STRONG LOCAL GOVERNMENT
FOR ALL ISLANDERS

Submission to

The Commissioner on Land
and Local Governance

by

The Federation of
Prince Edward Island Municipalities

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Introduction

The Federation of Prince Edward Island Municipalities (FPEIM) welcomes the decision by the Provincial Government to appoint this Commission on Land and Local Governance. We are delighted that the Province had the foresight to include both local governance and land use in its mandate. That decision recognizes the strong link between municipal and land related issues. FPEIM is pleased to provide comments for consideration by the Commission.

At the 2008 FPEIM semi-annual meeting, elected municipal officials and senior staff engaged in meaningful discussion on issues of importance to municipalities. Participants made many comments and recommendations, and a clear consensus emerged that municipal boundaries must be expanded to take in all areas that are not incorporated. Delegates also strongly expressed a need for better financial tools, modern legislation, and greater respect for the municipal order of government. The comments from that meeting helped shape this submission.

Overview

In Canada, and in developed countries around the world, citizens rely on municipalities to deliver local services that make communities more attractive places to live and work. Through long-term comprehensive planning, modern infrastructure, and the delivery of a broad range of services, municipal governments play a key role in creating conditions for communities to thrive and prosper. Unfortunately, the capacity of municipalities in Prince Edward Island to enhance our quality of life is compromised by an outdated and underfinanced system of municipal government in this province. FPEIM is not suggesting that municipalities in other provinces don’t face significant challenges. That is certainly not the case. However, municipalities in Prince Edward Island also suffer from a combination of factors that create unique challenges.

The FPEIM President and Executive Director have regular dialogue with their counterparts from the other provincial and territorial associations. Those individuals are often astonished by the situation in Prince Edward Island. As municipalities in other parts of the country embrace innovative approaches to ongoing and emerging challenges and opportunities, municipalities in this province often struggle to keep up with current demands due to inadequate tools and resources. Essentially, municipalities have been left behind and the gap continues to widen.

FPEIM has repeatedly called for meaningful change, including better financial arrangements, modern legislation, and bringing all unincorporated areas of the province within municipal boundaries. Regrettably, little has been done to address longstanding concerns. The status quo is not a reasonable option and it is not in the best interest of Islanders. A new direction is long overdue.

The following overview of municipal governments provides insight into why change is so important. There are 75 municipalities in the province – two cities, seven towns, and 66 communities. The total municipal population is approximately 93,000 residents, with the population of individual municipalities ranging from fewer than 100 residents to more than 32,000. The cities and the two largest towns account for almost 63 percent of the municipal
population. The remaining 71 municipalities have an average population of fewer than 500 residents. The following is a breakdown of the municipal population:

- five municipalities have a population of fewer than 100 residents;
- 16 municipalities have a population between 100 and 250 residents;
- 27 municipalities have a population between 250 and 500 residents;
- 15 municipalities have a population between 500 and 1,000 residents;
- eight municipalities have a population between 1,000 and 2,500 residents;
- one municipality has a population between 2,500 and 5,000 residents;
- one municipality has a population between 5,000 and 10,000 residents;
- two municipalities have a population of more than 10,000 residents.

In addition to a small population, most municipalities cover a very small geographical area, ranging in size from about six-tenths of a square kilometre to almost 230 square kilometres. Many of the municipalities originated as one or more local school districts created in the 1800s. The size of these districts reflected the fact that students needed to walk to school at that time. The names and boundaries of former school districts still exist today and are used to identify more than 500 communities in Prince Edward Island.

One in every five municipalities has an area of less than two square kilometres. The total area of all municipalities covers less than 30 percent of the land mass on Prince Edward Island. A map depicting municipal boundaries is attached as Appendix A. The dark green on the map represents the area within municipalities. First Nations reserves cover 0.1 percent of the land and 70 percent is not incorporated.

Our situation is very different from nearby Nova Scotia, where the entire province is covered by 55 municipal governments, all of which are single-tiered municipalities. Although unincorporated areas exist in several other jurisdictions in Canada, those areas tend to be remote, and are usually sparsely populated. In some jurisdictions, unincorporated areas are covered by another form of local governance, such as local service districts.

In 2007, the Government of New Brunswick released *Our Action Plan to be Self Sufficient in New Brunswick*. In addition to emphasizing the importance of strong communities, the report recognized participation in local governance as a fundamental right that must be extended to New Brunswickers in all corners of the province.¹ A Commissioner on the Future of Local Governance was appointed to examine the structure and organization of local governance, regional co-operation, property taxation and local government funding arrangements. The Commissioner recommended that the entire province be incorporated, and that municipalities have a minimum population of 4000 residents or a minimum assessed value of $200 million.² We should be concerned if these figures truly represent minimum requirements for a viable municipality, since Cornwall, Stratford, Summerside, and Charlottetown are the only municipalities that meet those standards. The remaining 71 municipalities have an average

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assessments base of $27.5 million and, amongst those municipalities, Belfast has the highest population at 1839 residents.

Steps need to be taken to address the serious issues that weaken our municipalities, and ultimately the Island as a whole. Municipal services taken for granted in other parts of Canada are not provided by many of the 75 municipalities on Prince Edward Island. The following examples offer further insight into the state of municipal affairs.

- Only 15 municipalities have full time staff to oversee the administration of the municipality. Several of the remaining municipalities do not have regular office hours, and many do not have a municipal office.

- The majority of municipalities do not have emergency preparedness plans, and those that have plans struggle to keep them up to date. More frequent and severe weather events due to global warming will make emergency planning even more important in the years ahead.

- Many municipalities do not have bylaws and those that have bylaws often face significant enforcement challenges.

- Land use and other local planning is completely inadequate in Prince Edward Island, despite the fact that Prince Edward Island is the smallest and most densely populated province in the country. There are 31 Official Plans; however, these plans only cover 10 percent of the province. Only the four largest municipalities have full-time staff dedicated to planning and development control. Prior to 1993, the provincial government provided a planning service for municipalities. When the service was discontinued, municipalities were not given new resources to pay for this responsibility.

- Few municipalities have staff to deliver recreational programs. According to Active Healthy Kids Canada, 84 percent of Canadian municipalities report that they offer physical activity programming or scheduling targeted toward families. In 2005, municipalities in Canada spent $218 per capita on recreation compared to $76 in Prince Edward Island. This undoubtedly contributes to our level of inactivity, which, according to a Statistics Canada report, is the highest in the country. There is growing evidence that recreational programming has broad benefits related to health, academic performance, "child and youth development, social inclusion, crime prevention, and economic development."  

The larger municipalities are providing a range of local services, but face ongoing financial
challenges to do so. Over the years, FPEIM has been vocal about the need to strengthen municipal governments, not only to help them move forward, but also to prevent them from falling further behind.

Municipal governments in this province have been poorly positioned to fulfill their role compared to municipalities in Canada in general. Constraints to municipal capacity have been obvious for a very long time; however, little has been done to strengthen municipalities. The following quotes highlight the severity of the situation.

In The Geography of Governance, Andrew Cousins reported "local government is in most cases not strong enough to generate a critical mass of 'local' authority, the necessary prerequisite for bringing an assortment of services and functions more closely under 'local' control. This has obvious implications for local democracy on Prince Edward Island"."7

Denbeigh Armstrong, of Tasmania, conducted research related to municipal government on Prince Edward Island as part of her PhD thesis. She described municipal government in Prince Edward Island as "characterised by a highly fragmented structure, inconsistency in powers and functions from one municipality to another, and significant disparities across municipalities in their representatives' capacities to govern effectively. Such characteristics contribute to significant problems related to land-use planning, development control, resource management and the effectiveness of local democracy, with considerable environmental, social and economic repercussions that undermine prospects for sustainable regional development."8

In 2007, the PEI Rural Team engaged The IRIS Group to undertake a study on local governance. According to the study, “the historical evolution of local governance has left us with a system that is difficult to change. Yet change it must, for the unsustainability of the present system, and the implications of inaction, are more apparent with every passing year."9

Other quotes highlighting the need for progressive action or explaining inadequacies with the current situation are cited throughout this document.

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8 Armstrong, D & Stratford, E in press, 'Thoughts on scale, land-use, and opportunities for good governance: a tale of two sub-national jurisdictions', in G Baldacchino, L Felt & R Greenwood (eds), Remote Control: Lessons in Governance from Small and Remote Places, ISER Press, St John’s NL.

Municipalities have been at the tipping point for a long time. In the future, an already dire situation will be made more difficult by significant new challenges, including depopulation of rural areas, an ageing population, growing demands for new and improved services, ageing infrastructure, and the anticipated negative impacts of global warming. The challenges that lie ahead will make it increasingly important to have strong cities, towns, and communities. Continuing to ignore the situation could jeopardize the long term viability of municipal governments.

According to the 2006 census, the population of most of the rural towns and former villages is declining or stagnant. Those municipalities act as service centres for rural areas. If this trend continues, as it is expected to, there will be fewer people in those small municipalities to pay for services and amenities that benefit a much larger area.

In the past, additional layers of governance have been created for fire protection and economic development, and a crown corporation has been established for solid waste management. Over the past couple of years, suggestions have been made that new governance structures might be appropriate to overcome difficulties related to the delivery of:

- land use planning;
- recreation; and
- watershed protection.

These suggestions have clearly come about because so much of our province is not incorporated, and most municipalities lack sufficient resources to undertake or share responsibilities related to those services. Creating another layer of governance in Prince Edward Island for every service that is typically provided by municipalities is not the solution.

FPEIM recommends that all areas of the province, except First Nations land, be incorporated through the expansion of existing municipalities, and that the Government of Prince Edward Island provide financial assistance to cover transition costs associated with changes to municipal boundaries. FPEIM encourages changing boundaries throughout the province simultaneously, rather than through pilot projects. The latter would delay changes that are already long overdue, and possibly jeopardize a move to province-wide municipal incorporation. We further recommend that boundaries be determined through a public process, giving consideration to:

- community of interest;
- natural boundaries;
- watershed boundaries;
- fire districts;
- tax base; and
- population.

Public participation in the process will help the transition and contribute to the long-term success of the new municipality. Existing community names must be protected, unless the
Some people might argue that rural Prince Edward Island cannot afford larger municipalities covering areas that are presently not incorporated. FPEIM is convinced that the opposite is true. Stronger municipal governments are needed to strengthen rural Prince Edward Island, and the province as a whole. Allowing municipalities to expand would increase their capacity to develop and implement a long term vision that reflects local needs and priorities. Communities would be better positioned to take their future into their own hands, undertake initiatives that matter to the community, and take advantage of funding programs, such as the Gas Tax Fund. Island-wide incorporation would address the democratic deficit in unincorporated areas by providing new opportunities for citizen engagement and local decision-making. It would also generate a larger pool of candidates for elections. In the 2006 municipal elections, all candidates were elected by acclamation in 51 of the 67 municipalities that reported that information to Elections PEI.

Expanding boundaries to take in unincorporated areas will not resolve all the issues in rural Prince Edward Island, or eliminate all the problems that are undermining municipal governments, but it definitely is an essential part of the solution. There is a fundamental link between strong municipalities and the vitality of rural areas. Interestingly, the timing of the Commission coincides with the creation of a provincial rural development strategy for the province, a process now well underway. The decline of rural Prince Edward Island is a serious problem, which calls for concerted long-term planning and action. To address the issue effectively will require the combined efforts of both the provincial and municipal orders of government. But for municipalities to play a decisive role in rural economic and social development, major governance and municipal-funding changes are required.

In 1999, the Prince Edward Island Population Strategy Panel reported: “the Panel believes that its efforts to build sustainable communities will only be fully effective if they occur in the context of strong, effective, local governance structures encompassing all areas of the province. Indeed, the Panel holds that such reform of local governance is essential to addressing all the challenges outlined . . . : the need for economic development and diversification; the need for local facilities, amenities, services, and infrastructure; the need to plan for development and growth in a fair and professional way; and the need to foster local leadership and local capacity.”

The benefits of full incorporation became evident to members of the Municipalities Act Review Committee during the review process. The topic was discussed on several occasions, and although they were advised that the issue was not part of their mandate, committee members called for a plan to expand the present geographical coverage of municipal government to all areas of the province. The report of the Committee, which was released in 2005, stated:

“Since 1972-73, royal commissions and round tables have recommended greater municipal coverage. The suggestion to reduce the amount of unincorporated land has also been supported by other position papers. . . . The committee

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echoes the need for greater municipal coverage.” 11

The Committee also reported:

“A plan to move toward municipal coverage throughout the province would strengthen grassroots democracy and enable citizens of unincorporated areas to address local issues and access municipal services. Presently, a number of small municipalities struggle to provide local services due to the limited tax base. A planned approach would facilitate the creation and/or expansion of municipal governments that are better positioned to effectively serve the needs of residents and businesses. This would also lead to a more consistent level of municipal services throughout the province.” 12

Expanding boundaries into areas that are not incorporated would strengthen the municipal tax base and lead to a more equitable sharing of the cost of delivering services. According to the Municipal Study Report:

“The combination of lower assessments in unincorporated areas, and a tax rate which does not take into account services provided by the Province, reduce the tax load for property owners in those areas. Home owners have sought such cost advantages by building outside of incorporated areas, which also enables deferment of costs involved in connecting to local water and/or sewage disposal services. Having avoided any of the costs associated with municipal benefits, these owners then take advantage of the available conveniences to the extent desired.” 13

“This situation removes incentives to consolidation of the population within municipal boundaries where they can be most efficiently serviced and is a contributing factor to ‘ribbon development’ on PEI as well as to later servicing costs borne by the Province.” 14

“We believe that there is also an inequity in charging the same property tax to rate-payers in unincorporated areas as is charged to rate-payers in municipalities. The former are provided with the necessary local services by the province, whereas the latter must pay for some or all of those same services through municipal property taxes.” 15

12 Ibid.
15 Ibid, page 60.
“Not only should there not be any property tax advantage for settlement in an unincorporated area, but there should be definite tax disadvantages.” 16

From time to time, residents of unincorporated areas have suggested that the burden of being further away from some amenities justifies not paying municipal taxes, and that owners of property in unincorporated areas should only pay property taxes to the Province. Those arguments fail to recognize that municipalities incur costs to deliver services that benefit property owners in unincorporated areas, and it is necessary to share the cost of those services. Furthermore, being further from amenities reduces the market value of a property. This translates to lower property assessments and provincial property taxes, despite the higher cost of delivering services.

Sharing the tax burden in a manner that fair to all Islanders is an important benefit of expanding municipalities to cover the entire province; however, it is merely one of many compelling reasons for adopting this modern and inclusive approach to local governance. The time has come to embrace a move to Island-wide municipal incorporation.

Land Use

The tax incentive to build outside municipal boundaries is contributing to sprawl and eroding the financial capacity of municipalities. In Prince Edward Island, sprawl is a serious problem that gets worse with every passing year. It often occurs immediately outside municipal boundaries, along the coastline, or as development along roads in rural areas. The latter is commonly referred to as ribbon or strip development. The extent of the problem can be seen on the map attached as Appendix B. The red represents developed land. Although the map does not display roads, they are easily identified by the ribbon development that has been permitted to occur.

“Between 1991 and 2001, only 15 new dwellings were constructed in Tignish, leaving 137 properties undeveloped. During the same period, 175 new dwellings were constructed in the surrounding areas of Lots 1 and 2 (Statistics Canada 2001).” 17  In 1997, the report of the Round Table on Resource Land Use and Stewardship stated:

An examination of building permit statistics provided by the Department of Community Affairs and Attorney General illustrates that the majority of residential development takes place outside cities, towns and villages, in either rural municipalities or unincorporated areas. It also shows that residential and cottage developments result in the permanent loss of significant areas of agricultural land.

16 Ibid, page 75.
• Between 1990 and 1996, 30 percent of building permits for single family dwellings were issued in cities, towns and villages. The other 70 percent were issued in rural areas, fitting our definition of strip development;

• Between 1974 and 1995, 13,300 building permits were issued for single family dwellings in rural areas. This development consumed an estimated 6,250 acres of land and 300 kilometres of road frontage; and

• Between 1974 and 1995, an estimated 2,100 acres of land were consumed by cottage developments.

These numbers confirm what the Round Table has heard in the course of public consultations. Strip development is one of the most serious land use issues on Prince Edward Island; it affects the productive potential of our most important industry, it has a direct effect on the cost of servicing residential development and it reduces the aesthetic appeal of the landscape. This is clearly a triumph of the right of the individual property owner over the rights of the community.18

The Government of Prince Edward Island has been well aware of the problem for many years. Although the need to change our approach to land use has been well documented, political resistance has stalled progress for decades. In 1991, the provincial document Land Use and Development in Prince Edward Island: Issues, Choices and Policy reported:

At this point, the land base of the Province is suffering the "death of a thousand cuts". The rate of change is slow, but the end result is inevitable. The external changes that are taking place nationally and internationally are going to force Prince Edward Island to a position of increasing strain in trying to maintain or improve the current lifestyle and standard of living. Government believes that now is the time to make changes while the Province still has the ability to secure its future, economically, politically and culturally by taking its most important asset, the land base, and employing it in a way which will optimize the sustainable return from it as a working landscape.19

The basic message of both the 1973 and 1990 Royal Commissions was that the development pattern across the province as a whole has been dominated by strip development along roads and the shore. The Commissions have also told Government that, in the long-term, this direction is wrong because it will unnecessarily constrain the development of the provincial economy and fundamentally change the character of the land and, as a result, the lifestyle of the people of the Province. Government accepts this as a basic premise.

Government believes that there are five general issues which require action as

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18 Round Table on Resource Land Use and Stewardship, Cultivating Island Solutions, August 1997, page 98.

quickly as possible. These areas are:

• Coastal area development, including subdivision and shorefront access;
• Arterial road access and strip development along these roads;
• Municipal services and structures, including a careful evaluation of how best to ensure that municipalities, particularly the City, towns and villages, are in a position to provide services to their residents at affordable rates;
• Protection and development of resource lands (agriculture and forestry) and, in particular, ensuring that their future potential is not compromised by development decisions;
• Protection of natural environmental systems, including beaches and dunes, wetlands, streams and estuaries.  

The report drew three major conclusions, including the following: “By slow incremental steps, the land is being transformed in a way which will eventually undo its ability to support us collectively. If there is one consistent conclusion in both the 1973 and 1990 Royal Commissions (on Land), it is that the current direction in land use is not in harmony with our environment, our future economic aspirations, or what we can afford in the long run.”

The provincial government not only failed to act, it contributed to the problem by building schools and industrial parks in unincorporated areas. The location of such developments has a tremendous impact on development patterns. The extent of the problem led municipal leaders to adopt a resolution, at an annual FPEIM meeting, calling for a policy to restrict development by the provincial government outside municipal boundaries.

Sprawl is expensive. When homes and businesses are spread out it costs more to provide public infrastructure and services, such as building and maintaining roads, transporting children to school, collecting garbage, and installing and operating water and wastewater systems, to name a few. Instead of using land use plans as a tool to control costs, we are often servicing unplanned development. Islanders cannot afford to allow haphazard development to drive up costs and further threaten the quality or availability of services.

The Department of Communities, Cultural Affairs and Labour presently estimates that, in the areas of the province where they are responsible for issuing development permits, there are 15,000 to 20,000 approved lots that have not been built upon. Development on many of these lots in the future will contribute to the problem.

Agricultural land is a finite resource, yet it is being transformed into residential property at an

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21 Ibid, pages 9-10.
alarming rate. Agriculture is an important industry on Prince Edward Island. Unfortunately, many of our farmers are struggling to make ends meet, and subdividing land and selling it for development is sometimes seen as a solution. This situation contributes to sprawl and the many problems created by haphazard development, including land use conflicts. Although the sale of land is profitable for the individual farmer in the short term, it takes land out of production that would have continued to generate revenue for the foreseeable future. Furthermore, given the large supply of existing lots in rural areas, the expectations of some farmers and other property owners might not be realistic both in terms of their ability to attract a buyer and the sale price. We hope the provincial government and the agricultural community will find ways to strengthen the industry.

In 1997, the Round Table on Resource Land Use and Stewardship reported "Prince Edward Island's present land use policy is not characteristic of a province suffering from a shortage of good agricultural land or an explosion of population in rural areas. Rather, the policy is largely a response by Government to the wishes of those who own land and to the financial interests of individuals. It treats land as a commodity to be bought and sold, not as a resource to be preserved. It is not the reflection of an organized approach to land use planning."  

The provincial report Stewardship and Sustainability made the following similar statement based on concerns about landscape: "Many small decisions can lead to widespread landscape deterioration even though each action is perceived as small and even benign by itself. Our past practice of continuous compromise is not an acceptable way to plan our land use." The landscape deterioration referred to is already evident in many areas, and we continue to lose scenic vistas every year. As part of a rating of Island destinations, National Geographic Traveller made the following comment about Prince Edward Island: “Large sections of unincorporated land make municipal governance ineffective in land use planning and rewards urban sprawl. Its iconic landscape remains generally underprotected.”  

Expanding municipal boundaries to cover the province and substantially increasing the planning capacity of municipal governments would constitute an enormous step forward. Protecting the land is not a new concept. In 1973, The Royal Commission on Land Use and Land Ownership reported "the need for some measure of land use planning has been stated in virtually every brief that the Commission has received."

Today, only 10 percent of the Prince Edward Island is covered by municipal land use plans despite numerous reports that have called for better planning. This is largely due to the amount of unincorporated area, limited financial capacity of municipalities, and a lack of political will.

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22 Round Table on Resource Land Use and Stewardship, Cultivating Island Solutions, August 1997, page 109.
The remaining 90 percent is under provincial responsibility, but the Province's land use and
development controls are grossly inadequate. A map of the area covered by municipal Official
Plans is included as Appendix C. The red on the map represents municipalities that have
Official Plans.

As the smallest and most densely populated province, local land use planning is likely more
important here, than in any other province. That service is best delivered by municipalities,
even in a province as small as Prince Edward Island. The provincial government also has an
important role to play. It must develop strong regulations and tools to support and guide
municipal planning. It must also develop a long-term vision regarding the use and protection
of the land as it relates to broad provincial interests, and it must put a comprehensive plan in
place to achieve that vision.

Steps must be taken to ensure that all municipalities have the financial capacity to develop,
adopt, enforce, and update land use plans. Modern planning provides an opportunity for
citizens to develop a vision for their municipality, and helps create vibrant cohesive
communities. It allows us to achieve a balance between the rights of landowners, and
development control measures that serve the long term collective interests of Prince Edward
Islanders. We must provide for managed growth in all parts of the province, based on sound
land use planning principles.

Modern municipal planning helps control the cost of public infrastructure and services.
Municipal plans are also a useful tool for:

• watershed and environmental protection;
• minimizing the loss of the scenic vistas that are essential to our tourism industry;
• reducing the amount of development on agricultural and other resource land;
• protecting wildlife habitat and fragile areas;
• maintaining green spaces and heritage properties for public benefit;
• minimizing land use conflicts;
• building the critical mass needed to attract development;
• ensuring development is appropriate to the area in which it is situated; and
• creating efficient walkable neighbourhoods instead of car dependent communities where
residences are further from workplaces, schools, shopping, and services. Driving longer
distances increases greenhouse gas emissions, air pollution, the cost of vehicle
ownership and the risk of motor vehicle accidents, and contributes to physical inactivity.

According to a report released by the Ontario College of Family Physicians, "The direct and
indirect human health implications of urban sprawl are far reaching and have tremendous
impact." The report identified a number of concerns related to urban sprawl, including social
isolation and age segregation in the elderly and young. The report also stated: “Evidence


clearly shows that people who live in spread-out, car-dependent neighborhoods are likely to walk less, weigh more, and suffer from obesity and high blood pressure and consequent diabetes, cardio-vascular and other diseases, as compared to people who live in more efficient, higher density communities.” 28

Land use planning protects our drinking water by controlling development within watersheds and limiting the proliferation of septic tanks. Water is the essence of life, and municipal leaders support appropriate measures to preserve the quality and quantity of this vital resource. The failure of septic tanks is the most common cause of private well contamination in Prince Edward Island. In addition, the Chair of the Commission on Nitrates in Groundwater has reported that “tests conducted at a series of free nitrate drinking water clinics have revealed that in 2007, six percent of private wells exceeded the 10 mg/L guideline, and an alarming 11 per cent tested between eight and 10 mg/L. Why was the condition of our drinking water allowed to reach this critical point? It has not been because we only recently learned of the deteriorating situation.” 29

The high number of private septic systems throughout rural areas, increasing nitrate levels in our drinking water, and the impacts of global warming are concerns that might turn out to be very expensive down the road because of the lack of municipal planning.

Scientists overwhelmingly agree that climate change is occurring. Since Prince Edward Island is highly vulnerable to the projected impacts of climate change, we need to take this issue seriously and plan accordingly. Local impacts are expected to include more frequent and severe weather events, including storm surges, increased risk of saltwater intrusion, and sea-level rise.

In 2008, the provincial government released its climate change strategy. That report states "The way we plan our communities can have a significant impact on both our greenhouse gas emissions and our vulnerability to climate change. As we continue to build infrastructure around our coast the vulnerability to sea level rise is increasing.” 30 The report also recognizes that the province needs to work in partnership with the municipal order of government. Municipal planning has enormous potential to play a meaningful role in climate change mitigation and adaptation throughout Prince Edward Island, but this can only be achieved if all areas become incorporated and municipal capacity is strengthened. The location of future flood zones must be incorporated into municipal plans, and appropriate measures must be put in place to protect citizens, and minimize losses due to damage to private property and public infrastructure.

Wise planning decisions can increase the efficiency of our homes and neighbourhoods. Capturing more passive solar energy is merely one example; designing communities with pedestrians, cyclists, and public transit in mind is another. High fuel costs and the need to reduce greenhouse gas emissions will undoubtedly lead to increased pressure to expand public

28 Ibid.
transit in the years ahead, but the pattern of dispersed development will make it difficult for many rural residents to benefit from such a service. Efforts to reduce our reliance on fossil fuels will draw attention to the need to consider community based energy systems in municipal planning decisions. Wind has already become a significant source of energy in Prince Edward Island, and the need for municipal planning with respect to the siting of the related infrastructure has become increasingly apparent.

We depend on the land in many ways. Unfortunately, actions and inaction have shaped Prince Edward Island in ways that do not serve our long-term best interests. We have not been good stewards of the land, and we will very likely be criticized by future generations. We must embrace modern municipal and provincial planning.

Fiscal Framework

Land use planning is merely one of the many services delivered by municipalities that affect our daily lives, and shape our communities. The quality of those services is directly linked to the financial capacity of our municipalities. Unfortunately, the system of financing municipal governments is adversely affecting the delivery of municipal services in Prince Edward Island, from the smallest communities of less than 100 residents to the cities. Extremely tight budgets are preventing many municipalities from providing even basic municipal services, while those that provide a range of services face heavy financial pressures.

Municipalities in Canada receive, on average, eight percent of the total tax dollar, with the remainder going to the federal and provincial governments. The municipal share in Prince Edward Island is substantially lower. It had been estimated to be approximately four percent, but is now even lower due to the change from tax credits to grants that was implemented last year. (The implications of that change will be explained later in this submission.)

Municipalities in Prince Edward Island receive the lowest per capita property tax revenue of any province in the country. In 2005, Prince Edward Island municipalities only received 44 percent of total property tax revenue collected, with the balance going to the provincial government. The elimination of municipal tax credits in favour of grants in 2008 has reduced the municipal portion of property taxes to 32 percent. On average, Canadian municipalities receive 70 percent of property tax revenue.

Note: The figures for Canada have been adjusted to reflect that a portion of the municipal property tax is levied for school boards in Nova Scotia.
Not only do municipal governments have a smaller share of the property taxes collected within the province, but that share is of a smaller amount of total property tax revenue. Combined provincial and municipal property taxes in Prince Edward Island are less than 60 percent of the national average on a per capita basis. Some would argue that lower property taxes suggest that there is room for municipalities to increase property taxes. In fact, municipal councils in Prince Edward Island have faced enormous public pressure to keep property taxes as low as possible. The property tax is highly visible. Although this is a positive attribute of the tax because it increases accountability, it also makes it very difficult to increase rates. It is also important to keep in mind that the property tax burden varies greatly within the province; therefore, the average provincial per capita property taxes are not necessarily reflective of the tax burden. Residential property values tend to be higher in urban areas. The tax rate in service centres is also higher to enable the municipality to pay for a wider range of services, many of which benefit areas beyond the municipal boundary. These factors are reflected in the tax bill. Consideration must also be given to the fact that other jurisdictions have a much larger industrial base, which reduces the share of the tax burden borne by owners of non-commercial property. Furthermore, the property tax burden is high in Canada relative to many other countries. Only three of the more than two dozen OECD nations collect more local property taxes than Canada.  

The Government of Prince Edward Island is the only provincial government to levy non-commercial property taxes on owner-occupied properties within municipalities as a source of general revenue. In New Brunswick, the provincial government levies property taxes province-wide; however, a full rebate of provincial property taxes is applied to owner-occupied non-commercial properties situated within municipalities. The report of the Commissioner on the Future of Local Governance in New Brunswick points out that New Brunswick “... occupies part of the property tax field, that in all other provinces except Prince Edward Island, belongs exclusively to local governments.” Although municipalities in New Brunswick are in a more favourable position than Prince Edward Island municipalities with respect to property taxes, their Commissioner reported that “local governments now find that property taxes, as presently shared, are not sufficient to meet their expanded expenditure needs” This statement speaks volumes about the situation in Prince Edward Island. In Newfoundland and Labrador, property taxes are levied exclusively by municipalities. In the other provinces, property taxes are shared with the school boards to partially fund public education. In British Columbia, a very small percentage of property tax is also used to fund health boards.

Property taxes should be used, as much as possible, to fund services to property. The use of property taxes to fund education dates back to an era when education was delivered locally. Reducing and eventually eliminating the use of property taxes for provincial responsibilities not related to property, including education, would be a positive step, especially considering the broad revenue-raising options available to provincial governments.

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34 Ibid, page 130.
According to a Statistics Canada report, “Low-income homeowners pay proportionately more of their income on property tax than their higher income counterparts.”\textsuperscript{35} This raises questions about whether property tax is the most appropriate source of tax revenue to fund provincial expenditures such as education. Although property taxes continue to be used to fund public education in several jurisdictions, there has been growing pressure to move away from the use of property taxes for that purpose. This year, the Saskatchewan government substantially reduced the amount of property taxes collected for education. A further decrease is planned for next year. This was in response to repeated requests from the municipal associations in that province.

As the following graph published by the CD Howe Institute illustrates, the financial constraints upon municipalities in Prince Edward Island are not limited to the share of tax revenue in general, or property taxes in particular. In fact, municipal governments in Prince Edward Island have the lowest average per capita revenue and expenditures of municipalities in any province in Canada.

FPEIM acknowledges that this graph is based on provincial populations and does not account for differences in responsibilities from one jurisdiction to another. In Prince Edward Island, the provincial government provides services in many communities, such as streets and police, that are typically offered by municipalities. In addition, a number of services simply aren’t delivered.

in some municipalities. These factors contribute to lower revenue and expenditures in those municipalities. Despite these considerations, this graph points to serious municipal finance issues relative to other provinces. The severity of the situation becomes more obvious when you consider that municipalities from coast to coast to coast are facing financial challenges.

Provincial and federal deficits are generally an indication of financial difficulties. Unlike the other orders of government, municipalities are not permitted to adopt deficit budgets; however, the absence of a deficit is not necessarily a sign of healthy finances. Councils delay, avoid, or cut expenditures to balance the books. This is often done at the expense of municipal services and infrastructure. In fact, municipal infrastructure has aged to the point that the national municipal infrastructure deficit is estimated to be $123 billion.\(^{36}\) This staggering figure is an indication of the state of municipal finances in Canada. The condition of our municipal infrastructure has implications for the economy, public health, public safety, the environment, and quality of life. It is unfortunate that the situation has deteriorated to this point, but municipal governments are encouraged by increased funding for infrastructure from the other orders of government in recent years.

The following quotes offer a glimpse of the growing recognition that municipal governments in Canada are burdened by a difficult financial situation:

> “The most glaring shortcoming of the current taxation structure in Canada is the lack of flexibility in taxation instruments at the municipal level.” \(^{37}\)

> “It was clear to the committee that municipalities are struggling to meet their individual expenditure needs with current revenue sources. Municipalities do not have the same taxation powers as other orders of government and continue to depend largely on a narrow set of revenue tools: namely property taxes, user fees, and intergovernmental transfers.”\(^{38}\)

> “Caught between insufficient revenues and rising expenditure needs, municipalities find themselves in an increasing financial squeeze. Continued reliance on the real property tax as the primary source of municipal revenue is widely criticized as inappropriate, as well as inadequate. The other revenue sources available to Canadian municipalities are regarded as quite limited and insufficient – especially when compared with the experience of municipal governments in the United States and many parts of Europe.”\(^{39}\)

> “The Committee concluded that property taxes are not an adequate base for

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municipalities to meet their infrastructure challenges. As it reduces the burdens of its own taxes, the federal government should encourage provinces and territories to provide cities and communities with a more substantial degree of autonomy in raising revenue.  

“The time has come for provincial governments to give municipalities access to additional tax sources.”

The message is increasingly clear that the system of financing municipal government operations is outdated and inadequate. Municipal governments rely primarily on property taxes and user fees, and have been calling for a broader set of revenue raising tools that are reliable, predictable, and grow sufficiently over time.

According to a report by Professors Harry Kitchen and Enid Slack, who are widely recognized as leading experts on municipal finance in Canada: “For those services with public-good characteristics, user charges are impractical; taxes are a more appropriate means of payment. These taxes should, as much as possible, reflect the benefits received from the services. Municipal governments should finance services that benefit local residents from taxes such as property taxes and income taxes that are borne by local residents. For services that benefit commuters and visitors, other taxes, such as sales taxes and hotel and motel occupancy taxes, may be more appropriate.”

“International experience shows that local governments in the great majority of OECD countries collect the great bulk of their local tax revenue from other tax sources, including personal and corporate income tax, general sales taxes, selective sales taxes, and other taxes.” The following overview of revenue sources in Canada reveals that a few examples of alternative sources of revenue already exist in Canada, some of which are relatively recent.

- Provincial revenue from income tax, video lottery terminals, and casinos is shared with municipalities in Manitoba.
- Land transfer taxes are levied by municipalities in Nova Scotia and Quebec, as well as the City of Toronto, and they are permitted in Manitoba. In Prince Edward Island, the land transfer tax is levied by the provincial government.
- Hotel taxes are levied by municipalities in Prince Edward Island, Nova Scotia, Quebec,

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40 External Advisory Committee on Cities and Communities, From Restless Communities to Resilient Places: Building A Stronger Future For All Canadians, June 2006, page ix.
Saskatchewan, Alberta, and British Columbia, and they are permitted in Manitoba.

- Fuel tax is a municipal revenue source in Quebec, Ontario, Manitoba, Alberta, and British Columbia.

- Utilities pay a tax based on the revenue collected in the municipality in Newfoundland and Labrador. Public utilities in Quebec are also taxed on the basis of gross revenues rather than property tax values.

- Development charges may be levied by municipalities in British Columbia, Alberta, Saskatchewan, Ontario, Yukon, and Northwest Territories.

- Amusement taxes are levied by municipalities in Nova Scotia, Manitoba, Saskatchewan and British Columbia.

- Vehicle registration fees are levied in Toronto.

- Provincial Sales Tax (PST) revenues are shared with municipalities in Quebec. The amount is equivalent to 100 percent of PST paid by the individual municipality. Municipalities in New Brunswick and Nova Scotia receive a 57.14 percent rebate. Efforts by FPEIM to secure a full rebate of PST paid by municipalities have been unsuccessful.

Even with additional revenue options, the property tax will continue to be the primary source of revenue for municipal governments; therefore, greater access to that revenue source is critical. In Prince Edward Island, high provincial property taxes within municipalities is making it difficult for municipal councils to raise sufficient tax revenue without imposing an excessive burden upon property owners.

FPEIM continues to recommend that, over time, the Government of Prince Edward Island substantially reduce the provincial property tax rate within all municipalities and eliminate provincial property taxes within full service municipalities. This proposal was introduced several years ago to:

- address significant financial challenges facing municipalities, large and small;
- balance grave inequities in the property tax system;
- reduce the tax incentive to build outside municipal boundaries; and
- decrease resistance to expanding municipal boundaries.

FPEIM is well aware of the current financial climate and is not suggesting that the provincial government is in a financial position to make enormous cuts to its property tax revenue this year. FPEIM also agrees that it is appropriate for the Government of Prince Edward Island to collect property taxes to cover the cost of municipal services it provides, such as local streets and police, in the areas where it provides those services. The Government of Prince Edward Island has been requested to develop a plan to implement this recommendation over a reasonable period of time.
Last year, the quest for greater financial autonomy through better access to property taxes took a huge step backward when the Province unilaterally terminated the Comprehensive Urban Services Agreements (CUSA) with the four largest municipalities, and eliminated tax credits under the Municipal Support Grant. The Province’s decision to eliminate tax credits is counter to the recommendation by FPEIM to decrease provincial property taxes within municipalities. This change is inconsistent with national trends, it is contrary to the interests of municipal governments, and FPEIM is strongly opposed to it.

The eleven affected municipalities now receive a grant to compensate for the elimination of tax credits. Although there were differences in opinion regarding the merits and detriments of the tax credits, that method of financing municipal operations was far superior to the new grant system. Past experience has demonstrated that grants are subject to cuts, especially during tough economic times. Furthermore, annual grant increases are entirely at the discretion of the provincial government. This increases uncertainty about future funding levels and makes long-term planning more difficult. This year, the Province applied an across-the-board increase, but that approach does not recognize differences in servicing costs related to growth.

Municipal leaders have expressed serious concerns that the new grants will not increase as quickly as the tax revenue would have grown. This would have a substantial negative financial impact in the years ahead, especially for the four largest municipalities. Those fears are consistent with the findings of an independent assessment of the new system of grants. The consultants projected enormous losses for Charlottetown, Summerside, Stratford, and Cornwall over the next ten years. Furthermore, those losses will continue to increase with each passing year. The consultants also concluded “A grant that increases with the rate of inflation will not result in a fair distribution of the grants among municipalities in future years.” The Province has argued against the consultants’ findings on the basis that future increases to the grants have not been determined and, therefore, revenue projections cannot be calculated.

Any decreases in municipal revenue as a result of the change to grants will ultimately be borne by property owners through increases to municipal taxes, and by the population in general through lower service levels. Furthermore, it is likely that any criticism arising due to higher municipal property taxes or cuts to municipal services will be directed toward the municipality.

When the provincial government initiated the change from tax credits to grants, it suggested that the new system was put in place in the interest of fairness, transparency and accountability. FPEIM argues that those principles have been compromised by the change to grants.

The change from tax credits to a grant reduces accountability by unnecessarily placing revenue for municipal operations under provincial authority, and thereby removing the responsibility for setting the tax rates to raise that revenue. According to Professor Enid Slack, “as much as possible, local governments should raise the revenues they spend.” Under the new system,

46 Enid Slack, Presentation to the Round Table on Renewing Local Governance in Atlantic Canada, June 9, 2008.
the affected municipalities have lost control over a substantial share of their revenue.

FPEIM is not opposed to grants. Transfers to municipalities are often necessary, especially for redistributive purposes, such as equalization, and for responsibilities that exceed the financial capacity of municipal governments, such as infrastructure. Last year, FPEIM applauded the decision by the Province to fully fund the equalization component of the Municipal Support Grant, and to apply the funding formula. However, taxes should generally be spent by the order of government that levies them. In this case, channelling taxes through the Province that are intended to pay for municipal services is unnecessary and does not serve the interests of taxpayers. The new grant system breaks the link that allows taxpayers to understand the relationship between the taxes they have paid and the services received.

The former tax credit system respected the decision-making authority of democratically elected municipal governments. FPEIM continues to recommend that the Government of Prince Edward Island reverse the decision to replace the municipal tax credits with a grant and work with FPEIM and affected municipalities to identify mutually acceptable solutions to any concerns. The Province has indicated to FPEIM that it is not prepared to reconsider its decision until it receives a recommendation on this matter from the Commissioner. FPEIM reminds the Commissioner that time is of the essence. It will be more difficult for the Province to remove the freeze with each passing year as its property tax revenue from the change grows relative to the grant. This will become more evident if the change does not occur before the assessment freeze is removed.

Historically, property tax revenue has not grown with the economy, and the Conference Board of Canada suggests that, with an ageing population choosing to reside in smaller homes, growth in the residential tax base is expected to be soft in the medium and long-term. According to the Conference Board, this could leave municipalities chronically underfunded over the long-term. In recent years, however, property values have grown more rapidly than inflation. This has resulted in corresponding increases in property assessments and higher property tax revenue, since most municipalities did not lower their rates. The additional revenue provided some relief to the growing financial pressures facing municipalities. It is very likely that a number of municipalities would have been forced to increase tax rates and/or cut services if assessments had not increased. Unfortunately, the serious state of municipal finances was not adequately conveyed to the general public. Dissatisfaction with increasing property taxes contributed to a decision by the Province to freeze property assessments for three years, beginning in 2007.

FPEIM welcomed a review of the assessment process, but did not support a freeze. Property taxes account for a much larger share of municipal revenue than provincial revenue; therefore, the assessment freeze impacts municipalities to a much greater extent than the Province. Unfortunately, municipalities were not consulted prior to that decision.

An independent study done in Nova Scotia reveals that capping assessments results in lower income home owners subsidizing their higher income counterparts. This also applies to

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freezing assessments. According to Professor Harry Kitchen, freezing assessments causes enormous inequities for current properties and big problems down the road. Essentially, the greatest beneficiaries of an assessment freeze are property owners whose property is increasing in value the most. It is important to keep in mind that those property owners are becoming wealthier in terms of their assets. Unfortunately, in some cases, low incomes make it difficult to pay the property taxes based on the higher assessment. If the Province wishes to assist that segment of property owners, it should be accomplished through a provincial subsidy—not a freeze on non-commercial property assessments. Income redistribution should be done at the provincial level. If the Province is seeking to provide broad relief from property taxes, it should reduce provincial property taxes as requested by FPEIM. Freezing assessments causes distortions that will grow in time, and the resulting political pressure can make it increasingly difficult to return to a proper system. FPEIM urges the removal of the freeze at the end of the three-year period, as planned, and has requested to be consulted on any changes to the assessment system that might be under consideration.

The decisions to freeze assessments, eliminate tax credits, and many others that have been made by successive governments over a long period of time are reflective of the paternalistic attitude of provincial governments, and demonstrate a lack of respect for democratically elected municipal governments. Over the years, provincial governments have failed to engage municipalities in meaningful dialogue on matters that affect them, and the benefits of strengthening municipalities have often been overlooked. We must embrace a new spirit of collaboration and work in partnership to achieve common goals.

**Legislation**

The legislation governing municipalities in Prince Edward Island lags far behind municipal acts in other jurisdictions in Canada, and the Municipalities Act is arguably the worst act governing municipalities in the country. Fortunately, a comprehensive review of the Act was completed in response to a recommendation from FPEIM. The report, which was released in June 2005, contains approximately 120 recommendations, many of which would involve substantive change. Implementing the majority of the Committee’s recommendations, in consultation with FPEIM, would be a significant step toward much needed reform of the Municipalities Act.

FPEIM has recommended that the existing Municipalities Act be replaced. The provincial government has expressed support for FPEIM’s request, however, that support has not led to the drafting of new legislation.

Modern legislation is an essential tool for municipalities. FPEIM recommends that the new act include:

- recognition of municipalities as a democratically elected, autonomous, responsible and accountable order of government;

- a requirement for the provincial government to consult municipalities on matters that affect them;
• broad authority granted through spheres of jurisdiction, comparable to most other provinces and all territories in Canada, as well as the authority to adopt bylaws concerning the general welfare of their residents;

• natural person powers;

• a requirement that any additional responsibilities imposed upon municipalities must be accompanied by sufficient funding, that will grow over time, to cover all costs arising from those responsibilities;

• stronger and broader protection from liability, including protection from decisions made under other legislation;

• clear conflict of interest guidelines;

• a requirement for the provincial government to comply with municipal bylaws; and

• authority for the Council to adopt the budget in all municipalities. (Presently, only cities and towns have the power to adopt their budget. Community budget are approved by residents at a public meeting. Often, small groups of residents, who do not have a mandate from the voters, are indirectly setting their own tax rates at public meetings. Those residents are not accountable for the budget, nor are they subject to conflict of interest provisions contained in the Municipalities Act.)

FPEIM is requesting a new act that gives municipal governments the necessary legislative tools and authority to effectively manage their own affairs. The move to modern legislation has enormous implications for municipalities, and it is essential that FPEIM be fully involved at all stages of the process.

**Conclusion**

Instead of planning for the future, we are wandering aimlessly in a direction that is not sustainable. We have known for decades that the system is broken, yet the various reports that have recommended meaningful change have been largely ignored. Most of the problems described in previous reports still exist today, and in many cases the situation has deteriorated. Considerable time has passed since those studies were completed, however, and the mandate of this Commission on Land and Local Governance is considerably broader; therefore, the best solutions today differ from some of the recommendations made in previous commissions and studies.

Municipalities are at a crossroads. We can continue to follow the same unsustainable path, or we can take a bold new direction based on a long-term vision – a direction that includes expanding municipal boundaries to cover our Island, better financial arrangements for municipal governments, modern legislation, and a strong intergovernmental relationship with the Province; a relationship that recognizes the important role of healthy, vibrant municipal governments as
an integral part of our “One Island Community”. The Government has already taken an essential first step by appointing this Commission.

We cannot afford to pass up this incredible opportunity. Otherwise, our next opportunity might arise because we have made serious mistakes; some of those mistakes will be irreversible, while others will require costly intervention. If that time comes, we will be faced with a financial, social, and environmental burden that could have been avoided, and future generations will pay for our lack of vision.

We hope the Commissioner’s recommendations, and the decisions that follow, will empower citizens and communities through strengthened municipal governments, and protect the land that is vital to our health and prosperity. The constraints that are negatively impacting municipalities are not insurmountable, but it will take time, collaboration, and decisive action to help Island municipalities reach their full potential. There will be costs associated with moving to stronger, more effective, municipal governments that cover the entire province, and addressing land issues, but the cost of inaction will certainly be much higher. I hope the governing and the opposition parties embrace our vision for a brighter future, and have the courage to implement it, in partnership with the municipal order of government.
APPENDICES
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