

# Planning for a Better Future

**Presentation to the Land Matters  
Advisory Committee**

March 16, 2021

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## Brief to the Land Matters Advisory Committee Submitted by the PEI Institute of Professional Planners

### Introduction

This brief is submitted on behalf of the PEI Institute of Professional Planners (PEIIPP).

The PEIIPP is a professional association and a regulatory body that regulates the practice of registered professional planners. It protects the public and the public interest by setting out the qualifications and responsibilities of registered professional planners and it establishes a code of professional conduct and ethics.

[Prince Edward Island – Atlantic Planners Institute](#)

[Registered Professional Planners Act \(atlanticplanners.org\)](#)

[General Regulations \(atlanticplanners.org\)](#)

The PEIIPP and its members are affiliated with the Atlantic Planners Institute and the Canadian Institute of Planners.

[Atlantic Planners Institute – Representing Professional Planners through Atlantic Canada](#)

[Home | CIP \(cip-icu.ca\)](#)

Professional planners are the recognized subject matter experts regarding land use. They receive their education at nationally accredited university schools of planning and undergo a nationally accepted standard of certification to become a registered professional planner, comparable to the certification process of other professions. They are also required to participate in regular Continuous Professional Learning to retain their certification.

[Accredited Degree - Professional Standards Board \(psb-planningcanada.ca\)](#)

[Continuous Professional Learning – Atlantic Planners Institute](#)

Professional planners adhere to codes of ethics and professional conduct that commit them to protecting the public interest in matters relating to decisions concerning land use. They have specific expertise and knowledge about how the environment, society and the economy are connected, and how each affects, and is affected by, the way we organize ourselves on the land.

[Professional Code of Conduct – Atlantic Planners Institute](#)

Certified planners work at all levels of government, the private and not for profit sectors. Across the country, professional planners are working in areas of municipal and provincial planning, resource land management, housing and development, environmental protection, climate change, transportation and energy planning, and in tourism and economic development. Increasingly, their skills are also being sought by public health agencies on matters dealing with health and the built environment.

The work of many planners requires an in-depth knowledge of provincial Planning Acts. They must also be knowledgeable about how the complex web of other pieces of federal and provincial legislation, impact land use. Through their work preparing land use plans, planners are skilled at using a variety of methods to engage the public in discussions about the future of their communities and how land will be used. This unique range of skills, training and knowledge separates professional planners from other professionals such as engineers, agronomists, geographers, economists etc.

## **Land Use Planning**

Land use planning is a process that involves considering the future that we want – be it for a province, region, city, town etc. – and mapping out a means of realizing that future. It involves technical skills and a comprehensive understanding of applicable legislation and regulations, balancing competing needs and interests, and setting priorities for how we will use our land resources. The result is a document – an Official Plan for example – and a map, that set out the goals, objectives, policies for growth and development. Plans enable development to happen, and they are meant to be reviewed and amended if conditions change or new ideas emerge.

Plans are implemented using a variety of tools. These include land use bylaws, zoning maps, regulations for things such as subdivision development, and changes in land use. Planning must be done in the public interest - based on long term goals; beyond political terms, market and development trends, and that of individual interests in land.

Good land use planning leads to efficient and wise use of land, healthy and sustainable communities.

## **Land Use Planning in PEI**

Numerous reports have been prepared over the past fifty years that have concluded that there is a lack of land use planning in the province. The 2009 Report of the Commission on Land and Local Government (the Thomson report) and the 2014 Report of the Task Force on Land Use Policy identified the seriousness of issues affecting land

in the province and included recommendations to improve planning at the provincial and municipal levels.

**Thompson Report** :[Microsoft Word - Draft #7 Final Report - Final Changes - Odd & Even.docx \(princeedwardisland.ca\)](#)  
[LandUseTaskForce Cover Mar 24.indd \(princeedwardisland.ca\)](#)

Prince Edward Island is experiencing unprecedented pressure for development. The PEIIPP is concerned that continued management of land use without an overarching plan or direction, hurts our economy, our environment, and ultimately, our way of life.

## **Key Recommendations**

As requested, the PEIIPP have three recommendations that we believe will improve planning and the management of our land resources. These recommendations address:

1. Revisions to the Planning Act in the short and medium term;
2. Implementing Provincial Land Use Policy in 5 key areas; and
3. The need for Professional Planners in these processes.

As the Land Matters Advisory Committee is also tasked with considering the Lands Protection Act, the PEIIPP asserts that the **Lands Protection Act** is not a tool for land use planning. It is an act that deals with and regulates who owns land. Land use planning is concerned with land use – regardless of ownership. In fact, any planning practices that are based on land ownership are considered discriminatory. To do so would place land ownership above the public interest. As such, we strongly recommend that the name of the Lands Protection Act be changed to reflect this emphasis on land ownership, not land protection.

## **Revisions to the Planning Act**

### ***Recommendations:***

1. *At this time, a full-scale review of the Planning Act is not required.*
2. *That work to address gaps in the Planning Act and its supporting regulations that has already been done by qualified professional planners within the provincial government be brought forward for consideration, completion and implementation as soon as possible.*
3. *In the longer term, review and improve sections of the Act that were not part of work already undertaken.*

Every province in Canada has a Planning Act. These enabling acts typically:

- Establish the role of the province/minister – in Plan approval, and in establishing land use policy and regulations;
- Enable planning to be carried out by various planning authorities (ie provincial, municipal, regional);
- Allow for the establishment of planning areas – regional, municipal, special area;
- Set out the legal process for preparing, amending and approving plans and bylaws;
- Require consultation with the public on planning matters;
- Provide tools for implementing plans – regulations, development cost charges etc.;
- Provide for appeals of decisions made under the Act and Regulations;
- Provide for the administration and enforcement of plans and bylaws;

Increasingly, Planning Acts enable the development of Statements of Provincial Interest and land use policies.

Following the conclusion of the Thompson Commission and the Task Force on Land Use Policy, as well as changes to the Municipal Government Act, much work – time, effort and public expense - was invested in addressing gaps in this province's Planning Act and the supporting provincial regulations used to implement it. Professional Planners were tasked with this work. However, this work has been stalled for the past two years, in part as a result of departmental restructuring and changing priorities.

The work underway included:

1. Recommended changes that would strengthen planning at the local level by providing municipalities with new tools to improve planning, public consultation processes, and transparency in land use decision-making. (See Bill 25 and Bill 21).
2. Introducing new tools for implementing Official Plans, such as providing for the recovery of public infrastructure costs associated with development; and
3. The introduction of Provincial Land Use Policies that would ultimately be used to guide provincial and municipal planning.

Bill 21 [Planning Statutes Amendment Act \(assembly.pe.ca\)](http://assembly.pe.ca)

Bill 25 [Microsoft Word - Bill 25 Planning.DOC \(assembly.pe.ca\)](http://assembly.pe.ca)

As a result of this work, the PEIIPP contends that there is no need at this time to conduct a full-scale review of the Planning Act. Such reviews are costly and time

consuming and will only delay important improvements that are needed. There is no need to start over.

It is important that the large amount of work that has already been done be recognized, brought forward for consideration, and continued, so that the process of improving planning in the province can move forward.

In the longer term, the Act can be further improved through review of other sections that were not part of the work previously undertaken.

## **Provincial Land Use Policies**

### ***Recommendation:***

*That the Province prepare, adopt, and implement provincial land use policies in five key areas:*

- 1. Protection of food production lands*
- 2. Island-wide settlement pattern*
- 3. Resiliency for climate change*
- 4. Protecting natural resource assets*
- 5. Housing*

The Province has a responsibility to provide direction for planning and regulation of land use to guide its activities and those of municipal planning authorities.

As has been pointed out in every report that has been prepared to examine land use in PEI, the biggest gap in terms of land use planning is at the provincial level. Other presentations made to the Committee have also pointed this out.

Unlike municipalities with Official Plans, 90% of the area of the province has no official plan or policy to guide decisions about land use. What it has are a series of complex and outdated development regulations. **Managing land use by development regulations alone is NOT planning.** Provincial Development Regulations, without any context or direction, are a recipe for failure. In fact, we know the current system is failing, as the issues identified in the Thompson Report (and others) have not subsided and are becoming more severe – impacts of climate change, rural and urban sprawl, loss of our agricultural lands - all threaten our environment, our economy and even the island way of life.

At the municipal level, the two cities, and 27 municipalities already have official plans and are bound by them, with other municipalities at the initial stages of developing their planning documents. The Municipal Government Act now requires all municipalities to prepare official plans by the end of 2023. However, even assuming this happens, the lion's share of the provincial land base will still be managed by the Province.

Section 7 of the Planning Act provides for the Province to adopt "provincial land use development policies". Such policies would identify the provincial interests in land and how they should be addressed in the management of lands under provincial authority, and in municipal Official Plans. The intent of such policies, is to create a more consistent approach to land use across the province.

To date, and despite widespread calls for the province to provide leadership in this area, there are currently no provincial land use policies. Municipalities with Official Plans have developed their own policies for land use and are guided by them. However, in those areas under provincial authority – which is 90% of the area of the island - development is managed by various government departments under a growing number of acts and regulations, on a site-by-site basis, without any overarching context or policy. This creates inefficiencies and confusion.

In areas administered by the Province, there is virtually no requirement for public consultation with respect to land use decisions, and as such, no transparency or accountability. This needs to change.

Other provinces have similar provisions in their Planning Acts to enable provincial interests to be incorporated into land use planning. In Nova Scotia, for example, where authority for all areas of the province lie with municipal jurisdictions, the Province has prepared under its authority, "statements of provincial interest." These statements set out the goals and basis for each area of interest, the geographical area of concern (province-wide, water supply watersheds, flood risk areas), and set out provisions for how these interests are to be incorporated into planning documents. They refer to maps such as those for flood risk, to be used in planning to identify and control land use. They also state that Provincial Government departments must carry out their activities in a way that is consistent with the interests.

[Statements of Provincial Interest - Municipal Government Act \(Nova Scotia\)](#)

Simply saying that the province must identify its interests in land by implementing provincial land use policies is not sufficient. The PEIIPP believes that it is imperative that the province focus its efforts on developing clear policy on the following 5 key areas:

## **1. Protection of food production lands**

As the main economic driver of the provincial economy, we must identify our priorities for agricultural lands - what lands are to be protected, and how. In a province where almost a third of all food production land is within municipal boundaries, it is necessary to establish provincial interests so that these can be incorporated into Official Plans at the municipal level, and used to guide decision-making at the provincial level. Establishing effective policy should not be that difficult.

Useful models of how this is done elsewhere are available for consideration. In Nova Scotia, provincial interests require municipalities, through their land use plans, to identify agricultural lands, include measures to protect them, and to manage other development to reduce land use conflict.

## **2. Island-wide settlement pattern**

The pattern of settlements in PEI is what gives our province its character. The urban centres of Charlottetown and Summerside, their surrounding suburban communities, other regional centers, rural villages, and the rural landscape, all play a role in the society and economy of the province. A clear policy is needed that outlines a role for settlements, addressing how competing demands for land use and infrastructure investment will be managed.

At the present time, management of lands by the province, which is limited to provincial subdivision regulations, is resulting in urban and rural sprawl, and in the process, undermining planning in municipalities with Official Plans. Development leapfrogs from communities with plans, to areas where there are no plans (or municipal taxes). Rural sprawl chews up agricultural lands, introduces land use conflicts in the rural countryside, and puts greater pressures on settlements for services, with little benefit. If not addressed quickly, it will soon be difficult to distinguish one community from another, and the rural countryside – so important economically - will have disappeared.

## **3. Resiliency for climate change**

Much work has been done to identify the impacts a changing climate is having on our province. Provincial policy addressing the need to reduce risks



to public health and safety in areas vulnerable to coastal and inland flooding, coastal erosion and sea level rise is urgently needed.

Stating provincial interests by recognizing the risks associated with climate change and the need to protect future development against those risks, would help with planning for the location of infrastructure such as emergency services, hospitals, police, bulk fuel storage; transportation infrastructure such as roads, and bridges; water & wastewater treatment facilities and so on, ensuring they are no longer constructed in hazard areas. Flood risk mapping is essential to policies that address climate change. This information **is already available** and should be made public without delay, for use in planning.

- 4. Protecting natural resource assets** - A healthy economy requires a healthy environment. The province's natural assets – our groundwater, watercourses and wetlands, forests and wildlife habitat – all contribute to Islander's health and well-being, and the attraction of our province to tourists, which is so essential to our provincial economy. A provincial policy on protecting these natural assets is needed.

- 5. Housing**

Our province is under pressure to ensure an adequate and affordable supply of housing to meet the needs of Islanders. We need to ensure that municipalities, through their Official Plans, can provide for a range of housing options, including those for vulnerable populations such as low income families, seniors, disabled persons, people suffering mental health and addictions, Indigenous people and newcomers. The Province's Population Action Plan calls for immigration levels of 2,200 new residents per year. Over a ten year period, that roughly equals the population of the Town of Stratford. As such, it is imperative that communities identify sufficient lands for housing to accommodate increased population.

[pei\\_population-action-plan\\_2017.pdf \(princeedwardisland.ca\)](#)

A provincial policy about housing could also address expectations for Official Plans to address demonstrated housing need, and support housing density in urban areas through infrastructure planning and investment.

### **Managing Lands without Policy**

What happens when lands are managed by regulations alone, in the absence of land use policy and planning? The image on the following page shows an area of land

proposed for subdivision into residential building lots. The application was approved under the Provincial Subdivision Regulations as it met all the requirements for lot size, street access and suitability for on-site well and septic system. An existing private road was extended to provide road access to the residential lots – despite being extended through a wetland.

The development is problematic because current flood risk assessment for the area shows that this area is vulnerable to flooding, and that this risk will increase over time due to climate change.

Some of the lots are predicted to be at moderate risk for flooding. The road leading to the lots is at high risk of flooding. The road is a private road and ongoing maintenance and repair is the responsibility of the property owners in the subdivision – whether they are aware of that responsibility or not. In future, access to these homes will likely be flooded, or washed away at times. The cost to repair the road will be significant, and likely not permanent, requiring continual expenditures to fix recurring washouts. In addition, during the COVID-19 pandemic, many summer residences in coastal locations such as this, have been upgraded for year-round occupation. As such, winter storms and spring flooding put these residents at risk. Private roads, initially constructed for access during the summer season, are not adequately maintained for year-round access, and present a public health and safety risk should emergency vehicles be unable to access homes when needed.



In addition, we can see that the land being subdivided was also previously in agricultural production. Once these lots are sold and built upon, that land will be lost to the agricultural land base. Conflicts may also arise between the new residents of the subdivision over agricultural practices undertaken by owners of the adjoining farmland.

This example shows how managing land use without any plan or policy to guide decision-making, results in poor land use decisions. Yet it would appear all applicable regulations under a variety of acts were followed.

Provincial land use policies that

1. Require Flood Risk mapping be used to identify areas that are hazardous for development;
2. Set out the kinds of uses and activities that are allowed in or through hazard areas; and
3. Identify important agricultural lands to be protected from development,

would limit this type of development and conflicts from occurring in these types of locations. Land use planning could be undertaken to identify suitable areas for development of seasonal residences where they could be accommodated and encouraged - safely, and with little impact on surrounding lands.

Asserting provincial interest in lands through provincial land use policies will go a long way to resolving some of our current land use issues, both in municipalities that are preparing Official Plans, and to those areas where the Province has authority for planning and land use management.

## **Need for Certified Professional Planners**

### ***Recommendation:***

*That the Province ensure that certified professional planners are engaged in any work with respect to changes in the Planning Act and its supporting regulations, preparation of provincial land use policies, and efforts to support municipalities in carrying out Official Plan preparation, implementation and administration.*

Continued work on the Land Matters project, particularly regarding changes to the Planning Act, the development of provincial land use policies, and other efforts to address land use, requires a team of qualified professionals experienced in land use planning and development. At the present time, there is a lack of capacity, both within those divisions of government tasked with administering the current Planning Act with regards to municipal planning, and within the Department of Agriculture and Lands tasked with provincial planning and recommending changes to the Planning Act and its associated regulations.

It is important to keep in mind that while 90% of the land area of the island is managed by the Province, 64% of the population live in those municipalities where land is planned and managed locally. How the Planning Act supports planning at both the municipal and provincial level must be part of any efforts aimed at strengthening land use planning in our province, and professional planners have the skills and expertise to help address both.

When the requirements of the Municipal Government Act are implemented, more municipalities will be required to prepare Official Plans. Having such plans prepared by certified professional planners will also help improve planning at the local level.

### **Conclusion**

It cannot be stressed enough that the PEIIPP and its members have a significant interest in the work and recommendations of the Land Matters Advisory Committee and the Land Matters Project in general.

The PEIIPP thanks the Land Matters Advisory Committee for its consideration of the recommendations presented and look forward to participating in this process as it continues to move forward.

PEI Institute of Professional Planners