CURRENT SITUATION:

1. THAT government develop and implement consistent and cohesive land policies that are fairly and evenly applied and uniformly enforced.

   See recommendation 2

2. THAT one of the cornerstones to these land policies is the adoption of a comprehensive set of land use plans for the entire province.

   Government did adopt a Land Use Policy in 1991 as a statement of general intent but the Policy did not include a commitment to develop land use plans. The Planning Act provides Government with very broad powers including the power to “adopt provincial land use development policies” (clause 7(1)(a). Although Government has established minimum development standards under the Planning Act for such things as subdivisions and resort developments, there cannot be said to be a “comprehensive set of land use plans (that apply) for the entire province.” In fact, as reported in the “White Paper on Governance and Land Use on Prince Edward Island” approved by Executive Council on December 2, 2008, only 10% of the Island’s land mass is covered by a municipal land use plan. The remaining 90% is subject only to the basic provincial planning regulations, with limited planning guidance. Furthermore, of the 31 municipalities with an official plan, only four have full-time planning staff. The other 27 depend on administrators, councillors, contract consultants or other individuals for their planning expertise. In summary, the current Planning Act Regulations establish minimum lot sizes, road access restrictions and some basic environmental controls, nothing more.

AGRICULTURAL PRESERVATION:

3. THAT the province recognize its agricultural land base as its most important natural resource and coordinate government policies towards the preservation of agricultural land.

   See recommendation 8

4. THAT a comprehensive set of land use plans include a central objective aimed at keeping the most productive farmlands in agricultural use.

   See recommendation 8
5. THAT, as part of this land use planning exercise, a study be undertaken to identify vacant farmland, including all land with agricultural potential that is not being so used and farmland that is now being ill-used.

See recommendation 8

6. THAT agricultural land in public ownership be subject to restrictions on its use and tenure before control through leasing or ownership is transferred to the private sector.

See recommendation 8

7. THAT the Agricultural Development Corporation, in particular, and the province, in general, adopt a land policy that avoids the fragmentation of agricultural lands.

See recommendation 8

8. THAT the Agricultural Development Corporation institute and promote a long-term “Humpty Dumpty” project (that is, of land assembly) within its own holdings and the agricultural community.

With regard to preserving the agriculture industry as it existed in 1990 and, more specifically, maintaining agricultural land in food production, the work of the Commission on the Future of Agriculture and Agri-Food on Prince Edward Island is the most recent attempt to chart a new course for the industry http://www.peiag.com/. The Commission’s interim and final reports provide an excellent overview of what has happened over the past twenty years since the Royal Commission on the Land reported. For example, the number of farms has decreased by approximately 40%, the size of the average farm has increased and the total area in agricultural production has remained relatively stable with the Island continuing to be what the Commission calls “a million acre mixed farm”. While primary agriculture as measured by farm cash receipts continues to be a significant contributor to provincial GDP, its share of GDP is declining. Of far greater concern on the issue of agricultural preservation is the fact that net farm income continues to decline and, since 2001, has been negative. This means that many farmers are living off their equity or borrowed money. Put a different way, in 1928 a farmer earned 60 cents for every dollar of revenue from the sale of farm products while in 2007, a farmer lost 10 cents on every dollar of revenue earned. The Commission’s report charts a new course for Island agriculture, setting out a new vision together with ambitious goals and specific industry targets.

With specific reference to recommendations 2 to 8 above:

• Government policies have not been aimed at keeping land in agricultural use. It would be more accurate to say that the market has determined to what use agricultural land has been put.
The Agricultural Development Corporation ceased to function in 1994. Responsibility for the management of the 550 hectares or 1,362 acres of publicly-owned agricultural land now rests with the Minister of Transportation and Public Works. In this regard, it would be fair to say that recommendations 6 and 7 have been implemented but not recommendation 8.

**RURAL VERSUS URBAN:**

9. THAT the right-to-farm principle be adopted as part of a comprehensive land use policy.

   *See recommendation 10*

10. THAT the province obtain further information on right-to-farm legislation used in other jurisdictions with a view towards implementing immunity from legal liability and injunctive relief remedies in private nuisance law suits involving noise and odor complaints for agricultural producers carrying on farming operations in conformity with permitted land use provisions.

   *The issue of managing conflict between farmers and their non-farming neighbours was considered by the Round Table on Land Use. While no “comprehensive land use policy” exists on Prince Edward Island, the Farm Practices Act does recognize the principle of right-to-farm and it does contain provisions protecting farmers from legal liability and injunctive relief where they are carrying on an operation that falls under the category of “normal farm practice” or where the practice complies with an approved “code of practice”.*

**LAND OWNERSHIP VERSUS LAND USE:**

11. THAT the quantum limits on land ownership, as contained in the *Lands Protection Act*, continue to form part of land policies.

   *The Lands Protection Act continues to impose quantum limits on land ownership at the same level as they were in 1982: 1,000 acres for an individual and 3,000 acres for a corporation.*

12. THAT the province commit itself to the active and ongoing administration and enforcement of the *Lands Protection Act*.

   *As evidenced by amendments to the original Act and by consistent and strong enforcement efforts, even when these were controversial, Government remains committed to acreage control.*
13. THAT the province initiate an immediate and thorough investigation of all persons and corporations having a landholding in excess of 750 acres to determine if there are reasonable and probable grounds to issue orders pursuant to Section 12 of the *Lands Protection Act* and, where such grounds exist, utilize the enforcement procedures contained in the legislation.

Although it has never been invoked, section 10 of the Act currently permits a request for disclosure by the Minister where a person is believed to hold more than 750 acres or where a corporation is believed to hold more than 2,250 acres.

14. THAT the *Lands Protection Act* be amended to ensure that the interests of both the lessee and the lessor fall within the definition of “landholding”.

In accordance with clause 1(3)(b) of the Act, land under lease to another person or corporation is deemed to be in the possession of both the lessor and lessee.

15. THAT the *Lands Protection Act* be amended to require that all leases and land management agreements must be written and registered to be valid, without limiting the term to any prescribed length of time.

There is no requirement to register leases under the provisions of the *Lands Protection Act*. Section 18 was repealed in 1995. While section 5.3 requires the filing of a disclosure statement regarding leases with the Island Regulatory and Appeals Commission (IRAC), leases entered into by resident persons with an aggregate land holding of less than 750 acres are not disclosed.

In accordance with section 5 of the Land Identification Regulations agreements for non-development use must be entered into between the purchaser and the Minister and identified as such on the deed when it is registered in the Registry of Deeds. These agreements are no longer entered into between the purchaser and the Minister as set out in clause 5(1)(a) of the Land Identification Regulations; rather, identification for non-development use more commonly proceeds by way of clause 5(1)(b) of the Land Identification Regulations. The identification for non-development condition is imposed by Executive Council pursuant to clause 9(1)(b) of the Lands Protection Act.

16. THAT the *Lands Protection Act* be amended to increase fines so that the current prescribed maximum fines are converted to minimum fines.

In 1995 the Lands Protection Act was amended to increase the maximum penalties for persons, including corporate officers, to a fine of up to $250,000 and imprisonment for up to 2 years or to both fine and imprisonment. Corporate liability is to a fine of up to $250,000. There are no prescribed minimum penalties. To date, no one has been fined under the Act.

17. THAT Section 14 of the *Lands Protection Act* be amended to include employees and
mortgagors.

There is no prohibition against an employee per se holding lands if a corporate employer also holds lands, but if the employee holds the lands for the employer, then both are caught by subclause 1.(1)(1.1)(4) of the Act.

ROADS:

18. THAT land use policies recognize the importance of roads in effective land use planning.

As with so many of the recommendations in this report, this one and others in this series hinge on the adoption of recommendations 1 and 2 which call for a province-wide land use plan. No such plan exists.

19. THAT the province develop a transportation plan which can be utilized as part of a comprehensive land use plan to better plan future development activities both on a provincial basis and in conjunction with municipalities, other interested groups and the general public.

See recommendation 18

20. THAT land use policies recognize the arterial highway system as a vital element in maintaining the social and economic fabric of the province and maintain that system to provide the highest level of mobility, dependability, economy, comfort and beauty available.

In this chapter of its report, the Royal Commission highlighted the need to strike the right balance between traffic movement and land access as these two sometimes competing objectives apply to the highway system and, in particular, the arterial highways. Many of the Commission’s recommendations are meant to protect the traffic movement objective by further restricting access and improving the safety and efficiency of all highways.

A highway classification system existed in 1990 that allowed the Lieutenant Governor in Council to designate any highway as Controlled Access as well as to classify all other roads as Arterial, Collector, Local, Seasonal, or non-essential. Although the Roads Act enabled the classification of all public roads in 1990, it was not until 1995 when the Highway Access Regulations (HAR) were introduced that all public roads were actually classified. Since the introduction of the HAR in 1995 there have been no less than 50 amendments to the Regulations. Some of the amendments were required to correct highway classification errors or omissions. Others involved changes that either strengthened or weakened the ability of the Department to control the creation, or change of use, of land access to the highway network.

Statistics maintained at ten permanent work stations by the Department of Transportation and Public Works show that overall traffic volume on Island highways has increased by
approximately 42% since the 1990 report, and this increase would have a bearing on the efficiency of the network.

In summary, it is difficult to say to what degree the situation described in the 1990 Report has changed for better or worse. On the one hand, important physical improvements to the highway system have had a positive impact on efficiency and safety, and these may outweigh any negative impacts caused by the approval of new uses, or changes of use, on properties adjacent to the highways. On the other hand, it stands to reason that increasing the number of access points to a highway will increase the potential for vehicular conflict, simply because this leads to an increase in turning movements.

21. THAT additional access to the arterial highway system be eliminated.

This recommendation was not implemented. At the time of the Royal Commission on the Land Report in 1990 development along the arterial highway network was controlled by the Planning Act Regulations. These regulations did not allow for the creation of new accesses (driveways) on arterial highways except to serve an existing parcel of land (in existence prior to February 3, 1979), a farm (parcel of land greater than 10 acres in size), or to serve a new lot that in the opinion of the Minister constituted infilling on one side of the highway within a built-up community. The Regulations also allowed for the creation of a new lot adjacent to an arterial highway that was served by an existing farm home access driveway, and for a developer to create a subdivision of five lots or more, where these lots were served by a public road that connected to the arterial highway. As well, the regulations allowed that the use of an existing access could be intensified if approved by the Minister.

Since 1995 highway access has been controlled by the Roads Act Highway Access Regulations. It would be interesting to compare data on level of service of the arterial highway system in 1990 and 2009 to see if it has gotten better or worse over that period of time but, unfortunately, none are available.

22. THAT existing access to the arterial highway be eliminated where an alternative access to the highway system is available.

This recommendation has been partially implemented (section 21 of the Highway Access Regulations) in that the regulation states that the Minister “…may determine that no entrance way permit shall be issued to allow access to the arterial highway”. However, the possibility exists to allow issuance of an entrance way permit to an arterial highway even where an alternative access is available to the landowner.

23. THAT existing access to the arterial highway be stringently controlled to prevent a change of use that would increase the use of the adjacent property.

This recommendation was not implemented. In fact, the Highway Access Regulations
(HAR) have been amended since 1990 to add several new allowances: the creation of a new entrance way, the change of use of an existing entrance way, or the intensification of the use of the adjacent property. For example, subsection 20 (1) of the HAR allows:

- A commercial operation to expand to 100 square meters or by 100% of the existing floor space;
- Allow the establishment of a new industrial or commercial operation if deemed by the Lieutenant Governor in Council to be in the best interest of the Province;
- Allow the establishment of a new institutional use on an arterial highway that lies west of the intersection of Rte 2 and Rte 124 in Prince County or east of the intersections of Rte 1 and Rte 3 or Rte 2 and Rte 6 in Queens County if deemed by the Lieutenant Governor in Council to be in the best interest of the Province;
- Nineteen arterial highway “infilling” areas were created within built up and lower speed areas ,that essentially allow any development to be approved regardless of the number of lanes or traffic volumes; and
- An Arterial Class II Highway classification was created that allows for more uses than would be approved under the arterial highway classification; this classification applies presently to one section of the TCH from Orwell (Rte 210) to the Wood Islands Ferry terminal.

It should be noted that subsection 4.(b) of the Regulations does restrict some development on all highways (arterial or otherwise) with more than two-lanes, except those designated as arterial infill.

24. THAT the collector highway system be studied to determine its existing role and future potential in the transportation system.

There is no evidence that a study was undertaken.

25. THAT the local highway system have safe access standards for all uses and higher standards for more intensive uses with appropriate legislative changes to prevent abuses that impinge upon safety standards.

In 1990 the Planning Act Regulations contained “minimum” and “desirable” (10 - 40 meters longer) sight distance requirements for the three basic road classifications (arterial, collector and local). The current Highway Access Regulations (HAR) include the same “minimum” sight distance requirements for arterials, collectors and local Class I and III highways as were in effect in 1990, and these have been extended to apply to seasonal highways, subdivision streets and other classifications within municipalities. However, the “desirable” distances have been removed from the HAR. The” desirable” sight distance requirements in the Planning Act Regulations, which ranged from 10 to 40 meters more than the “minimum”, would have provided an added measure of safety.

26. THAT land use policies restrict development on unpaved, seasonal or non-essential roads where the change of use would result in increased public costs that outweigh, in the long-
term, the public benefit of the development.

This recommendation was not implemented. In 1990 the Planning Act Regulations allowed for development on unpaved roads, but an existing lot that was to be subdivided needed to have frontage of at least 200 feet which would allow for the residual and new lot to have at least 100 feet of frontage each. In order to sever two or more lots, the existing frontage needed to be at least 20 chains (1320 feet) and then only one lot could be severed for each 10 chain increment. This was similar to the requirements on a collector highway. There was also a restriction that subdivisions on unpaved roads, other than single lots, would not be approved unless they were within 500 feet of a paved road.

Since the introduction of the current Highway Access Regulations the requirements have been eased on unpaved roads such that the only highway related restriction on unpaved local Class III highways is that the access must meet the “Safe Stopping Sight” requirements. Development on seasonal unpaved roads is also allowed and again the requirement is that the access meets safe stopping sight distance. An entrance way permit (EWP) is issued by the Department of Transportation and Public Works and registered against the property deed stating that the road is only maintained seasonally, from May 1st to October 31st. This has not deterred people from building year round homes on seasonal roads, and there have been a number of requests by the public to open some non-essential roads for development. In response, the Department has put in place a “Development and Maintenance Agreement for Non-Essential Roads” that allows adjacent landowners to develop their property, but at no risk or cost to the Province.

27. THAT the scenic heritage road program be re-named to “rustic roads” to avoid confusion with the scenic drive program.

This recommendation was not implemented. The Roads Act Highway Access Regulations provide for the designation of roads as “Scenic Heritage Roads”, and these are listed in Schedule E.

28. THAT, to preserve our traditional heritage, many more such roads be designated, particularly in Prince and Kings counties.

This recommendation was not implemented. The 1990 Royal Commission report makes reference to a study prepared for the Island Nature Trust in 1988 and the subsequent designation of sixteen roads under the Planning Act: three in Prince County, nine in Queens County and four in Kings County, representing a total of 50 to 60 kilometres. Scenic Heritage Roads are now listed under Schedule E of the Highway Access Regulations which lists two roads in Prince County, seven in Queens and three in Kings, representing a total of 32.8 kilometres. The Roads were formerly designated under the Planning Act Highway Access Regulations. When responsibility was transferred to the Roads Act in 2007 a review showed that the number of roads meeting the criteria had declined.
29. THAT the views of local residents be sought and respected in choosing such roads, and that some means be devised to involve local residents in the clean-up of such roads similar to the existing roadside clean-up program.

   *This recommendation was implemented. There is a process whereby the views of local residents are sought and considered before a recommendation is presented to the Minister.*

30. THAT these roads be inspected and maintained in accordance with the objectives of the program.

   *Part IX of the Highway Access Regulations makes it illegal to cut or remove trees, shrubbery or plant life within the right-of-way, or to alter the landscape of a scenic heritage road without the permission of the Minister (subsection 38(3)).*

31. THAT the start and finish points on scenic drives be better delineated.

   *Since the Royal Commission reported in 1990, the scenic drives have been reconfigured and renamed.*

32. THAT portions of the Blue Heron Drive, now routed along Route 6, be re-routed to bypass North Shore traffic congestion.

   *See recommendation 31*

33. THAT land use policies take scenic drives into consideration by subjecting adjacent areas with careful development controls to curtail extensive ribbon development and cottage subdivisions.

   *This recommendation was not implemented.*

COMMUNITIES:

34. THAT a comprehensive land use plan for the province include municipal reform.

   *Although the Municipalities Act has been reviewed, it cannot be said that there has been an attempt to bring about municipal reform, and no significant changes have been made to the Municipalities Act or the Planning Act since this recommendation was made.*

35. THAT community improvement committees be abolished with appropriate amendments to the Municipalities Act.

   *This recommendation was implemented. The Municipalities Act defines “municipality”*
as either a “town” or a “community” and the term “community” includes villages and what were known formerly as community improvement committees. In 1990 there were 7 towns, 30 villages and 49 community improvement committees. In 2009, Schedule 2 of the Act lists 6 towns, 21 villages and 41 community improvement committees. A number of the villages and community improvement committees listed in 1990 were absorbed into the City of Charlottetown or the City of Summerside or the new Towns of Stratford and Cornwall when these were created in 1995.

36. THAT the boundaries of incorporated areas be reviewed for the annexation or amalgamation of adjacent land in order to encompass growth settlements; to take into account areas where land use plans have been effectively developed by community improvement committees; to plan for future municipal expansionary needs and effective infrastructure development or other long-term requirements; and to rationalize boundaries with natural and non-natural divisions in each area.

Amalgamations took place in 1995 which resulted in an expansion of the Cities of Summerside and Charlottetown and the creation of the Towns of Stratford and Cornwall. These changes are outlined in the City of Summerside Act and the Charlottetown Area Municipalities Act. No other significant changes have taken place to municipal boundaries since 1990.

Annexation, which involves taking currently unincorporated areas into a municipality, requires notification of the potentially affected landowners, a council resolution, a public hearing by IRAC, and a set of criteria to be considered by Cabinet. Amalgamations or mutual boundary adjustments, where the areas in question involved municipalities, require a resolution in favour by both parties, which can be difficult to get from the smaller municipality, but does not require a public hearing.

37. THAT the province review the services it provides unincorporated areas in its role as the municipality for these areas and, in conjunction with such a review, examine the feasibility of revising its property tax structure.

Program reviews have taken place but it is not clear that they were in response to this recommendation or that they led to significant changes.

38. THAT the province, in conjunction with the municipalities, explore ways to provide more cost-effective servicing and enhanced capacity for both the municipalities and their personnel.

Program reviews have taken place but it is not clear that they were in response to this recommendation or that they led to significant changes.

CHARLOTTETOWN:
39. THAT the urban area for the capital of the province be placed under the jurisdiction of a single municipality by appropriate legislative amendments enacted in 1992 to enlarge the boundaries of the City of Charlottetown to include as a minimum, the suburbs of Sherwood, Parkdale, East Royalty, Hillsborough Village and West Royalty as well as any incorporated or unincorporated areas necessary to ensure the new capital area includes the urban core bounded by the York and Hillsborough Rivers and that, in the interim, the province assist the six municipal units in negotiating the details of whatever transitional provisions are necessary to achieve this unification.

This recommendation was implemented. An amalgamation took place in 1995 which resulted in an expansion of the City of Charlottetown. The changes are outlined in the Charlottetown Area Municipalities Act which lists the municipalities absorbed into the new City of Charlottetown: Town of Parkdale and Communities of Sherwood, West Royalty, East Royalty, Hillsborough Park and Winsloe.

40. THAT the enlarged capital jurisdiction have a land use plan with sufficient visionary outlook to retain ample open space, greenery zones and agricultural use areas for the enjoyment of future generations; that it contain a greater enhancement of the heritage component, that it provide for future urban growth in all sectors of land use including provision for a heavy industry (rough yard) industrial park, and that it provide for future urban transportation needs, including pedestrian-oriented components and an examination of public transportation needs.

This recommendation was implemented.

41. THAT the areas around the enlarged capital city be designated as a buffer zone extending at least 5 miles and preferably 10 miles from the nearest urban boundary and that there be stringent growth management controls imposed in this buffer area, for a ten-year period including a total moratorium on all major developments within the buffer zone; a moratorium on all residential housing starts except on serviced lots in municipally-incorporated areas with the exceptions of replacement units for housing that has been destroyed by fire or other disasters, providing such replacement has been commenced within a one-year period; a prescribed limit to the number of housing starts that may be undertaken in each year in municipally-incorporated areas in the buffer zone; a limit on the expansion permitted existing developments and new small-scale development in the buffer zone, with the exception of additional structures for agricultural operations; and stringent highway access limitations for all major routes into the urban area, include Routes 1 (Trans Canada Highway), 2 (Hunter River to Charlottetown and Mount Stewart to Charlottetown) and 15 (Brackley Point Road), accompanied by access modifications for presently existing accesses to these highways.

While the boundaries of the Special Planning Areas created at the time of the 1995 amalgamation may not conform precisely to the area described in the above recommendation, it would be fair to say that the intent of the recommendation has been respected. Three Special Planning Areas were designated in the areas adjacent to and
extending approximately three miles outward from the boundaries of the Towns of Stratford and Cornwall and the City of Charlottetown. These Special Planning Areas are provided for under the Planning Act (section 8.1) and are further described in the Planning Act Regulations (section 63 and appendix A: maps 8, 9 and 10). The stated objectives of the Special Planning Area designation with respect to controlling development are as described in section 63 of the Regulations:

(a) to minimize the extent to which unserviced residential, commercial and industrial development may occur;
(b) to sustain the rural community by limiting future urban or suburban residential development and non-resource commercial and industrial development in order to minimize the loss of primary industry lands to non-resource land uses; and
(c) to minimize the potential for conflicts between resource uses and urban residential, commercial and industrial uses.

The original “temporary” Special Planning Area Regulations were modified before being made final in 1998 by adding provisions for lots for children (assuming a farmer owner) in subsection 63.(5) and later to allow one lot for each of the uses listed in subsection 63.(4) rather than just one lot for one use.

CAVENDISH:

42. THAT the Municipalities Act be amended to repeal the concept of “resort area” or “resort municipality”.

This recommendation was not implemented. The Resort Municipality designation continues to be an integral part of the Municipalities Act (section 8) and it applies in the case of the Stanley Bridge-Hope River-Bayview-Cavendish-North Rustico area which was incorporated as a Resort Municipality in 1990. The designation has not been applied to any other area. The objections of the Royal Commission are laid out quite clearly in its report: first, that it adds another category of municipality to an already confusing array and, second, that it confers the status of voter and decision maker to temporary residents. A third reason for the Royal Commission’s response is linked to the fact that Government passed the enabling legislation before the Commission tabled its final report. In fact, today, the Resort Municipality operates much like any other rural municipality and provides a similar range of services, the only exception being that not all of its residents are permanent.

There continue to be concerns within the Resort Municipality regarding the potential for seasonal residents and business owners to gain control of Council. To illustrate, Council consists of seven members including the Chair; only two members have to be permanent residents, defined as six months plus a day (subsection 15(1.1)). It is conceivable therefore
that Council could fall under the control of non-residents and individuals whose only
interest is a business they operate for two months a year. The issue has been raised with
Government but has not been resolved.

43. THAT the province determine its policies for the tourism industry in relation to land use
issues.

There is no evidence that the province’s tourism policy is linked to land use issues.

44. THAT future growth in Cavendish be controlled in the context of such a policy.

The Resort Municipality has had an official plan since it was incorporated in 1990 and
the local tourism group actually began work on the first plan in 1988. It was developed
in much the same manner as other municipal plans, was approved by Council, has been
updated every five years and is submitted to the Minister responsible.

45. THAT until such time as the province has determined its policies for tourism in relation to
land use issues and until such time as the water and waste water management problems in
Cavendish have been resolved, the province place a moratorium on seasonal and/or tourism-
related growth in Cavendish.

The Resort Municipality commissioned its sewage treatment facility in 1993. Since the
Resort Municipality was incorporated in 1990 and its official plan approved by the
Minister of the day, there has not been any moratorium on property development.

SHOPPING CENTRES:

46. THAT a comprehensive land use plan continue to include provisions regulating land use in
relation to major retail development and that the sunset provision contained in Section 43 of
the Planning Act must be repealed.

Part VII (sections 40 - 43) of the Planning Act was repealed in 1991.

47. THAT the regulatory controls relating to major retail development be revised so that major
retail development projects are restricted to incorporated municipalities with official plans
that contain provision for major retail development.

There is no evidence that this recommendation was implemented. As a matter of fact,
although most major retail development projects have occurred in incorporated
municipalities, there is at least one example where retail development was allowed to take
place outside the boundaries of neighbouring incorporated municipalities, that being the
case of Bloomfield Corner on Highway 2.
48. THAT the province accept the responsibility for approval of all major retail developments. 

Responsibility for approving major retail developments rests with the municipality where the municipality has an official plan. Where this is not the case, the province has responsibility.

49. THAT approval from the municipality where the development is to be located be a prerequisite to approval by the province.

See recommendation 48

50. THAT an impartial impact statement be prepared for the province at the developer’s expense.

See recommendation 48

51. THAT the essential components of an impact statement be included in the legislation and mandate a review of land use impacts and public costs arising from the development.

See recommendation 48

52. THAT the required elements of a development agreement be included in the legislation.

See recommendation 48

53. THAT any such agreement be a tri-party agreement between province, municipality and developer.

See recommendation 48

54. THAT the developer be required to bear the indirect public costs arising from the impact of the development.

See recommendation 48

55. THAT landscape/design standards be among the components of any development agreement.

See recommendation 48

56. THAT the appeal procedures in relation to major retail development and other major developments be synchronized.

See recommendation 48

57. THAT the definition of major retail development be revised to prevent evasion of the
regulatory controls.

*See recommendation 48*

58. THAT the legislation contain strengthened mechanisms to place and enforce terms and conditions on development, including the explicit power to issue demolition orders where necessary.

*See recommendation 48*

**SUBDIVISIONS:**

59. THAT the province examine the public costs of residential development at different levels of housing density.

*This recommendation was not implemented.*

60. THAT, pending the completion of such a study, there be no approvals granted for any major subdivisions outside the boundaries of towns and villages unless the property is first annexed to the adjacent municipality.

*This recommendation was not implemented.*

61. THAT the province study the economic impact of recreational residences in relation to the tourism industry and the public costs associated with this form of housing.

*This recommendation was not implemented.*

62. THAT, pending the results of such a study, the province approve no major summer cottage subdivisions unless the development is accompanied by an agreement that calls for quality development, including the installation of centralized sewer and water services, underground utilities, cables for telephone and electricity, design standards for housing, quality roads, and adequate security for performance.

*While no study was done, changes made to the Subdivision and Development Regulations made under the Planning Act have tightened up the road requirements, but not servicing or design standards. Subdivision agreements were abandoned several years ago by the Department of Communities, Cultural Affairs and Labour because they were deemed too cumbersome for Planning and Inspection Services staff to manage properly.*

63. THAT the province review all summer cottage subdivisions and institute a program of sunset provisions that would cause approvals on unmarketed subdivisions to lapse after a reasonable period of time.
This recommendation was not implemented as it was deemed to be illegal.

NON-RESIDENT OWNERSHIP:

64. THAT the Lieutenant-Governor-in-Council alter its current policy with respect to the perfunctory exercise of its discretion towards excess land purchases by non-residents pursuant to the Lands Protection Act to one of granting permission only in pre-determined or most exceptional circumstances.

Applications to purchase by non-residents are seldom denied, but land identification agreements prohibiting development are routinely required. IRAC estimates that 1–4 denials would occur per year out of approximately 100 applications. Denials occur primarily where the applications involve large acreages and where a prospective purchaser who has no intention of becoming a resident is involved, and also in situations where the property involved is in an area which already has a high density of non-resident owners. Other reasons for denial may include: failure to comply with advertising guidelines and proposed land uses that are incompatible with the surrounding land uses.

65. THAT the Lands Protection Act be amended to require the Lieutenant-Governor-in-Council to table annually in the Legislative Assembly the amount of land owned in the province by non-residents, the amount of shore frontage owned by non-residents, the transactions to which it has given consent pursuant to the Lands Protection Act and the reason(s) why consent was given in each instance.

This recommendation was implemented. The Commission reports to the Legislative Assembly through its Annual Report which includes the following information: the amount of land owned in the province by non-residents, the amount of shore frontage owned by non-residents and a general summary of the Commission’s recommendations and Executive Council disposition of these applications.

The only requirement for tabling in the Legislature appears in subsection 17(2) which pertains to exemptions granted by the Lieutenant-Governor-in-Council pursuant to the Lands Protection Act Exemption Regulations. Subsection 17(2) requires the Minister to table the reasons for any landholdings being exempted from the general application of the Act, although conditions may be attached to the exemption.

66. THAT the Lands Protection Act be amended so that the Lieutenant-Governor-in-Council has the power to issue a divestment order in respect of any aggregate landholdings in excess of five acres or 165 feet of shore frontage where the property was acquired during a short period of residency but the owner can no longer meet the residency criteria in the Act.

Section 5.2 provides that a resident who acquires more than 5 acres and more than 165 feet of shore frontage may continue to own the property without a permit even if he/she
ceases to be a resident. Subsection 12(2) permits divestment orders for non-compliance with Ministerial orders, but there does not appear to be any authority for the Minister to issue an order where residency ceases after a short term of residency.

67. THAT the province adopt a land policy in respect to the leasing or sale of Crown lands to non-residents that would permit such transactions only when they are in the public interest.

There appears to be no written Government policy in relation to sale or lease of Crown lands to non-residents. It would be IRAC’s function to process any such application.

68. THAT the Land Use Commission commence the active monitoring and enforcement of covenants included in land identification agreements.

IRAC does not actively monitor or enforce covenants included in land identification agreements. However, when an application for a non-compliant use is filed with the Department of Communities, Cultural Affairs and Labour, employees consult a database of identified properties and contact the Commission for clarification when required.

69. THAT the Department of Finance proceed with implementing a Geographic Information System with a data base that would enable it to effectively monitor and analyze patterns of land ownership and land use, together with other variables.

This recommendation was implemented. Provincial Treasury is responsible for the Geo-link service. IRAC uses a combination of Geo-link and MapInfo GIS layers to determine all the relevant factors required by the Commission in its assessment of an application.

70. THAT as soon as the GIS is available, the province undertake a study on non-resident land ownership in conjunction with recommended studies on vacant farmland and seasonal residences, taking into account soil, water and other conservation issues and data.

This recommendation was not implemented; see recommendation 69

71. THAT, upon the completion of the GIS-based studies of non-resident ownership, the province determine whether it is in the public interest to restrict further or otherwise alter the existing provisions of the Lands Protection Act in relation to non-resident ownership of land in the province.

There do not appear to have been any additional restrictions placed on ownership of land by non-residents since the above recommendation was made.

OFF-SHORE ISLANDS:

72. THAT a comprehensive land use plan include a firm, consistent policy with respect to the
off-shore islands.

See recommendation 74

73. THAT this policy prohibit any further development on any of the off-shore islands.

See recommendation 74

74. THAT this policy include protection for wildlife and other natural features of the islands.

There is a long history of interest in and opposition to the development of off-shore islands beginning with the 1977 “Offshore Islands Study” commissioned by the province. Government’s first response to the issue of protecting off-shore islands was section 64 of the Subdivision and Development Regulations of the Planning Act implemented by order-in-council in 1989. Since that date, there have been no substantive changes to the list of islands or the restrictions on development. Essentially, a property owner is allowed only to construct a summer cottage. What has changed significantly is the degree of protection under the law and the title to property on the off-shore islands. To illustrate, the Island Nature Trust has acquired 69% of Bunbury/Courtin Island and is negotiating for another parcel that would bring its holdings to 85%; it owns 17% of St. Peters Island and 100% of Bird, Little Courtin, Herring and Gordon’s Islands. The province now owns all of Boughton Island and Cherry Island and is in the process of designating these under the Natural Areas Protection Act. The Nature Conservancy of Canada has also been quite active and successful in acquiring property on the offshore islands, including approximately 80 hectares or 200 acres on Boughton Island which it has transferred to the province.

COASTAL ZONE:

75. THAT the province endorse a coastal zone policy applicable to the whole province.

Government introduced a new Coastal Development Policy in 1992 (EC158-92) and made a series of related amendments to the Planning Act Regulations. In 2000, the subdivision and development provisions applying to coastal areas were incorporated into the Subdivision and Development Regulations (section 16). The most significant feature of the Regulation is the requirement to set aside a 60 foot (18.3 metre) buffer where a subdivision is adjacent to a beach or sand dune. Opinions vary on whether the current restrictions on subdivision development comply with the stated objectives of the 1992 Coastal Development Policy.

76. THAT urban municipalities with well-developed areas within the coastal zone should conform with the rules developed for the coastal zone for the province as a whole.
Municipalities are authorized to develop their own land use plans and the rules they adopt may be more or less restrictive than those that apply to unincorporated areas under provincial legislation. They must however comply with any setbacks from watercourses and sand dunes under the Environmental Protection Act.

77. THAT land use planning include water resources such as bays, rivers and streams.

Again, in the absence of a comprehensive land use plan for the province the only available tools, setbacks primarily, are found in provincial legislation or municipal land use plans. Since this recommendation was made, Government has strengthened legislation protecting watercourse buffer zones under the Environmental Protection Act.

78. THAT greenbelts for areas adjacent to rivers and streams be included in comprehensive land use plans.

This recommendation was not implemented.

79. THAT the province encourage community groups, including youth groups, to adopt a stream in their local area.

There are several examples of where Government actively encouraged and supported such volunteer groups through programs such as the Watershed Management Fund, the Greening Spaces Program, the Environment Futures Program and the Wildlife Conservation Fund. The federal government makes funding available through various programs as well.

80. THAT the province rigorously enforce measures designed to protect beaches and sand dunes, particularly those aimed at preventing vehicular damage.

The Environmental Protection Act (section 22) prohibits the operation of a motor vehicle on a beach or sand dune in all instances except activities related to the legal harvesting of a fishery resource or the legal removal of beach material. This provision dates from 1991.

81. THAT the province utilize the educational aspects of its beaches and sand dunes through an interpretative centre.

This recommendation was not implemented.

82. THAT the province ensure the long-term preservation of the Greenwich area in its natural state under public ownership.

Significant progress was made in this regard with the creation of the Greenwich sector of Prince Edward Island National Park and the designation of a significant tract of land
within the Greenwich Special Planning Area.

83. THAT comprehensive land use plans include areas for natural preservation.

This recommendation hinges on the adoption of a comprehensive land use plan for the province. It was not implemented although progress has been made on designating natural areas (see analysis of recommendation 81 of the Round Table Report).

84. THAT the province continue to encourage and support volunteer groups whose aims and objectives assist in preserving and enhancing natural areas.

See recommendation 79

PLANNING:

85. THAT the province develop a more pro-active, creative stance towards land use planning.

While there may have been efforts in this regard during the period following release of the report, recent efforts by Government have been very low key and, at best, reactive.

86. THAT public participation, including widespread use of the local media, be a central feature of land use planning.

There has been little improvement in the area of public disclosure and participation in land use planning, except in the case of those municipalities that have official plans. In the case of areas of the province not covered by official plans, residents have been generally critical of the development approval process adopted by Government. For example, there is no requirement for Government to disclose any information about development applications. Section 11 of the Subdivision and Development Regulations allows the Minister to do so but the current policy of the Department of Communities, Cultural Affairs and Labour is not proactive in this regard.

In practice, this means that neighbours and area residents are more likely to find out about new developments after approval has been granted. The Department has expressed its intention to improve communications with the public on developments in unincorporated areas and is working with municipalities that have official plans to develop an on-line web-based system. Current practice would appear to be contrary to the Freedom of Information and Protection of Privacy Act which states that once an application is properly made it is public information.

87. THAT the province, particularly the Department of Community and Cultural Affairs, adopt a more realistic approach to public awareness of land use planning, including the preparation of pamphlets and other materials for user groups, the use of computers to illustrate alternative
planning mechanisms, a regularized program of public education through conferences, community schools and other forums and periodic displays on land use planning concepts at fairs, exhibits and trade shows.

See recommendation 85

88. THAT legislation, regulations and other written materials associated with land use planning be prepared, as much as possible, in simple terms that can be readily understood.

There has been some progress of late as evidenced by more clearly worded regulations.

89. THAT the province undertake greater inter-departmental coordination in respect to the development, administration and application of policies and standards relating to land use.

According to Government officials, interdepartmental collaboration has declined in recent years. An example of this is the abolition of the Land Use Coordinating Committee and its replacement by a body that has a very limited mandate (see analysis of recommendation 85 of the Round Table Report) and which reports to the Minister of Transportation and Public Works.

90. THAT comprehensive land use plans for the province include a municipal planning exercise such that those municipalities which now have official plans commence a planning exercise. In all instances, this municipal planning must be accompanied by the boundary rationalization and/or annexation/amalgamation of adjacent areas (or community improvement committees).

This recommendation has been partially implemented in that municipalities with official plans and bylaws do review them regularly. However, annexation and amalgamation, where it has occurred in the past, has not always come about as a result of a “municipal planning exercise”.

91. THAT the province establish a realistic target date for the attainment of such a goal by all municipalities, with the proviso that municipalities which do not have official plans in place at that time endanger their eligibility for provincial grants pending the adoption (or revision) of official plans.

This recommendation was not implemented.

STRUCTURES:

92. THAT the Land Use Commission retain its present role as an appellate body.

In 1991 the Island Regulatory and Appeals Commission Act was passed, whereby IRAC
replaced the Land Use Commission as the administrative tribunal responsible, among other things, for determining many land use and land ownership issues including those involving non-residents and corporations. That latter function was assumed by the Lieutenant-Governor-in-Council by an amendment to the Lands Protection Act in 1992. Under the Lands Protection Act, IRAC now acts in an advisory capacity to the Lieutenant-Governor-in-Council.

By virtue of Section 5 of the Island Regulatory and Appeals Commission Act, IRAC has the authority to hear appeals on numerous matters. In relation to land use and disposing of applications respecting acquisition of land by non-residents and corporations, by subsection 5(b), IRAC has authority “(b) to hear and decide matters...where so required by any Act.” IRAC also has the authority under subsection 5(d) “to perform such other functions as may be conferred on the Commission under any enactment.”

Under section 28 of the Planning Act, appeals from decisions of municipal councils or the Minister in relation to the administration of regulations or bylaws made pursuant to the Planning Act may be heard by IRAC except in the circumstances set out in subsection 28(4) of the Act.

IRAC also hears appeals under the Environmental Protection Act, section 29.1 as of November 2008.

Under the Unsightly Property Act, IRAC under section 7 hears appeals from clean-up orders of inspectors. By section 10, IRAC may confirm, rescind or vary an order.

IRAC is also authorized, under section 5 of the Heritage Places Protection Act, to hear appeals from a decision by the Minister to designate a property as a heritage property. This rarely, if ever, happens.

93. THAT this role be extended to allow the Land Use Commission to operate as an appellate body from land use decisions made by all municipalities in the province.

Subsection 28(1) of the Planning Act authorizes appeals to IRAC from a decision of a council on planning matters. Under subsections 1(b) and (f) of the Planning Act “council” includes all incorporated municipalities including Charlottetown, Summerside, Stratford and Cornwall. The limitations set out in subsection 28(4) of the Act apply, i.e., there is no appeal to IRAC from final approval of a subdivision if the grounds of appeal could have been heard and determined at the preliminary approval stage of the subdivision application.

94. THAT any and all legislation and policies aimed to excluding the Land Use Commission from adjudicating on land use issues - including environment issues - be repealed.

Under subsection 29.1(1) of the Environmental Protection Act, IRAC has limited
authority to hear appeals arising from environmental protection orders issued by the Minister of Environment, Energy and Forestry.

95. THAT future appointments to the Land Use Commission endeavour to provide a broader representation of socio-economic interests, including persons with previous experience or interest in municipal matters.

The current IRAC board includes the former chair of the West Royalty Council, a Co-op Manager, a retired airman, an employee in the private sector, a retired RCMP officer, a lawyer, a businessman, and a former broadcaster and bureaucrat. The Chair does not participate in the appointment of other board members. The criteria for appointment of part time commissioners are spelled out in clause 3(1)(d) of the Island Regulatory and Appeals Commission Act.

96. THAT the Land Use Commission be given the power to impose conditions on its approvals and the means to ensure conditions are met.

Executive Council imposes conditions on its approvals pursuant to the Lands Protection Act. IRAC attempts to ensure compliance with the conditions where a breach of the condition has been brought to the Commission’s attention.

97. THAT the Land Use Commission be given power to suspend a building permit until appeals have been exhausted.

This recommendation was not implemented. IRAC does not have authority under the Planning Act to suspend a building permit pending an appeal and officials of IRAC are not aware of any authority derived elsewhere.

98. THAT the Land Use Commission be given the power to issue demolition orders.

This recommendation was not implemented. IRAC does not appear to have the authority to issue demolition orders in cases where construction has gone ahead without a valid permit. The Minister issues building permits pursuant to section 31 of the Planning Act Subdivision and Development Regulations. Municipalities may also issue building permits pursuant to their respective land use and development bylaws. Under section 24 of the Planning Act the “appropriate authority” may enforce regulations or bylaws made under the Act by application to the Supreme Court for a declaration, injunction or order for compliance. The Minister or municipal council, and not IRAC, under the current legislation would appear to be the “appropriate authority.”

99. THAT the Agricultural Development Corporation be given the resources needed to implement responsible land stewardship requirements; to resume its role as a true land banking agency; and to exercise its mandate on “rural” development.
The Agricultural Development Agency was absorbed into the PEI Lending Authority effective April 1, 1992. (The Agricultural Development Corporation Act was repealed effective June 1 1994.) The Province had provided assistance to farmers through a “Lease to Vendor” program whereby land was transferred to the province and leased back to farmers who could not otherwise meet their financial obligations. If a farmer recovered sufficiently to be able to finance a repurchase of this property the province conveyed it back to him. If the farmer defaulted on his rent, the province could evict him and have title to the land. What the Lending Agency found was that some of the land it was acquiring in this fashion was “farmed out” to the point that it had little value. Government therefore discontinued leasing. Five year leases entered into as of May 1, 1995 were not renewed for a further term. Leases for 5 years entered into on earlier dates, e.g., February 1995, were permitted to be renewed on their expiry for a further 5 years, in other words, with a final expiry date of February 2005. Land which came into the ownership of government in this manner was sold off to others.

The Department of Transportation and Public Works manages agricultural land owned by the province and leases the 551 hectares or 1,362 acres under leasing arrangements with farmers. In summary, recommendations 99-102 appear basically to have been ignored.

100. THAT the Agricultural Development Corporation commence a land management program for all of its properties.

See recommendation 99

101. THAT the Agricultural Development Corporation establish itself as a role model for proper land management.

See recommendation 99

102. THAT the Agricultural Development Corporation impose appropriate conditions on the sale and rental of its properties to encourage proper land management and preclude both land speculation and fragmentation, including conservation covenants, non-development measures, the acquisition of the right of first refusal to the Crown on any subsequent resale by a purchaser and/or prohibitions against further subdivision by purchasers.

See recommendation 99

LANDSCAPE:

103. THAT the landscape be of paramount consideration in government activities.

See recommendation 110
104. THAT the integrity of the landscape be an essential component in land policies.

*See recommendation 110*

105. THAT the province promote greater public appreciation of the role of the working landscape in the provincial economy.

*See recommendation 110*

106. THAT the province retain the services of a landscape architect/planner to facilitate better land use planning and design.

*See recommendation 110*

107. THAT the province prepare an extensive inventory of special landscapes, that encompass both vistas and seascapes, with widespread input from the general public and form community groups and organizations.

*See recommendation 110*

108. THAT a comprehensive set of land use plans include protective mechanisms for these special landscapes, using such means as limitations, or, where appropriate, prohibitions against any form of built development.

*See recommendation 110*

109. THAT the province designate a generous number of scenic lookout points along roadways, particularly those roads that are included in the scenic drives and those which are major highways, and, as road construction occurs near any designated point, construct appropriate places where motorists can park off the highway to view the scenery.

*See recommendation 110*

110. THAT the province undertake special measures to enhance the landscape at the entry points of the province, particularly at the Albany interchange.

*With the notable exception of recommendation 109 which calls for the designation of scenic lookout points, none of the above recommendations was implemented. As for the scenic lookouts, they are as much a highway safety measure as an attempt to promote the landscape. The report of the Round Table on Resource Land Use contains a chapter on “Managing Landscape and Biodiversity” which addresses some of the same issues as the Royal Commission on the Land (refer to recommendations 68, 69, 70, 71, 74, 75 and 76).*
HISTORIC PRESERVATION:

111. THAT historic preservation of our built environment be an essential component of land use planning polices.

As there is a lack of integration of the various land use planning policies, legislation and regulations adopted by Government from time to time, it cannot be said that this recommendation was implemented. Whatever integration takes place occurs at the staff level and it relies on expert knowledge and the quality of working relationships between individuals and Government agencies.

It is worthwhile to note that Government commissioned a public review of heritage resources in 2008. Government has chosen to act on a number of the report’s recommendations, the chief one being that it develop a heritage strategy. This is being done under the guidance of an inter-departmental committee, and the target date for presentation of the draft strategy to Executive Council is June 2009. It is intended that the heritage strategy will include needed linkages to land use planning, and more particularly, to development. As well, Government announced some time ago that it intends to establish a provincial museum.

112. THAT the P.E.I. Museum and Heritage Foundation embark on a province-wide recognition program for all older structures in the Province to promote awareness and pride in buildings that have been part of the Island landscape for the last 50 years or more.

This recommendation was implemented. At the time it was made, the PEI Museum and Heritage Foundation was the only organization promoting awareness. Since the Heritage Places Protection Act was proclaimed by Government in 2004, the Department of Communities, Cultural Affairs and Labour has become more active through the registration and designation of Heritage Places. The Heritage Places Protection Act creates a legislative regime for both protection and promotion of historic places.

113. THAT the P.E.I. Museum and Heritage Foundation proceed with despatch on completing an identification of heritage groupings and areas (including churches and graveyards) which contain an unusually high proportion of heritage building stock in a relatively unspoilt environment and that the Province provide adequate resources to the Foundation to ensure this identification is completed as soon as possible.

This recommendation is being implemented with the assistance of a number of historical preservation groups such as the PEI Genealogical Society, the PEI Museum, the Alberton Museum, and the Garden of the Gulf Museum. Heritage places are identified through the on-line PEI Register http://www.peihistoricplaces.ca/. There is also a national register called ‘Canada’s Historic Places’ http://www.historicplaces.ca/.
114. THAT heritage buildings, heritage groupings and heritage areas identified in these survey projects be marked and, if necessary, legislative provisions be enacted to provide for this marking project.

_The Heritage Places Protection Act empowers the Minister of Communities, Cultural Affairs and Labour to preserve, study, interpret and promote heritage places. There are two levels of recognition under the Act: ‘registered’ places are honorific, while ‘designated’ places have legal protection and are eligible for a plaque and financial aid._

115. THAT there be a heritage review process linked to the issuance of building permits such that proposed renovations or additions to identified heritage buildings or new construction within identified heritage groupings or areas would be subject to review and that there be some discretion to refuse the issuance of building permits where proposed changes or new construction conflict with the goals of heritage preservation.

_The Heritage Places Protection Act and Regulations address this for the most part in the case of buildings that are ‘designated’. In the case of buildings that are ‘registered’, the restrictions do not apply. The cities of Charlottetown and Summerside have their own heritage protection and preservation bylaws and these are deemed by the Minister to provide an adequate level of protection under the Act. Additional information is available on-line in the Standards and Guidelines for the Conservation of Historic Places in Canada [http://www.pc.gc.ca/docs/pc/guide/nldelpc-sgchpc/index_e.asp](http://www.pc.gc.ca/docs/pc/guide/nldelpc-sgchpc/index_e.asp)_

116. THAT the P.E.I. Museum and Heritage Foundation be provided with sufficient resources to upgrade its architectural conservation services.

_The architectural conservation service which existed at the time this recommendation was made was later discontinued for financial reasons. The Department of Communities, Cultural Affairs and Labour has participated in the development of, and has adopted, the Standards and Guidelines for the Conservation of Historic Places in Canada. This, together with the Museum and Heritage Foundation’s Institute of Island Architectural Studies and Conservation, and the Heritage Places Advisory Board, provide a number of avenues to provide architectural conservation information._

117. THAT historic preservation of archaeological remains be an essential component of land use planning policies.

_The legislative framework was found to be very weak in 1990. The old Archaeological Sites Protection Act was repealed in 2006 and a new Archaeology Act was brought in. In 2009, the position of Provincial Archaeologist was created, the first time such a position has existed within the provincial public service. However, as no province-wide comprehensive land use policy exists, it cannot be said that this recommendation was fully implemented._
118. THAT the province proceed with the recommendations made to the Ministerial Committee on Heritage and Museum Policy in relation to archaeological remains.

*This recommendation was implemented, although only through a recent Government decision. The new Archaeology Act makes it clear that all archaeological remains belong to the province. Officials acknowledge that the Act will need to be skillfully and diplomatically interpreted, otherwise an important segment of the heritage community could be alienated. This is because, in many ways, most of the collectors are providing a service by 'rescuing' archaeological finds from beaches which would otherwise be lost. These same individuals also monitor and report activities, including local development and active erosion. It is therefore deemed important to retain them as partners.*

119. THAT a provincial strategy on the exploration of the Island’s archaeological resources include components that coordinate educational and tourism opportunities and local development possibilities.

*The province is responsible for the coordination and management of archaeological investigation, and dissemination of information to the public. Archaeological resources will be interpreted in the provincial museum, a Government project now in the planning stages. Parks Canada, through its programming, interprets archaeological resources within national historic sites and parks for the benefit of Islanders and visitors.*

**RAILS TO TRAILS:**

*This issue falls outside the Commission’s mandate.*

120. THAT in the event the ownership of railway lands is acquired by the Province of Prince Edward Island, title should remain in the public domain and ownership rights should not be transferred by gift, sale or otherwise to private owners.

121. THAT title to the rail lands be vested in the Agricultural Development Corporation and that this agency have the responsibility for management of these lands.

122. THAT the lands belonging to the rail corridor be used for linear recreational purposes.

123. THAT the trail project be planned and coordinated through the Agricultural Development Corporation.

124. THAT the Agricultural Development Corporation be given sufficient resources to hire staff on a short-term basis during the planning stages of this project to plan and coordinate the project.
125. THAT the trail coordinator/planner work with local community organizations, municipalities and individuals to initiate participation and cooperation with such a project and to take an active role in planning the project.

126. THAT the trail project be developed with a heavy emphasis on voluntarism as an essential component for its development and maintenance.

127. THAT the trail coordinator/planner, with the assistance of the private sector, develop suitable standards for the trail, rules for user and participating groups, and common themes to unify the project throughout the Province.

128. THAT the project have the support of government expertise and resources to augment the private sector in this endeavour.

129. THAT in the development of the rail line corridor for linear recreation, priority be given as much as possible, to areas that lie to the east of Charlottetown and to the west of Summerside.

130. THAT the rail line corridor be leased to private sector organizations for public recreation under specific terms and conditions once the planning phase has been completed.

131. THAT once leasing has been completed, A.D.C. continue to retain a general managerial and supervisory role to ensure leasing conditions are fulfilled and, if necessary, to find new sponsors for the trail corridor or portions of it.

TREES:

132. THAT one of the components of a comprehensive land use plan include the identification of lands best retained for forestry usages.

*This recommendation was not implemented*

133. THAT the Crown adopt a policy of assembly of larger blocks of forested land over time.

*After public consultation, Provincial Forests were proclaimed in 2000 and a number of areas were designated by order-in-council under the Forest Management Act (see analysis of recommendation 78 in the report of the Round Table on Resource Land Use).*

134. THAT in some areas, vacant farmland be dedicated for forest usage, even if the soil classification is Class II or Class III, and, be preserved for this usage for an extended number of years.

*This recommendation was not implemented*
135. THAT the Forest Management Act be amended to require public review of the State of the Forest Report.

*Government reports to the public on the status of various forest indicators by means of the State of the Forest report, the most recent being the 2002 version which covers the period 1990 to 2000 and which was released publicly. There is no specific requirement in the Act for public review of the State of the Forest Report.*

136. THAT the regulations required for effective administration and enforcement of the Forest Management Act and the standards associated with forestry incentive programs be put in place.

*No changes were made to the Regulations under the Forest Management Act as a result of this recommendation.*

137. THAT government adopt a more balanced approach to individual rights and obligations under the Forest Management Act with government adopting a more pro-active approach towards land stewardship in relation to woodlot owners.

*The Royal Commission report observed that “the Forest Management Act has not adopted a balanced approach with respect to dealing with difficult issues”. The point made was that, while the Act gave Government the power to regulate forest management activities on public and private land, Government seemed interested only in exercising its power on public land. As the report of the Round Table on Resource Land Use demonstrated, the reluctance of Government to regulate the harvest on private land during a period when sawlog harvest levels clearly exceeded sustainable levels, showed that Government’s position had not changed. This is still the case today since the Forest Management Act gives Government little authority to do anything but provide incentives to private land owners through the Forest Renewal Program.*

138. THAT there be firmer policies in providing forestry incentives to prevent abuses and ensure long-term stewardship of land that has benefitted from public funds.

*This recommendation was not implemented. The Forest Renewal Program Regulations made under the Forest Management Act in 1996 do not set out penalties for non-compliance by private landowners who enter into agreements with the Department involving incentives for forest management activities. Agreements signed by landowners under the Forest Renewal Program state that the property must be maintained in forest production for a period of 15 years from the date of the subsidized treatment and that, if the use of the treated portion of the property changes, the owner must repay the amount of the incentive received from Government. Under the new incentive program launched in 2008, the Forest Enhancement Program, landowners must maintain the area treated in forest production for 15 years but there is no requirement to repay the Government*
incentive. In fact, program guidelines state that there is no “retention period”, only that “in order to qualify for the incentive all work must be done to the required standard.”

139. THAT government provide more public education on land stewardship in relation to forested land, including the obligations imposed by the common law upon property owners.

*This recommendation was partially implemented in the sense that the Forests, Fish and Wildlife Division has an active public information program and did consult broadly in 2005 before Government released the current Forest Policy. However, there is no evidence that the Division made any special effort to inform forest land owners of their obligations under the common law.*

140. THAT incentives available through property tax rates for land dedicated to long-term forestry use under management plans be examined.

*This recommendation was not implemented*

141. THAT much more Crown land be dedicated to model tree plots, including plots that include a variety of non-commercial species.

*The 2006 Forest Policy contains a comprehensive section on the strategies and actions planned for the management of public forest lands (for more information see pages 4-7 of the Policy) [http://www.gov.pe.ca/photos/original/EEF-ForPol-Eng.pdf](http://www.gov.pe.ca/photos/original/EEF-ForPol-Eng.pdf).*

142. THAT government must continue and intensify its efforts on forest rehabilitation but that its policies must be combined with more recognition for the non-commercial benefits of trees.


143. THAT there be greater emphasis on hardwood management in the Province, particularly in the provision of hardwood species for plantations.

*This issue was raised by the Round Table on Resource Land Use as well (see analysis of recommendation 50 in the report of the Round Table on Resource Land Use).*

144. THAT government spearhead a program, extended over several years, for dead tree removals, particularly in areas adjacent to roads, in hedgerows and in other areas of high visibility.

*This recommendation was not implemented*
145. THAT there be prohibitions against clear-cutting along all waterways in the province and enhanced restrictions against clear-cutting along roadways.

*Changes were made to the Environmental Protection Act restricting tree harvesting activities within a 15 metre buffer zone (see analysis of recommendation 25 in the report of the Round Table on Resource Land Use).*

146. THAT forestry policies allocate a greater priority to those components that operate as an adjunct to agriculture, including more attention to the preservation, enhancement and management of hedgerows and other shelter belts.

*The Forests, Fish and Wildlife Division does offer assistance to landowners, as does the Department of Agriculture, in the form of tree planting subsidies. However, anecdotal and visual evidence would suggest that the area of hedgerows and shelter belts has declined considerably as farm fields have gotten bigger.*

147. THAT the province, in conjunction with municipalities and community groups, develop and implement imaginative schemes to prompt more emphasis on the non-commercial aspects of forestry, including the planting of hardwood belts along roadways, the use of more trees in the landscaping of public buildings and in the symbols used to mark special events.

*In this regard, the Forests, Fish and Wildlife Division offers two programs, the Greening Spaces Program and the Hedgerow and Buffer Zone Planting Program.*

148. THAT more funding and publicity be provided to the Landscape Assistance Grant Program with municipal and community groups being used to participate on a wider basis.

*See recommendation 147*

**WATER AND SEWAGE:**

149. THAT the Province of Prince Edward Island provide the necessary leadership to ensure long-range water and sewer services for the greater Charlottetown area, including a commitment to share costs with the various jurisdictions and to promote a co-ordinated effort to ensure a regionalized and standardized service under an expanded water authority that uses the long-standing expertise of the Charlottetown Water Commission.

*This recommendation was implemented. In the early 1990's discussions were held between the former communities of Charlottetown, West Royalty, East Royalty, Parkdale, Sherwood, Bunbury and Southport regarding the establishment of a single water utility for the region. Subsequently, the Charlottetown Water and Sewer Utility was established, and it now services the amalgamated communities of the City of Charlottetown. It is noted also that similar steps were taken in the Summerside region, with a new regional utility.*
being established to service the former communities of Sherbrooke, Wilmot, Linkletter and St. Eleanors.

In 1995, the Charlottetown Area Municipalities Act and the City of Summerside Act resulted in the formation of the new Cities of Charlottetown and Summerside as well as the new Towns of Cornwall and Stratford. As a result several small water and sewer utilities were amalgamated to service much larger areas, resulting in a more coordinated approach to water and wastewater management.

150. THAT a province-wide plan be developed to ensure communities and other densely-populated areas have adequate off-site water and/or sewage systems, where required, whether through expansion or upgrading of present infrastructure or new development.

This recommendation was implemented. Since 1990, a number of new municipal water utilities have been established, serving essentially urban areas that formerly relied on on-site servicing, including Tignish, Borden-Carleton, Cornwall, Stratford (Bunbury and Southport) and Montague. In addition, the development of regional water supplies in both Charlottetown and Summerside resulted in expanded service areas in both of these communities. These municipalities have been expanding their wastewater servicing areas to their current boundary limits. New sewer utilities have also been formed in Murray Harbour, Hunter River and the Resort Municipality.

Since 1995, the management and planning of central water and wastewater infrastructure has evolved substantially. In 2001, the Province announced “A Drinking Water Strategy for PEI” which included a number of central and specific on-site infrastructure initiatives that again enhanced water and wastewater servicing in the Province.

151. THAT the province commit more adequate resources for the improvement and/or expansion of water and sewer infrastructure so that a more intensified program, based on the plan, is cost-shared with the municipalities.

This recommendation was implemented. A series of federal/provincial infrastructure funding programs have been accessed by municipalities since 1990 to bring about substantial improvements in system integrity and expansions to existing serviced areas. These investments have been made by the three levels of Government, each contributing one-third of the cost.

152. THAT those municipalities which require off-site servicing and that cannot receive ratepayers’ support for participation in the provincial plan to improve water and sewer infrastructure become ineligible for any provincial funding to cost-share subsequent remedial actions and that such a freeze be imposed for a long-term period of 10 years.

This recommendation was not implemented.
153. THAT the participants in this plan to improve water and sewer infrastructure examine new means of meeting this challenge, including consideration of the “Self Help” program; and that, as a minimum, the Department of Community and Cultural Affairs (in conjunction with the P.E.I. Public Utilities Commission and the Federation of Municipalities) prepare informational materials and provide these to all municipalities so there is a clear understanding among the volunteer laypeople involved in municipal government and local residents of the necessary legal, financial and practical steps involved in undertaking a capital expenditure project of this type and the alternatives open to them through such devices as large lot subdivision requirements.

This recommendation was implemented.

154. THAT provincial policies, including the location of public buildings and the issuance of building permits for new construction, should seek to enhance communities that have taken steps to preserve the quality of their water resources.

Some progress has been made through the Drinking Water Strategy and the Department of Environment, Energy and Forestry’s efforts to promote a more community-based watershed planning and management program approach.

155. THAT measures prohibiting raw sewage from entering streams and rivers and measures involving standards for the installation and maintenance of on-site wells and septic tanks be publicized and strictly enforced.

This recommendation is being implemented. Government has revised the Environmental Protection Act Regulations and upgraded construction standards for wells and on-site sewage disposal systems, and through continued enforcement, has dealt with issues of non-compliance. A protocol for the investigation of Escherichia coli contamination of private wells includes an inspection of on-site sewage disposal systems, with mandatory replacement of sub-standard or faulty system components.

156. THAT the respective roles and functions of the Public Utilities Commission, the Department of Community and Cultural Affairs and the Department of the Environment in regard to sewer and water issues be clearly defined and appropriate changes in legislation be made where necessary.

This issue continues to evolve through various initiatives like the public consultations on “managing land and water on a watershed basis”, the Drinking Water Strategy, Alternative Land Use Services Program and the work of the Commission on Nitrates in Groundwater, all helping to define roles and responsibilities and set future direction for various Departments through public, community and user group engagement.

157. THAT appropriate measures be taken to ensure better coordination mechanisms in order to streamline sewer and water planning, development and regulation between departments and
the Public Utilities Commission, as well as between and among various jurisdictions, other utilities and other agencies.

See recommendations 149 and 150. On the issue of rate setting, this responsibility was transferred from the former Public Utilities Commission to the cities and towns at the time of the 1995 amalgamation.

158. THAT the Department of Community and Cultural Affairs, in conjunction with the Department of Agriculture, develop greater public awareness on the means of preventing point source contamination of groundwater, particularly where such contamination stems from hazardous waste and/or agricultural practices.

The lead department on issues addressed by this recommendation has been the Department of Environment, Energy and Forestry. Progress has been made through the Drinking Water Strategy that included revisions to water well and on-site sewage disposal system regulations, the establishment of regulations for central water supply and wastewater systems (including provisions for well field protection), as well as the underground tank program, and an on-going pesticide monitoring program. Other important measures include steps by the Department of Agriculture to provide technical and financial assistance to farmers for environmental improvements through various programs. One of the key successes in this regard was a substantial improvement in manure storage facilities. It cannot be said however that these initiatives have resulted in significant improvement to key indicators of surface and groundwater quality.

159. THAT the comprehensive land use plan for the province include developmental controls for the protection of watershed areas in order to preserve water quality.

Government has adopted the watershed as the basic water management area and has placed a high priority on community-based watershed planning and management. This approach was supported through the Department of Environment, Energy and Forestry’s public consultation on watersheds as well as by the Commission on Nitrates in Groundwater. The Department continues to explore opportunities with community groups involving the application of the “watershed” as the basis for local governance structures.

GARBAGE:

This issue falls outside the Commission’s mandate.

160. THAT the derelict car program be given greater prominence and, in particular, that its availability be more widely publicized and that a renewed effort be made to have public cooperation in removing abandoned car bodies from the Province.
161. THAT the existing provisions of the *Automobile Junk Yards Act* be strictly enforced to ensure that collections of derelict car bodies are removed through the derelict car program or located in a properly licensed junk yard and that automobile junk yards and their contents are entirely screened from view in accordance with the legislation.

162. THAT the penalties in the *Automobile Junk Yards Act* be amended so that the fine for the first offense is not less than $100 and not more than $1000 (with imprisonment of not more than 30 days in default of payment) and so that the fine for the second and subsequent offenses is not less than $1000 and in default of payment not less than 90 days imprisonment.

163. THAT derelict farm implements and machinery be part of the recycling program now involving derelict motor vehicles.

164. THAT the *Automobile Junk Yards Act* be amended to include farm implements and machinery within its provisions.

165. THAT the Department of the Environment develop a program on the disposal of hazardous waste and that such a program include both consumer education on what constitutes hazardous household waste products and an immediate and ongoing system for the collection and disposal of this type of waste.

166. THAT the Minister of the Environment review the effect of the Litter Control Regulations after one year of operation and, if littering from fast-food sources has continued to be a problem, that the Province of Prince Edward Island should consider the imposition of more stringent measures, such as a financial levy of five (5) cents per item for each disposal container, package or utensil used by fast-food take-out establishments, a ban on the use of certain types of disposable containers, and/or substantially increased financial penalties for littering.

167. THAT the Province call upon the Government of Canada for measures to reduce effectively junk mail volume.

168. THAT the Province review all its paper requirements with a view to eliminating waste and, wherever possible, participating in paper recycling programs and generating demand for recycled papers. In particular, to demonstrate political leadership, stationery and greeting cards used by the Premier and members of the Cabinet should utilize recycled paper and the practice of widespread circulation of greeting cards at Christmas should be eliminated. In addition, government publications that receive a high public profile, such as tourism literature and annual departmental records, should use recycled paper, wherever possible.

169. THAT the Province ask the U.P.E.I. Faculty of Business Administration to have students prepare projects that examine potential recycling industries that would be feasible for Prince Edward Island.
CHEMICALS:

170. THAT the Province undertake a comprehensive survey of pesticides to determine exactly which pesticides are used, by whom, how frequently, at what application rates, on how much acreage, where and in what quantities, whether used on the farm, in the forest or in residential settings.

This recommendation has been partially implemented. Farmers and commercial pesticide applicators are required under the Pesticides Control Act to keep a record of all pesticide applications in a manner prescribed by the Regulations (subsection 9(1)).

171. THAT licensed sellers be required to maintain records regarding the sale or other disposition of pesticides, that these records identify exactly which pesticides are involved (and not just such composite categories of insecticides, herbicides and fungicides), that annual reporting of such data be mandated, and that the Province institute a data bank which would include such information.

As a condition of licensing, vendors must report sales of all pesticides to the Department of Environment, Energy and Forestry annually (section 12 of the Regulations). The report produced by the Department is available to the public and lists sales by active ingredient grouped into three categories: herbicides, insecticides and fungicides.

172. THAT the Province plan and implement a phased-in system of tighter regulatory controls in relation to chemicals that are used as pesticides and that such a plan include a mandatory licensing system for all users and compulsory safety courses as a prerequisite for obtaining or renewing licenses.

New Regulations under the Pesticide Control Act came into effect in 2005. A number of the changes were made in response to the February 2004 report of the Environmental Advisory Council http://www.gov.pe.ca/photos/original/ee_pesticides04.pdf. Among the changes made is a clear indication that pesticide standards are those established under the federal Pest Control Products Act. A summary of the changes can be found in the information bulletin http://www.gov.pe.ca/photos/original/eef_agchanges.pdf.

173. THAT government make users of pesticides aware of their potential liability position under the common law.

The issue of liability is covered in mandatory training programs offered to farmers, vendors and commercial applicators. There is no evidence that Government has done the same for users of “domestic” class pesticides used for cosmetic purposes on a private property.

174. THAT the Pesticides Control Act Regulations provide standards for ground spraying.
Section 39 in the Regulations made under the Pesticides Control Act includes a maximum wind speed standard for ground spraying. A number of other sections of the Regulations cover such things as the maintenance of buffers, filling and washing, certification and record keeping.

175. THAT the Pesticides Control Regulations include measures relating to the safe use of chemicals in residential settings.

Progress has been made in this area. The present Regulations apply to the display and sale of ‘domestic’ class pesticides and state clearly that they are to be used in accordance with the label, covered under the federal Pest Control Products Act. Sections 24 and 25 of the Pesticide Control Act Regulations require mandatory posting and notification for residential landscape and structural pesticide applications made by a licensed applicator. Finally, Government announced recently that it would introduce legislation banning the sale of “cosmetic” pesticides starting in 2010.

176. THAT the data bank on pesticides include such information on farm chemicals as compatibilities and incompatibilities, “cocktail” effects, biomagnification and other data that would assist producers in providing and improving their food safety assurances.

The federal Pesticide Management Regulatory Agency maintains such a data bank. Training here for all certified applicators includes instruction on compatibilities and incompatibilities as well known cocktail effects, biomagnification, etc.

177. THAT the Province continue and accelerate its programs of public awareness and education in connection with the healthy and safe usage of all chemicals, including measures aimed at casual users of both pesticides and household chemicals.

There is little evidence that the Island Waste Management Corporation or the Department of Environment, Energy and Forestry have increased educational efforts in this regard. The Department is developing a CD for homeowners on the proper use and disposal of domestic class pesticides.

178. THAT there be a province-wide compendium of fertilizer and limestone usage, prepared and, based on its findings, that standards for the protection of groundwater (including, where necessary, the designation of watershed areas within which the use of soil additives is curtailed or eliminated) be developed.

Please refer to the “Report of the Commission on Nitrates in Groundwater” http://www.gov.pe.ca/publications/getpublication.php3?number=1417. The report calls for significant changes to farming practices, including mandatory three-year crop rotation and a nutrient management/accounting system for all crop and livestock producers. The provincial government is analyzing the report and officials are working on a five-year
implementation plan for the 43 recommendations. However, Government has not announced its plans publicly.

179. THAT there be more public education focused on the best use of fertilizers and lime and the problems that unwise usage can create for the environment.

See recommendation 178

WEEDS:

180. THAT the Province of Prince Edward Island conduct an immediate war on weeds through a variety of measures, including the implementation of laws to obliterate any weeds detrimental to the agricultural community; the development of a public awareness campaign on the adverse effects of weeds; the implementation of measures to control weeds on public lands, particularly those owned or leased by the Agricultural Development Corporation; the provision of some incentive or award for praiseworthy efforts in weed control in conjunction with any private sector organization(s) dedicated to beautification objectives; and the encouragement of municipal measures to control weeds in areas within municipal jurisdiction.

There is no evidence that this recommendation was acted upon by Government and the agricultural industry. The Weed Control Act and Regulations give the power to the Minister of Agriculture to declare an organism a “noxious weed”. The only species covered by a specific Regulation is the purple loosestrife, declared a noxious weed in 1987.

SOIL EROSION AND DEGRADATION:

181. THAT all Agricultural Development Corporation leases contain provisions regarding soil conservation measures that outline the obligations of landlord and tenant. As a minimum, these leases should clearly specify the crop rotation cycle required of the tenant, the preservation of green belts around streams and other waterways and any areas of the property requiring special land management practices, such as contour ploughing and harvesting, or the establishment, preservation or enhancement of hedgerows.

This recommendation was implemented. The form of lease used by the Department of Transportation and Public Works for agricultural land states that the land is to be cultivated, used and managed in a “proper husbandlike manner” and in compliance with the Agricultural Crop Rotation Act and the buffer zone provisions of the Environmental Protection Act. The lease further states that an erosion control plan must be completed for the property within the first year of the lease.
182. THAT all mortgages given to the Agricultural Development Corporation and the Prince Edward Island Lending Authority should contain covenants that spell out appropriate conservation measures and enforcement procedures to ensure these provisions are honoured.

*See recommendation 181*

183. THAT all funded programs for the agricultural community be reviewed and, where possible, revised so that selective soil conservation practices become tied obligation(s) to specific funded programs. As a starting point, eligibility for crop insurance should depend on suitable crop rotation practices by an applicant and the limestone subsidy should be available only to applicants prepared to enter into an agreement for green belt preservation along waterways.

*This recommendation was not implemented in the case of crop insurance eligibility. This being said, the Canada - Prince Edward Island Agriculture Stewardship Program provides technical and financial assistance to farmers for environmental initiatives. One of the eligibility criteria is the completion of an Enhanced Environmental Farm Plan within the past five years. Compliance with the Plan by the farmer is voluntary however and the financial assistance is not conditional.*

184. THAT the Department of Agriculture, in cooperation with the Agricultural Development Corporation, develop a simple model lease agreement which incorporates basic soil conservation measures and encourage the parties to land rentals to use written leases which could be derived from this model. In addition, the Department of Agriculture and the Agricultural Development Corporation should provide information for both landlords and tenants of farm land on landlord/tenant compensation for land deterioration and for unused benefits arising from long-term tenant investment in the land.

*This recommendation was implemented. The form of lease used by the Department of Transportation and Public Works for agricultural land states that the land is to be cultivated, used and managed in a “proper husbandlike manner” and in compliance with the Agricultural Crop Rotation Act and the buffer zone provisions of the Environmental Protection Act. The lease further states that an erosion control plan must be completed for the property within the first year of the lease.*

185. THAT any special concessions in property taxes relating to the agricultural use of land require landlords to have long-term, written leases with soil conversation provisions in order to qualify for such concessions.

*This recommendation was not implemented. However, the province does provide property tax relief under the Environmental Property Tax Credit Program to landowners who are required by law to set aside agricultural land which is greater than a 9% slope or which falls within a watercourse buffer zone, or who choose to install certain “environmentally beneficial farm structures”.*
186. THAT the Agricultural Development Corporation should examine its inventory of land to determine parcels on which suitable long-term conservation measures would be meaningful and should then determine priorities for accomplishing such measures, so that these parcels could serve as demonstration projects for the agricultural community. Such demonstration projects should be cost-shared by written agreement between tenant and owner with the financial obligations determined by such factors as the term of the lease and the value of such improvements at the end of the term of the tenancy.

This recommendation was not implemented.

187. THAT a recognition program should be developed to acknowledge the efforts of farmers who practice good soil conservation methods. Successful recipients should be given signs they could affix to the property that has benefitted from the conservation practices.

The Federation of Agriculture and the PEI Soil and Crop Improvement Association have established programs and awards to encourage the adoption of better soil conservation practices.

188. THAT the Agricultural Development Corporation and the Department of Agriculture should develop and promote a land exchange program that would encourage more farmers to trade parcels of land for short-term exchanges in order to facilitate greater crop rotation and otherwise improve land management practices.

This recommendation was not implemented.

189. THAT awareness on soil conservation problems should be extended to all members of the public, rather than be isolated as an agricultural issue, and that this goal be accomplished through a variety of means, including: the preparation of a brochure on soil erosion for all property owners, which should be included in annual property tax bills; the distribution of the model lease agreement to all property owners who own more than 5 acres of land; the encouragement of local media participation in bringing this issue to the attention of the public.

This recommendation was not implemented.

PROPERTY TAX:

190. THAT the Department of Finance review the present property tax regime with particular regard to identifying the various effects of adopting a revenue-neutral alteration in the commercial tax levy so that a single provincial-municipal rate is adopted on a province-wide basis with redistribution of the municipal portion of the tax among municipalities in accordance with population proportions; and that the findings of such a review be subject to public discussion before changes are implemented.
This recommendation was not implemented. In 1990 there was a uniform commercial and non-commercial provincial property tax rate of $1.50 per $100 of assessment. Residents of PEI received a $0.75 credit on the non-commercial assessments. Each municipality set its own commercial and non-commercial rates based on services provided. Other than the credit being changed from $0.75 to $0.50 the situation is as it was in 2009.

191. THAT the province retain Section 5 of the Real Property Tax Act and, in the event that the provisions of Section 5 are successfully invalidated through legal proceedings, then the province move to replace any lost revenues through the introduction of an alternative form of taxation.

Section 5 of the Real Property Tax Act has survived a number of legal challenges and continues to apply.

192. THAT the special considerations now granted farm property and bona fide farmers under the provisions of the Real Property Assessment Act and the Real Property Tax Act be granted only where the taxpayer has filed with the province a statutory declaration as to the taxpayer’s eligibility for such special considerations and the taxpayer’s compliance with the provisions of the Lands Protection Act.

This recommendation was implemented

193. THAT land use policies for the long-term preservation of farmland for agricultural use should be linked to these taxation measures.

There is no land use policy encouraging the long-term preservation of farmland for agricultural use.

194. THAT the Department of Finance follow the provisions of the Real Property Tax Act in respect to the sale of land in satisfaction of overdue property taxes, that such sales not be halted simply because of legal defects in title and that the Real Property Tax Act be amended to clarify that the bona fide purchaser at a tax sale acquires title from the Crown and not the title of the defaulting taxpayer.

Subsection 17(3) of the Real Property Tax Act states that the purchaser is receiving clear title to the property free of any encumbrances. The current tax deed (Form H of the Regulations) clearly indicates that the property is being deeded by the Provincial Treasurer to the purchaser. There has been no change to the practice of putting a tax sale on hold pending clarification of title.

SIGNAGE:

195. THAT the Province examine its traffic signage at its entry points with the objective of attempting to reduce, wherever possible, the signage impact now existing in these areas.

196. THAT government review its directional signage in the Province and, in particular, that distance information be provided on directional signs as these are being repaired or replaced; that research be conducted to find a safe and effective way to provide route numbers on utility poles with the results being used to increase route signage, particularly on rural, non-arterial roads; that directional signs indicating distant major centre(s) include more of the towns and villages located on that route; that directional signs, particularly those marking communities, be reviewed for appearances and, where necessary, be repainted or otherwise improved in appearance and/or positioning; and that more rivers, streams and rural roads be signed with small markers.

197. THAT the Province clarify the area over which it retains jurisdiction for signage control and amend its legislation to reflect a consistent position.

198. THAT the Highway Advertisements Regulations be amended to exempt from licensing requirements small signs that identify heritage sites or convey historical information, family signs that identify householders, signs that indicate field trials, conservation projects or other types of land-oriented demonstrations and signs that announce some form of recognition, award or merit; and that both the public and private sectors encourage more usage of quality signage for these purposes.

199. THAT the Highway Advertisements Regulations be reviewed to clarify the relationship between Sections 4 and 4.1 and to identify the rationale for different size and height standards in these provisions and that appropriate amendments to these Regulations be made.

200. THAT signs which were of the mobile type and which have now been attached to a permanent base not be licensed in the province and that any signs of this nature now in use be removed through the enforcement process.

201. THAT the prohibition with respect to mobile signs be imposed on a province-wide basis.

202. THAT the Highway Advertisements Regulations be amended to remove the exemption from licensing now accorded advertisements relating to federal, provincial, municipal or regional school board elections; that licenses for such advertisements be available, without fees, on condition that the applicant(s) be personally responsible for the removal of such signage following the relevant election; and that such provisions be strictly enforced.
203. THAT the Highway Advertisements Act be amended to provide for the removal of not just the “advertisement” (as now provided in Section 4 of the Act) but any structural devices or supports used in connection with the advertisement portion of the signage and that, following such amendment, any enforcement of the legislation that requires removal of an advertisement also include removal of the structure(s) or support(s) used in conjunction with the advertisement.

204. THAT the Highway Advertisements Regulations be amended to provide that all signs are licensed on condition that the signs are not to be abandoned or neglected; that revocation of a license for breach of any conditions can take place, at any time, on notice; that the sign must then be repaired or replaced in order to have the license reinstated and that failure to do so can cause removal of the signage in the same way as if the sign was never properly licensed.

205. THAT the province encourage real estate firms to take a more responsible position in limiting real estate signs and, in particular, to remove these signs promptly once a property has been sold, to replace signs that are faded or otherwise in poor condition, and to use small directional maps in their weekly bulletins as an alternative to the widespread use of directional signage in rural areas.

206. THAT the Highway Advertisements Act be amended to establish within the law that the public interest requires that protection be given to rural and urban landscapes; to give legal status to the Highway Information Sign System; to show the goals and objectives of the Highway Information Sign system program (including its aim of providing alternative signage for directional information and not roadside advertising); and to include the rules under which applicants may be refused signage or denied the number of H.I.S.S. signs for which application has been made.

207. THAT the Department of Tourism and Parks provide a standard provincial road map in a poster format to each service station operator in the province with the request that the map be displayed in a window location such that it may be examined from the exterior; that the Department encourage local tourist and other commercial organizations to supplement this map program with more local maps or other promotional materials featuring directional information for businesses to operate as an alternative to directional signage for local businesses.

208. THAT the province promote greater signage control by providing certain additional minimal standards that would include all municipalities (except Charlottetown and Summerside); that municipalities be able to have signage control greater than these minimal standards; that Charlottetown and Summerside be included within these minimal standards if they have not accepted comparable ones within 24 months; and that the province assist municipalities in the development of model signage control bylaws.
209. THAT in addition to current minimal standards, there be a complete prohibition on exterior rate signs and outdoor flashing signs.

210. THAT the availability of H.I.S.S. signs as driveway markers be discouraged unless highway safety or locational obscurity render the signage necessary or advisable; and that the H.I.S.S. program be severely curtailed in areas where the density of commercial businesses does not merit the widespread usage of directional/distance information and/or where the number of businesses would result in corridors of H.I.S.S. signs along the roadway.

211. THAT the province continue to work with commercial organizations in providing business owners with information on good signage and the importance of signage control.

212. THAT the public and private sectors develop more signage with flowers and other natural vegetation.

213. THAT the prohibition against placing signs on highway shoulders (particularly of the makeshift “New Potatoes 4-Sale” type) be rigidly enforced.

FIXED LINK:

This issue falls outside the Commission’s mandate.

214. THAT, in the event that the Government of Canada proceeds further with a fixed link project, the Province of Prince Edward Island undertake a critical evaluation of its future highway needs to determine not only appropriate compensation for the impact of increased traffic on the province’s highway system but also to plan the changes necessary to that system in order to meet these needs.

215. THAT, in the event that the Government of Canada proceeds further with a fixed link project, the province endeavour to ensure appropriate high quality standards for the maintenance of the link’s appearance over a thirty-five year timespan be included in the agreement between the developer and the Government of Canada.

216. THAT, in the event that the Government of Canada proceeds further with a fixed link project, the province ensure it has the necessary legislative measures in place to regulate dredging spoils in such a fashion that the integrity of the landscape is preserved and the environment is protected.

217. THAT, in the event that the Government of Canada proceeds further with a fixed link project, the province assume a pro-active role to ensure aesthetic deterioration caused by the pre-construction and construction phases of the project is minimized.
218. THAT, in the event that the Government of Canada proceeds further with a fixed link project, the province recognize the special needs of the Borden area in relation to its infrastructure, particularly in regard to the establishment of a water supply system, and respond in a positive way to assist the community in meeting these needs.

219. THAT, in the event that the Government of Canada proceeds further with a fixed link project, both the province and the local governments in the Borden area adopt an intensive, pro-active stance towards land use planning in the area.

220. THAT, in the event that the Government of Canada proceeds further with a fixed link project, the province provide immediate and extensive land use planning assistance for the Borden and surrounding area, including the professional services of a land use planner and a landscape architect and that these professionals have some expertise in either rural land use planning and/or in mega-project planning.

221. THAT, in the event that the Government of Canada proceeds further with a fixed link project, the province institute comprehensive contingency planning, closely aligned with its comprehensive land use plan, in order to accentuate the positive aspects of this project and to mitigate the potential negative effects.