ii)).

The Crown is of the view that it would address concerns raised if Pouce Coupé reported on the process to establish the membership and governance of the Committee, as well as the activities relating to the Offset Measures Plan, relatively early.

To this end, the CCC engaged Pouce Coupé on whether it would be willing to make commitments which would be tracked and enforced by the CER. On 4 December 2025, Pouce Coupé confirmed to the CCC in writing that it would commit to:

- Describe the actions Pouce Coupé has taken (or process used) to establish the Committee's membership and governance in the status update due 30 days prior to construction start (i.e. in the first filing); and
- summarize activities of the Committee related to Condition 39 (Offset Measures Plan) in the report that will be provided 12 months after construction start (i.e., in the second filing).

The Crown is of the view that the first commitment will provide more transparency on the establishment of Committee membership and provide the Commission with more information about Pouce Coupé's actions in this regard. The explicit commitment to include actions taken to establish governance in the status update responds to feedback that development of the Committee through mutual agreement, as required in Condition 17, would be difficult to achieve. As suggested by Indigenous communities through consultation on the Report, clear governance, such as terms of reference, organizational charts and descriptions of any subcommittees, can support the timeliness of implementation and the intended goal of the Commission in its accommodation measure.

The Crown is of the view that Pouce Coupé's second commitment provides for earlier reporting from Pouce Coupé about the Committee's work with respect to the Offset Measures Plan. Condition 39(g) explicitly requires Pouce Coupé to file an engagement summary demonstrating that Pouce Coupé engaged with the Committee (among others) on the Offset Measures Plan and incorporated the results of its engagement into its Offset Measures Plan before filing it. However, Pouce Coupé must still report to the Commission on the Offset Measures Plan within one year after starting operations. Pouce Coupé's second commitment means information on the Committee's activities relating to offsets will be provided earlier as well (12 months after starting construction activities). Pouce Coupé's second commitment would provide a clear opportunity for the Commission to have earlier oversight over these activities.

The Crown relies on the CER as a lifecycle regulator to provide oversight over the implementation of all conditions, including Condition 17. This may include compliance and enforcement actions, such as the issuance of Commission orders.

The Crown notes that Indigenous communities also have an opportunity and support to review all condition filings, as set out in Condition 7 (Pre-construction plan on support for Indigenous Peoples to review Pouce Coupé's condition filings). Condition 17 also requires Pouce Coupé to cover the operating expenses of the Committee.

Through the combination of the reporting requirements and commitments identified, the ability of the CER to take compliance and enforcement actions as part of its lifecycle oversight role, and the funding available to communities to review condition filings and to participate in Condition 17, the Crown is of the view that the Indigenous Project Committee required by Condition 17 may adequately mitigate and accommodate as intended by the Commission.

In response to requests from Indigenous communities for the CER to participate in the Committee, the Crown notes that Condition 17 specifically describes the purpose of the

Project Committee to be “a forum between Pouce Coupé and Indigenous peoples.” CER involvement in the Committee may not support the intended bilateral collaboration necessary for the parties to establish their relationship, reach mutual agreement and meet the purpose and intended goals described in the Commission’s Report and Condition 17. Should issues arise that are of concern to Indigenous communities, there are mechanisms in place to reach resolution. As noted above, the CER has additional tools to address concerns with conditions compliance. For example, Indigenous communities can comment on the filings directly to the Commission, by submitting letters directly to it. The Commission can then determine, in its view, whether compliance and enforcement action is necessary, and if so, what measure is most appropriate in the circumstances.

Additionally, if an issue arises that cannot be resolved directly with Pouce Coupé, the CER is available to help facilitate resolution of a dispute. Alternative dispute resolution (ADR) staff can help parties better understand the issues, work through disputes, and find practical solutions. ADR is collaborative, interest-based, confidential, and voluntary. ADR may be used at any time during the life of a project to help parties resolve a dispute that they are unable to resolve themselves. Further information can be found here: [CER – Alternative Dispute Resolution](#).

The Crown is of the view that the CER’s condition compliance and oversight, in combination with the commitments set out above which have been made by Pouce Coupé, are responsive to the concerns and support adequate accommodation as intended by the Commission. Specifically, further transparency around the processes used to establish the Committee, and its governance addresses concerns about selective membership, clear governance and timely establishment of the Committee. The clear commitment around earlier reporting on Committee activities related to the Offset Measures Plan responds to scope and timing concerns identified by Indigenous communities, providing better oversight over meaningful engagement in relation to the Offset Measures Plan required by Condition 39. Providing clarity to the inclusion of the Offset Measures Plan in the scope of the Committee’s work does not limit Pouce Coupé from including other matters in the scope, but responds to the need to ensure both conditions 39 and 17 can be effective accommodations.