

TOWN OF KENSINGTON



**SUBMISSION TO THE COMMISSIONER
ON LAND USE AND LOCAL GOVERNANCE**

**TOWN OF KENSINGTON
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INTRODUCTION

We would like to start by thanking the Commission for the opportunity to present a submission on issues surrounding Land Use and Local Governance on Prince Edward Island and the Town of Kensington. You are faced with a daunting task that will, without doubt, require a great deal of research, study and public engagement to ultimately find a *recipe* that will enable a stronger and more unified future for Prince Edward Island. We would like to commend Premier Ghiz and his cabinet for having the foresight to create the Commission on Land and Local Governance. We firmly believe that the current Provincial administration is one that is willing to make the very tough and sometimes unpopular decisions in the greater good and future of our “One Island Community.”

Our submission has been structured under the following headings:

- Introduction
- Kensington – Site and Situation
- Kensington - Current Capacity
- Land Use and Local Governance
- Response to the Commissioners Questions
- Kensington’s Annexation Experience – November 2000
- Human Resources
- Conclusion

KENSINGTON – SITE AND SITUATION

The Town of Kensington became incorporated in 1914. Kensington had a population of 612 at the time. Since that time many services have been provided to its residents. Kensington is one of only a handful of Municipalities on the Island currently showing positive growth. The Towns population in 2009 is estimated to be just over 1500. The 2006 census figures released in 2007 shows Kensington’s population to be 1485. This is a

7.2% increase over the 2001 figure of 1385. This growth rate is second only to Stratford on Prince Edward Island.

Kensington along with most other municipalities on the Island derives the majority of its powers from the Municipalities Act and the Planning Act. The Planning Act empowers Council to appoint a Planning Board, adopt (and amend) an Official Plan and subsequently to adopt implementing land use and development control bylaws. The Municipalities Act empowers Council to make other bylaws and/or implement programs and strategies to help implement other aspects of its Official Plan.

Kensington is centrally located in eastern Prince County, between Malpeque Bay and New London Bay. Route 2, which bisects the Town, is the major arterial highway connecting the eastern and western portions of the province. Kensington is 48 km west of the Provincial Capital, Charlottetown and 13 km east of the second largest city, Summerside. It is 38 km from the Confederation Bridge and 109 km from the Wood Islands Ferry, connecting to Nova Scotia.

The Town is geographically quite small, containing only approximately 2 square kilometers. Much of the Town's land base is now fully developed and considerable development has spilled over the boundaries as a result. Discussions have taken place for a number of years aimed at extending the Town's very cramped boundaries, so far with very little success. Over the last number of years the Town has annexed some property inside its boundary. On all occasions it was at the landowners request and was met with very little opposition.

The topography of the Town features prominent hills (50 m) in the northeastern corner and another (44 m) to the north of the Town boundary. The land slopes moderately from these elevated areas to the south and west. A third hill is located at the southeast corner of the Town. From this elevation at 60 m the land slopes gently toward the west and to the centre of Town. The central portion of the Town is quite flat, lying between 30 m and 40

m. From this point the land drains gently to the southwest toward the sewage lagoon which is located at approximately 22 m in elevation.

Most of the soils in the Kensington Region are rated as Class II and are highly productive and capable of supporting a wide range of crops. These excellent soils are a major reason for the strength of farming in the region, particularly potatoes. Soils offer very few restrictions for development. The high productivity of the soils in the Kensington region has been cited as a major reason to promote efficient development patterns and to limit the amount of agricultural land being prematurely removed from production.

KENSINGTON - CURRENT CAPACITY

The Town of Kensington provides a wide array of services to its residents and businesses which include generally: Police Protection, Fire Protection, General Government and Administration Services (including planning and development control, Town Hall/Community Centre operations), Public Works (snow clearing, street lighting, general maintenance, etc.), Recreational Services (Parks, EVK Swimming Pool, etc.), sewer collection and distribution services and water chlorination and distribution services.

It is important to note that the Town does not employ the services of a professional planner. Planning services are provided mainly by the Chief Administrative Officer (not a professional planner by trade) in consultation with planning consultants as required.

The Town's commercial and non-commercial tax rates for 2009 have been set at \$1.30 and \$0.55 respectively. This effectively means that a single family residential home in Kensington is subject to a tax rate of \$1.55 per \$100 of assessed value (\$0.55 municipal and \$1.00 provincial). A business or commercial property in Kensington is subject to a tax rate of \$2.80 (\$1.30 municipal and \$1.50 provincial). The 2009 Non-Commercial Assessment for Kensington is \$57,539,670 and the Commercial Assessment is \$9,375,600 for a grand total of \$66,915,270. This represents property tax revenue

generation in the amount of \$438,351. Early in 2008 the Province of Prince Edward Island announced that it would be distributing fully funded equalization for the very first time. Equalization revenue in 2009 for Kensington amounted to \$315,024. While this negatively impacted some Island municipalities, it resulted in increased funding for Kensington. Property Tax revenue and Equalization accounts for approximately 46% of the Town's total revenue generated.

Kensington employs 14 full time and 2 permanent part time staff. During peak seasons the staff compliment can increase up to 25 employees due to operational requirements and the delivery of recreational programming (EVK Swimming Pool). Some of these additional seasonal positions are available because of the availability of Federal and Provincial employment programs.

LAND USE AND LOCAL GOVERNANCE

Significant changes to the local governance model are paramount to the future of PEI, the constraints and pressures placed on Municipalities are simply become too much to bear. The Provincial Government's constant allowance of ribbon development, constricting land area and overwhelming funding and taxation inequities have placed most Municipalities in a position of inevitable failure.

The current property taxation regime on Prince Edward Island coupled with lack of available municipal land provides incentive for potential municipal residents to live or carry out their business outside of a municipality. Kensington provides a glaring example of this phenomenon, given the large amount of ribbon development that occurs and has occurred in the past on the periphery of our boundary, both residential as well as retail.

It is essential to the Town's financial health and it is in the Province's interest that the Town of Kensington be provided with a broader revenue base. As the Town of Kensington and like communities continues to grow and to prosper, so does the Island in general grow and prosper.

RESPONSE TO THE COMMISSIONER'S QUESTIONS

1. In relation to the recommendations of Prior Commissions:

1. Have the recommendations which were implemented effectively dealt with the problems at which they were directed?
2. What action, if any, should now be taken in relation to those recommendations which remain unimplemented, or only partially implemented?

Recommendations were proposed as part of the Premiers Round Table Discussion in 2000 concerning regulating the use of lands in the Kensington area. The preamble to Recommendation 59 states:

Government has chosen to protect resource lands and to control development through the establishment of Special Planning Areas in Greenwich and Borden-Carleton. Both of these are considered "hot spots" and with very good reason. For similar reasons, municipal, federal and provincial governments have established mechanisms for dealing with land use issues in the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico.

Recommendation 59: If we may characterize it as such, there is one hot spot where land use conflicts threaten to explode, and that is the greater Kensington area. We recommend that Government work with residents, landowners, and municipal governments within the greater Kensington area to develop a comprehensive land use plan. More specifically, the plan should include the area bounded by Malpeque Bay, New London Bay to the Stanley River, Highway 8 and Highway 1A; it should include zoning of all land; and it should become official by January 1, 2000.

This recommendation, to the best of our knowledge, has not been implemented. We are of the view that the recommendations from prior commissions that were in fact implemented were done effectively, such as the creation of the Confederation Trial system. However the major recommendations, such as the recommendation above, that have direct impact on the structure of our Municipal units have not been implemented and remain a source of contention.

- 2. Aside from the Municipalities Act and the Planning Act, how effective is provincial legislation such as the Lands Protection Act, Farm Practices Act, Forest Management Act, Environmental Protection Act, Agricultural Crop Rotation Act, Recreation Development Act, Heritage Places Protection Act and the Natural Areas Protection Act.**

It is our view that all Provincial legislation as it relates to the regulation of land use and impacts on local governance should be aligned with an overriding Provincial land use plan and strategy, created through wide public consultation coupled with an implementation strategy founded on respect and necessity.

- 3. What steps, if any, are required in order to better protect:**

- 1. Our water resources;**
- 2. Our agricultural lands;**
- 3. Our underdeveloped lands;**
- 4. Our forests;**
- 5. Our coastline;**
- 6. Our heritage sites;**
- 7. Our viewscapes, particularly in coastal areas.**

To better protect our most precious assets, such as those listed above; it is of the utmost importance that the Province come forward with an overall strategic vision that

Municipal units would have to tailor comprehensive land use plans. It must consider Prince Edward Island's social and cultural environments as well as the unique identities of each individual municipality. We realize this will be no easy task but it is paramount to orderly development and to the preservation of our environment.

4. When it comes to land use planning:

- 1. Is the current approach to land use planning adequate, and if not, how should it be changed.**
- 2. How should authority over land use planning be shared between the Province and the Municipalities?**
- 3. How can land use planning and control best be administered in incorporated and unincorporated areas.**

It is our view that the current approach to land use planning in the Province is completely inadequate. The continued allowance of ribbon development on the periphery of Municipal boundaries is unacceptable and greatly compromises the Province's municipal units. As indicated earlier in this submission, we believe that land use planning should be holistically transferred to Municipalities and developed to align with an overall Provincial vision. Through the transfer of Planning responsibilities, Municipalities must be given the appropriate financial resources to enable effective land use planning.

5. Are Special Planning Areas a fair and effective means of controlling development around municipalities and other areas on which they impact?

From a literary review and gauging the opinions of affected municipalities it appears that special planning areas have worked reasonably well. There is a certain level of concern that development, in some instances have jumped over special planning areas.

Kensington and its general area does not contain a special planning area and thus we feel we are not in a position to comment on their utility and effectiveness.

6. Should development in unincorporated areas adjacent to Municipalities be permitted to continue without requiring that such areas first be annexed into the Municipality?

First and foremost it is our view that all development on the periphery of a Municipal Boundary should cease immediately. Furthermore all existing development adjacent to a municipal boundary should be immediately annexed into the Municipality. As indicated earlier in this submission, we fully support the Federation of Prince Edward Island Municipalities in their bid for full incorporation of the Island.

7. Should Municipalities be permitted to expand in order to encompass developments and proposed developments adjacent to their borders?

A resounding yes, as an initial step in the implementation of a comprehensive land use strategy for the entire Province, Municipalities should be permitted to expand to encompass developments and proposed developments within a reasonable proximity of the municipal boundary.

8. What range of services should a municipality reasonably be expected to provide to its residents?

Municipalities have to be given sufficient financial resources to enable the effective delivery of the following range of basic essential and non-essential services;

- Administrative Services
- Land Use Planning and Development Control
- Policing including by-law enforcement
- Central Water and Sewer

- Public Works
- Fire Protection
- Economic Development (including regional tourism development)
- Recreation

9. What tax assessment base, land base and revenue levels are required to permit a municipality to provide essential services to its residents?

Excerpt from draft Town of Kensington Integrated Community Sustainability Plan

There is a considerable volume of research and literature on sustainability thresholds for municipalities. Estimates range from as low as 2,000 people to well over 5,000. It is also hard to project a fiscally sustainable, full service municipality with less than 100-150 million dollars in assessment. As indicated earlier in this submission, the Town of Kensington has just under \$60 million in residential assessment and just under \$9.5 million in commercial assessment. If the entire service area for the Town of Kensington is considered the population would be 5000 to 8000 and the assessment would easily exceed \$100 million. The Town already provides many services to this area. Police and land use planning and development control services could be very cost-effectively extended.

10. Is the current system of taxation and grants within which the Province and the municipalities operate fair to all concerned, and if not, what alternative approaches should be considered?

No, the current system of taxation and grants in the Province does not operate in a fair manner. The tax rate in unincorporated areas is the same as that inside incorporated areas. Municipalities have to add their tax rate on top of the provincial tax rate. This creates a financial incentive to actually live outside of a municipality. Residents who choose to live, widely unregulated, in an unincorporated area will continue to enjoy the conveniences of living in proximity to the municipality, banks, stores, recreational

facilities, cultural and social facilities and the list goes on. We appreciate the fact that some people simply prefer to live in a rural country setting, but the tax regime needs to reflect that. The Provincial tax rate inside a Municipality should either be significantly reduced, reciprocated or abolished altogether creating an incentive for people to reside in an incorporated area. We recognize this will not be implemented overnight as property tax revenue is significant to Provincial coffers, a phased approach would likely be much more viable and attainable. If the inequities in the property tax regime are not repaired then municipalities must be given access to other sorts of taxation revenue. Other jurisdictions appear to be moving in this direction resulting in more autonomous municipalities and higher quality service delivery.

The current grant system on the Island is grossly underfunded. It is not, as far as we understand, entrenched in legislation and therefore can be increased and decreased arbitrarily as part of any provincial political agenda. This is of great concern to Kensington.

We are quite appreciative of the fact that the Provincial government in 2008 decided to fully fund equalization. Although this had negative impact on some Island municipalities, Kensington saw an increase to the tune of approximately \$130,000. Simultaneously, Kensington's non-commercial tax rate was reduced by the Province, without any real consultation, by \$0.10, representing a taxation revenue loss of approximately \$40,000 and a net revenue increase of about \$90,000. Also, at that time, the Province did away with the traditional 3% administration fee it charged municipalities for the collection of property taxes and began disbursing taxation revenue and equalization on a monthly basis.

Excerpt from draft Town of Kensington Integrated Community Sustainability Plan

There is also a highly inequitable situation in terms of taxation and service fees. Those residents and landowners within the boundaries of the larger municipalities pay for local services through real property taxes, user fees and utility rates. Many people outside

these municipalities use municipal services and benefit from the infrastructure which is required to support them, but they do not contribute to their cost. User fees for fire protection and recreation fees help to cover some of these costs but major inequities remain.

11. Should the Municipalities Act be overhauled or replaced by a totally new statute?

The Municipalities Act should be completely replaced with modern legislation reflecting current conditions. The Town of Kensington fully supports the stance taken by the Association of Municipal Administrators of PEI as it relates to the redrafting of the Municipalities Act.

12. Assuming local communities identities can be protected, should all areas of the Province be incorporated with a view to providing better service to its residents on a local or regional basis?

The Town of Kensington fully supports the Federation of Prince Edward Island Municipalities on their recommendation for the full incorporation of Prince Edward Island. The make-up of these new municipalities will surely be subject to much debate. Options worth considering would include regional governments in the form of new regional municipalities or boundary extensions for some of the larger municipal units currently in existence on the Island to encompass current service areas. Consideration should be given to fire districts; school zones (where do the children attend school); natural boundaries such as watercourses; highways; boundaries of other municipalities; the area that the existing municipality is servicing as well as the area serviced by businesses, government offices, clubs, churches, and NGOs within the municipality (Chamber of Commerce, Access PEI office; health region boundaries; area served by provincial development officers and economic development agencies). Areas serviced by nearby municipalities should be taken into consideration as well as the area surrounding the municipality where people associate themselves with. It is well known and understood that Municipal boundaries are simply no longer an indication of the area

served. Most current municipal boundaries are based on former school districts but these boundaries have little to no significance today.

13. Are residents of unincorporated areas which border on municipalities deriving an unfair benefit from Municipal services, and if so, what remedies are available?

Yes, residents residing in unincorporated areas adjacent to municipalities are deriving unfair benefit from municipal services. They benefit from the conveniences of living inside a municipality however their tax rate is much lower than that of someone actually living inside the municipality.

14. Should Regional Services Divisions be created to provide services such as land use planning on a local or regional basis?

As indicated earlier in our submission the Town of Kensington fully supports the stance of the Federation of Prince Edward Island Municipalities on the full incorporation of the Island. If actioned Regional Service Divisions would not be required as all areas of the Province would be serviced through a municipal unit.

15. Are policy changes required in relation to road construction and use, in order to better serve transportation needs, without unduly compromising other land uses?

It is our view that a Province wide transportation strategy should form part of an overall provincial land use plan. The Transportation Strategy should be developed in accordance with Prince Edward Island demographics and should identify present and future requirements. The Transportation strategy should include alternative transportation options such as public transit, etc.

16. In which of the foregoing areas is maintenance of the status quo the best option?

We firmly believe that the status quo in all of the foregoing areas is simply not feasible. We are presented with an ideal opportunity to secure the sustainability of Prince Edward Island and to effect positive change for present and future generations of Islanders.

KENSINGTON'S ANNEXATION EXPERIENCE – NOVEMBER 2000

In November of 2000 the Town of Kensington sought a large, yet very logical expansion to its boundaries. The Town at the time cited the following reasons for its request to extend its boundaries:

1. Increased tax base;
2. Increased population; and
3. The lack of available, developable land within the boundaries of the Town.

Over 100 residents turned out to speak against the expansion proposal. The written decision issued by the Island Regulatory Appeals Commission indicated the following concerns from area residents:

1. The Town's proposed boundary extension could result in a loss of productive farmland;
2. The Town might, in the future, approve a bylaw that would prevent a farmer from spraying crops, such as potatoes, within the Town. If this were to happen farmland within the Town would be worthless as agricultural land.
3. Taxes would increase; the Town water and sewer services would not be available to most of the annexed area for a long time.
4. The existing private water and sewer services in the area are adequate.

5. The Town has not proposed that taxes would be pro-rated based on the level of available services.
6. They purposely resided outside the Town because of the lower property taxes.
7. The area residents already have good police and fire services.
8. The town's proposal reflects poor municipal planning, with no apparent plan for the future development and conservation of land within the annexed area.
9. The Town's proposal would provide no net benefit to the local economy.
10. The residents in the proposed annexation area already support and contribute to the Town by shopping here.
11. The Town's proposed expansion is much greater in the direction of the Summerside Road than it is in other directions.
12. Whether there would be an increase in the staffing of the police, maintenance and other Town departments in order to adequately serve the expanded Town.

In the end, it was apparent to IRAC that the Town's application for an expansion to its boundaries was not part of a strategic plan for the greater Kensington Area, thus you can see why in the creation of larger municipal units across the Island will require complimentary comprehensive land use plans and sound municipal planning, having general regard to subsection 13.4 of the Municipalities Act. If the Commission does address the expansion of the boundaries of Kensington and other Island Towns, there will need to be a strong case made to the affected rural residents pointing out the many benefits involved. Concerns over dramatic tax increases can be mitigated by the adoption of an "area rate" tax system whereby property owners see a graduated tax rate based on

the level of services available to their property. Any required tax increases could also be phased in over time.

HUMAN RESOURCES

As has already been stated, the Town of Kensington faces many challenges associated with limited fiscal capacity and a limited land base. We are also challenged in terms of our human resources.

Our municipality has experienced a loss of younger adults and young families to the larger cities and to adjacent rural areas. In most cases it has become challenging to find sufficient volunteers, particularly younger volunteers, to fill positions on councils, service clubs and other volunteer organizations.

We are also facing the same demographic and skill shortages being faced by most businesses on Prince Edward Island. As the Island's population ages and as young adults are being increasingly drawn away to other provinces and even to the United States, competition for the remaining labour has greatly increased.

Many of the positions with the municipality from administration staff to maintenance staff to policeman and other skilled positions are very demanding. Competition for these skilled workers is increasing and pay rates and other benefits must be maintained at competitive levels if staff are to be retained or acquired. The level of sophistication of many management systems is also increasing and on-going training is a prerequisite.

Given the small size and restricted finances of our municipality, it is extremely challenging to meet these constantly evolving standards. All public and private organizations on Prince Edward Island are experiencing increasing labour costs and challenges. Once again, a change in the Local Governance Model to increase the overall resources, population and financial capacity would be highly beneficial. The good news here is that the administrative and management capacity already in place in the Town of

Kensington could easily extend current services to a larger geographic area with only moderate increases in staff.

CONCLUSION

Leaving the current land use and local governance model in place on PEI will, without doubt, have significant impact on the long term sustainability of our municipalities. We have an opportunity with the striking of the Commission on Land Use and Local Governance to effect real and positive change, for the good of all Islanders. Again, we applaud the Province of Prince Edward Island for enabling the commission and for their commitment to benefitting Islanders well into the future and we wish the Commission nothing but success through this very difficult and complex process.