



# PEGGY'S COVE

## Land Use Bylaw

### Background Report

OCTOBER 7, 2021



This report was produced by UPLAND Planning + Design  
for the Peggy's Cove Commission

October 2021

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# 1 INTRODUCTION

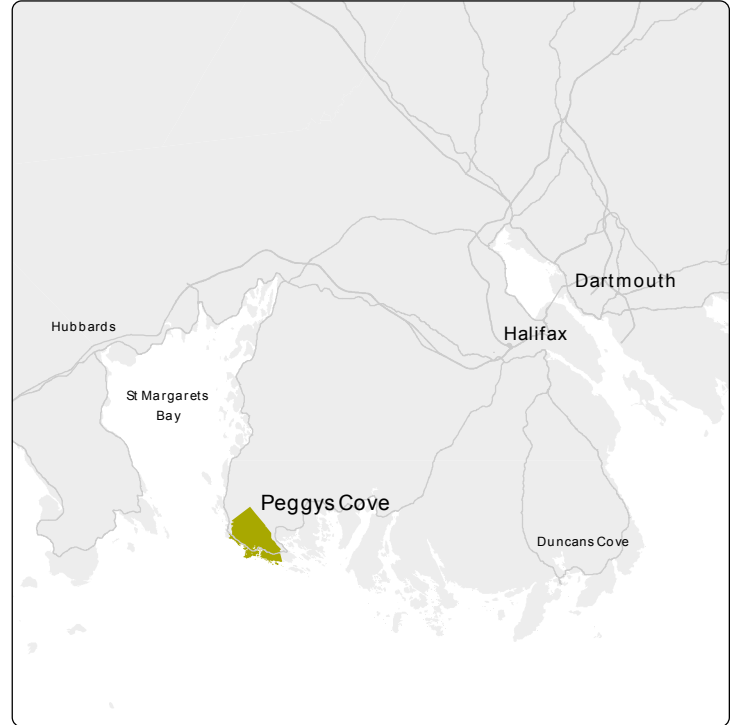
## PROJECT CONTEXT

Peggy's Cove is a small fishing village south-west of Halifax, with a year-round population of ~30 residents. It is a quintessential Nova Scotian tourism site, known internationally for its iconic rocky point and the lighthouse that sits on it. However, Peggy's Cove is much more than the lighthouse; it is a living community with an active fishery, historic village, close-knit relationships, artisans, small businesses, and cultural and natural landscapes that set Peggy's Cove apart as unique in both the Nova Scotian and global context.

Peggy's Cove is also unique because it is part of Halifax Regional Municipality ("HRM"), yet is subject to its own specific rules regarding development under the *Peggy's Cove Commission Act*. This planning project is a review of the Land Use Bylaw that governs development and land use within Peggy's Cove. It will focus on cementing the values of the community to clarify and govern how land within Peggy's Cove, including the village and the Preservation Area as a whole, will be used and experienced going forward.

In 2019, EDM Planning Services began developing an "master plan" for Peggy's Cove (see next page), including extensive background research. Rather than duplicate that work, the present Background Report addresses additional topics specific to land use planning, in order to fully set the stage for the Land Use Bylaw review. A copy of the Master Plan background report is available at:

[www.peggyscovelub.ca/documents](http://www.peggyscovelub.ca/documents)



## THE PEGGY'S COVE COMMISSION

The *Peggy's Cove Commission Act* was created in 1989 to create the Peggy's Cove Preservation Area, with a purpose to "preserve the unique scenic beauty, character and atmosphere of the Area" (see Part 4 for more details). At the time of its creation, the governing body of the preservation area, the Peggy's Cove Commission, consisted of the municipal Councillor, the planning engineer for Halifax County Municipality (one of the precursors to HRM), the director of planning for the Province, and up to four additional members. In 1994, the Act was amended to require community members as members of the Commission, aligning with the change in the Act's purpose to qualify that the area was being preserved "for the enjoyment of both residents and visitors".

Current Commission members are:

- + Karren Fader
- + Nicole Campbell – Vice Chair
- + Janice Steeles
- + Peter Richardson – Chair
- + Pam Lovelace – HRM Councillor
- + Jeannie Chow – Dept. of Inclusive Economic Growth
- + Gordon Smith – Dept. of Municipal Affairs

The Commission is supported by non-voting member Graham Fisher, from the Department of Municipal Affairs.



## INFRASTRUCTURE IMPROVEMENT STRATEGY

Over the past several decades visitor numbers to Peggy's Cove have increased, particularly with a recent rise in cruise ship traffic to Halifax. The crowds and vehicle traffic that have come with this boost in tourism created economic opportunities in the community and surrounding area, while also placing pressure on service infrastructure such as water, sewer, and roads.

Increased visitorship has also created pressure to maintain or improve the tourism elements that draw people to the community. In 2018, the Province of Nova Scotia committed funds to improve infrastructure in Peggy's Cove under the Tourism Revitalization of Icons Program (TRIP), a program administered by Tourism Nova Scotia. In order to better understand and prioritize infrastructure investments, Develop Nova Scotia, a sister Crown Corporation to Tourism Nova Scotia, engaged EDM Planning Services to carry out a comprehensive master planning process. Based on the consultant's recommendations and further engagement with local residents, Develop Nova Scotia developed a plan to implement priority projects. Construction of priority improvements began in October, 2020.

These infrastructure investments have been a contentious subject within and beyond the community. While the planned infrastructure investments are welcomed by many, concerns included the impacts to the visual landscape, as well visitor infrastructure being prioritized over improvements that would serve both visitors and the resident community.

The Master Plan and Infrastructure Improvement Strategy are generally physical plans for Peggy's Cove, although the master plan work captured some of the opportunities and challenges related to governance and management in Peggy's Cove, with input from residents and the Commission. Develop Nova Scotia's implementation of the master plan recommendations, however, deal explicitly with planning for physical infrastructure (boardwalks, sidewalks, roads, washrooms, signage, etc.). Importantly, this is separate from the work of the Land Use Bylaw, which regulates how land use and development may occur within Peggy's Cove.







## 2 THE COMMUNITY

## ABRIDGED HISTORY OF PEGGY'S COVE

Peggy's Cove is located in Mi'kma'ki, the territory of the Mi'kmaq, and it is understood that Mi'kmaw people have been living or fishing in the Peggy's Cove area since time immemorial. In the early 1800s a land grant issued by the British Crown assigned Peggy's Cove and the surrounding area to several German families who were later joined by other European settlers. The main industry of the area was fishing, and the population of Peggy's Cove peaked at about 300 residents in the late 1800s. The schoolhouse, which is still standing, was built in 1839, and peaked with 34 students ten years later. By the early 1900s the number of students was down to 17, and by the 1950s there were only 9 students remaining and the community's population had reduced to 75 people. The population has since continued to decline.

The lighthouse is perhaps the most iconic feature of Peggy's Cove today. For a fishing village on a rocky and dangerous coastline, this was a critical feature to guide boats into the safety of the harbour. The original lighthouse was constructed in 1868, a wooden tower extending above the lighthouse keeper's home. It served to mark the eastern entrance of Saint Margaret's Bay (and the southern side of Peggy's Cove) for nearly 50 years before the current lighthouse was built to replace it in 1914. The new structure was maintained and operated by a lighthouse keeper until 1958, when the system became automated. The lighthouse was declared surplus by the Coast Guard in 2000, designated as a Federal Heritage Building in 2002, and is now maintained by the Tourism Industry Association of Nova Scotia.

A more detailed history of the community, local industry, and heritage buildings within Peggy's Cove can be found in the Peggy's Cove Master Plan Background Report (2019).

## RESIDENTS

The community of Peggy's Cove currently has approximately 32 year-round residents, as well as around 5 seasonal residents. It is a community with deep roots; many of the resident families have lived in the area for generations. Despite this, the population is decreasing year-to-year, in line with a broader trend in Nova Scotia and Canada of urbanization and rural population decline.

## TOURISM

Peggy's Cove is an international tourism destination, and is a site that attracts many visitors to Nova Scotia in its own right. It is known for being a quintessential living fishing village and for the iconic lighthouse that emerges from its stark, rocky landscape. The windswept and expansive granite bedrock, crashing ocean waves, colourful historic buildings and harbour with wooden wharves and fishing boats come together to paint a timeless picture of maritime life that is considered a must-see for many visitors to Canada's East Coast.

The community began to attract visitors in the 1930s. In recent years, there has been a large increase in the number of cruise ships bringing guests to Halifax, who then visit destinations such as Peggy's Cove. At the same time, tourism trends are leaning toward authentic, unique and memorable experiences. These combined trends have led to around 700,000 people visiting Peggy's Cove annually. Almost 70% of the visitors are out-of-province tourists (most from outside of the Maritimes), 14% are cruise passengers, 7% are tour bus passengers, and the remaining 12% are Nova Scotia Residents. As with the rest of Nova Scotia, tourism to Peggy's Cove is concentrated in the summer months, May to October. The majority of visitors are independent and arrive at varied times and spend varied amounts of time—up to days—in the community. Cruise ship and tour bus passengers arrive in large groups at specific times and stay for several hours at most.

While the revenue that this number of tourists brings to the province and community of Peggy's Cove is significant, hosting such a large number of visitors in such a small area with relatively little infrastructure causes problems for the community. Traffic congestion on the community's main road causes pollution from idling vehicles and danger for pedestrians. Guests' parked cars block driveways and take parking spaces from residents. Use of private property and private laneways by the general public is common. The high volume of visitors places pressure on services within the community and has impacted the quality of life for many living there.

## LAND OWNERSHIP

For planning purposes, Peggy's Cove can be thought of as two distinct areas: the village area—in which the homes, businesses, wharves, and tourist facilities are located—and the wider preservation area, which is essentially undeveloped. The majority of land within the preservation area is public, owned by the Province of Nova Scotia and managed by the Department of Lands and Forestry. Within the village however, the majority of properties are privately owned. There are two federally-owned parcels within the village - the public wharf property located in the Cove (owned by Fisheries and Oceans), as well as Peggy's Point, the location of the iconic lighthouse (owned by Transport Canada).

There are three other publicly-owned lands within the village. One is the rock barren located next to the Peggy's Point property, south of the Sou'Wester Cafe and east of the Lighthouse (managed by the Department of Lands and Forestry). The second is located at the head of the cove – the deGarthe properties, including the deGarthe residence, gallery, garage and studio (managed by the Department of Transportation). The final piece is across Peggy's Point Road from the deGarthe properties, and is where the visitor information centre (VIC), public washrooms and public parking lot are located (also managed by the Department of Transportation). Some property lines and ownership will be updated once the work of upgrading Peggy's Point Road is completed, since the routing of the road has been adjusted.



Image from Nova Scotia Archives- W.R. MacAskill

## LAND USE

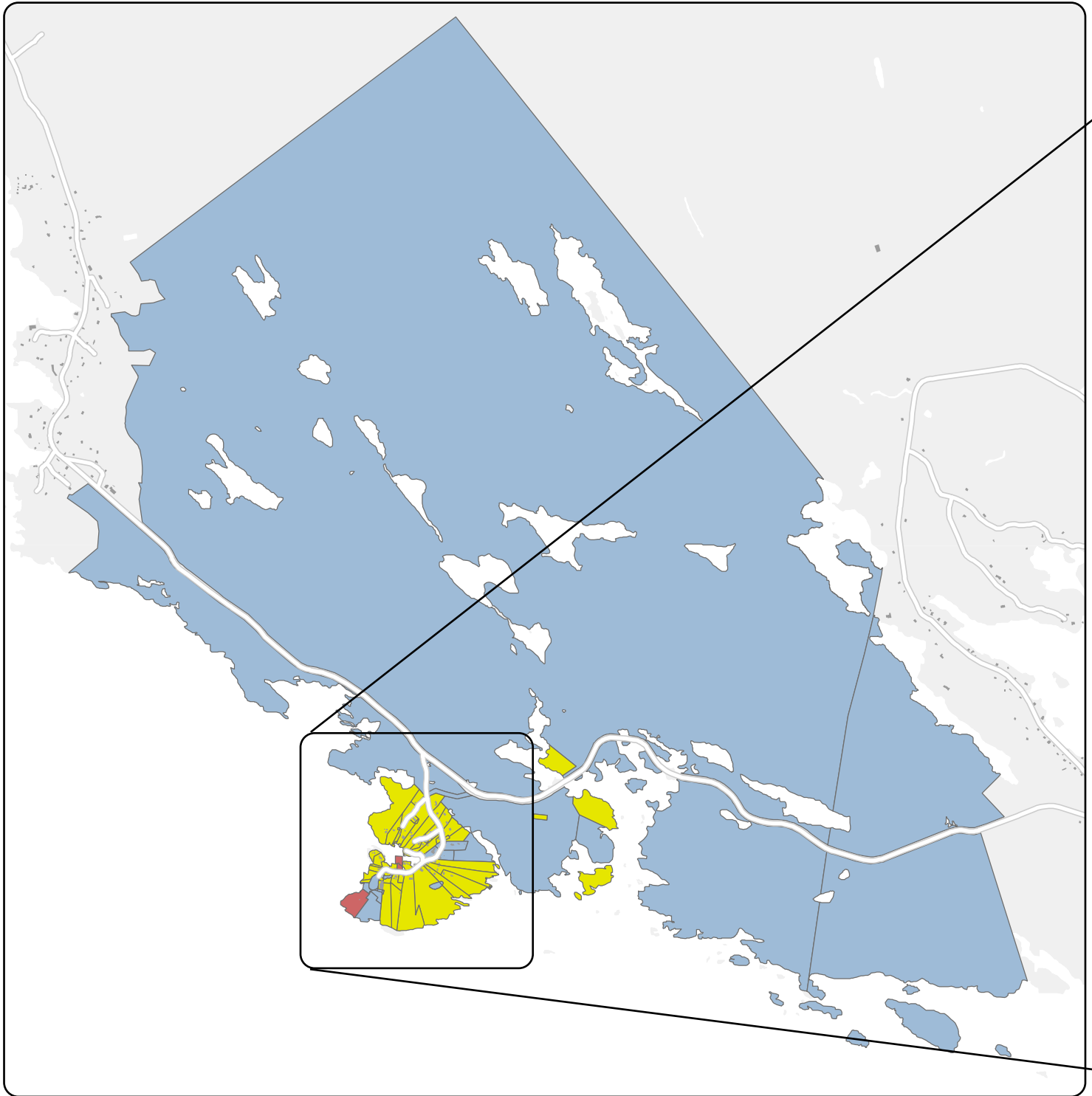
The developed village accounts for only about 4% of the Peggy's Cove Preservation Area as defined by the Act. Outside of the village, there is very little development. What development that does exist is primarily limited to the Peggy's Cove Rd (Route 333) which runs east-west through the Area, the Swissair Flight 111 Memorial, and a number of semi-formalized trails and their associated (small) parking lots. The Polly Cove trail, located in the eastern portion of the Preservation Area, also features the foundation of an abandoned radar station.

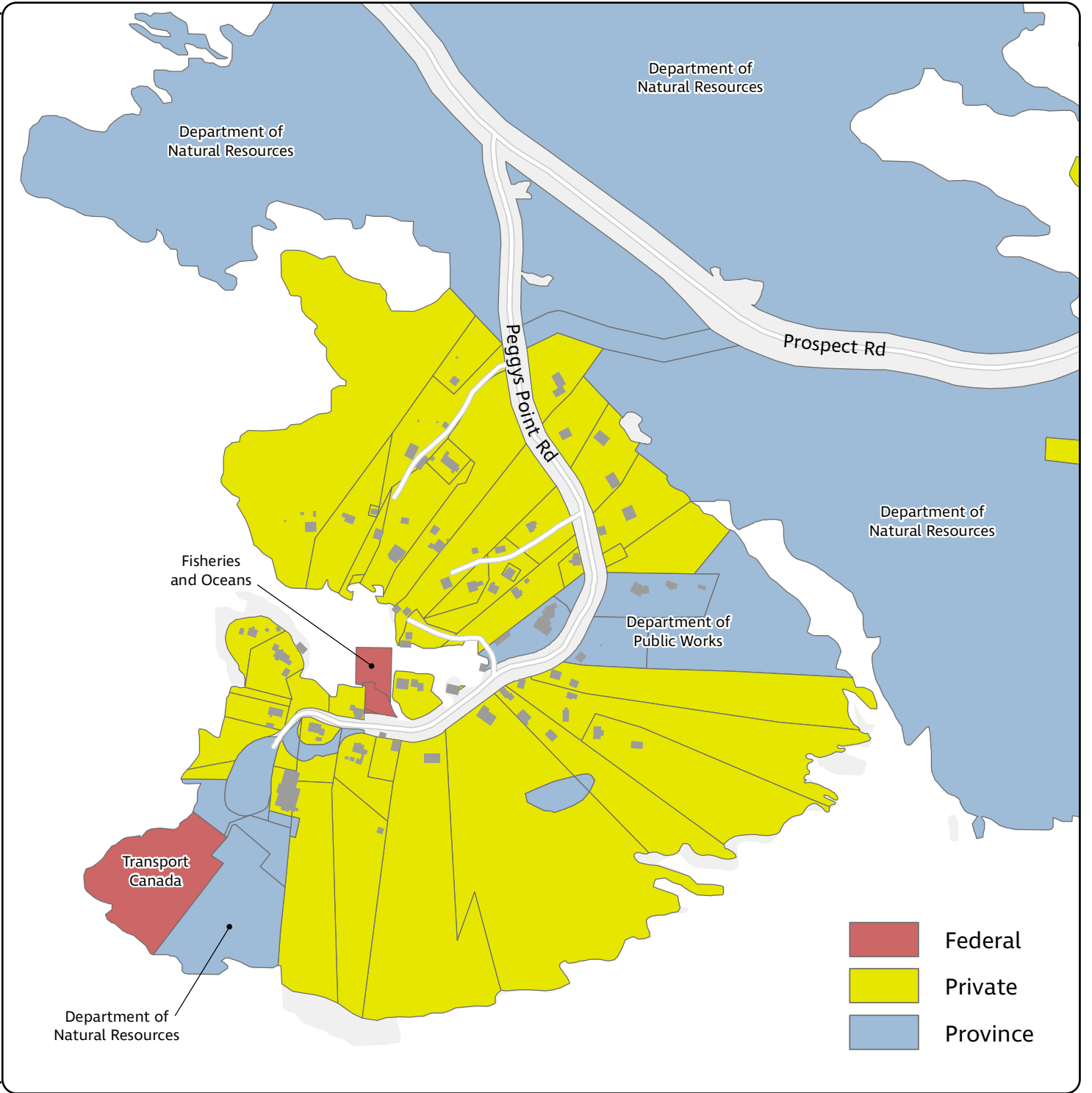
Peggy's Cove features an eclectic mix of residential, commercial, community, and fishing-related uses. Commercial uses are primarily located along Peggy's Point Road, with a small cluster at the head of the Cove and another at the end of the road, anchored by the Sou'Wester. Over half of the properties with road frontage between the head of the Cove and Peggy's Point have a commercial business in them. It is possible there are additional short-term rental businesses located on residential properties as well that are not identified on the map on the following page.

Peggy's Cove is an active fishing community, and the majority of structures immediately around the Cove are dedicated to fishing or fishing-related tourism.

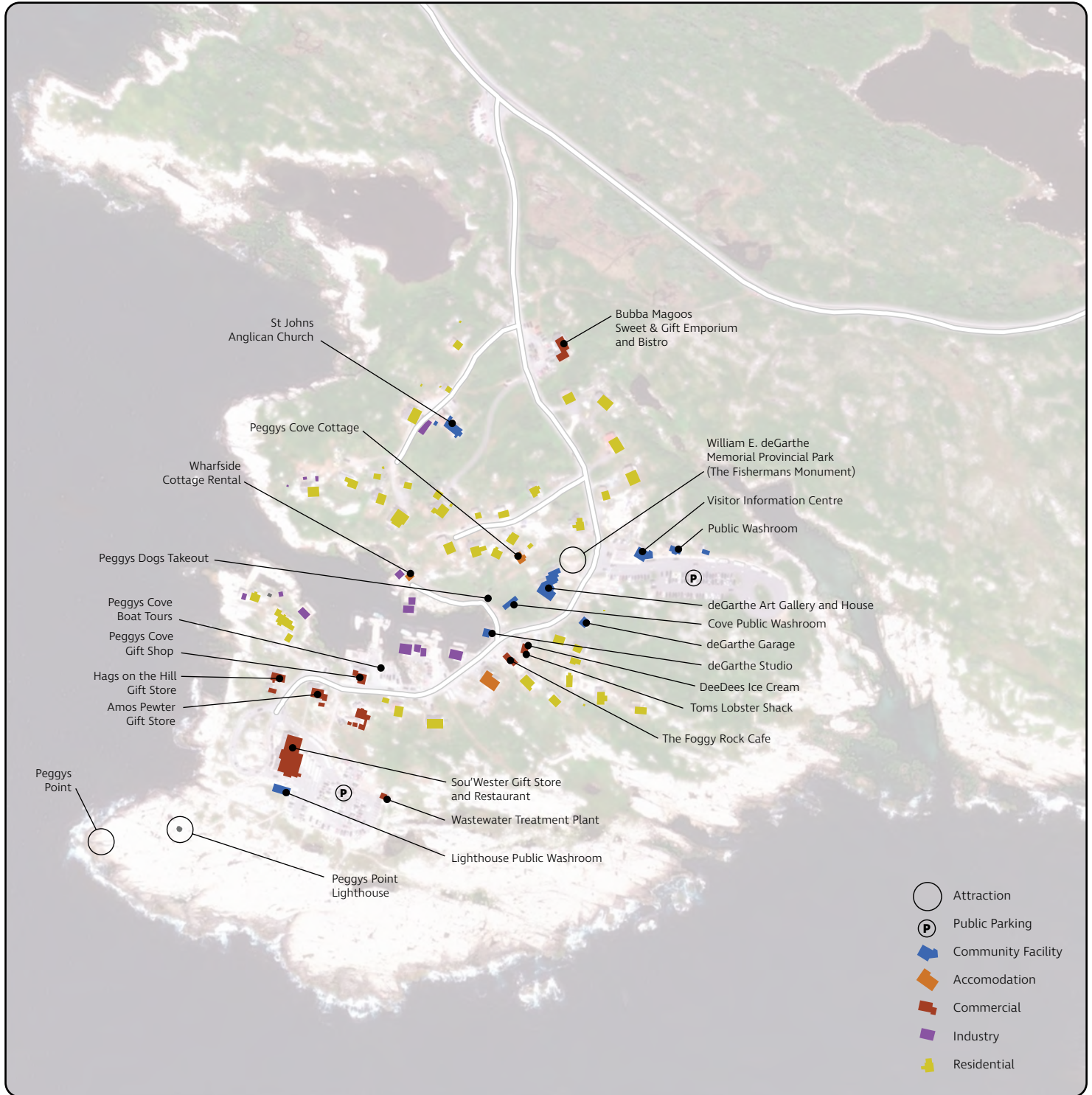
The primary community facilities are the Visitor Information Centre and public washrooms, as well as the deGarthe Gallery. Saint John's Anglican Church holds a limited schedule of worship services, and is also sometimes open for public tour during the summer months. Many of the areas heavily used by the public, including the rocks along the coast, are privately owned.

# LAND OWNERSHIP





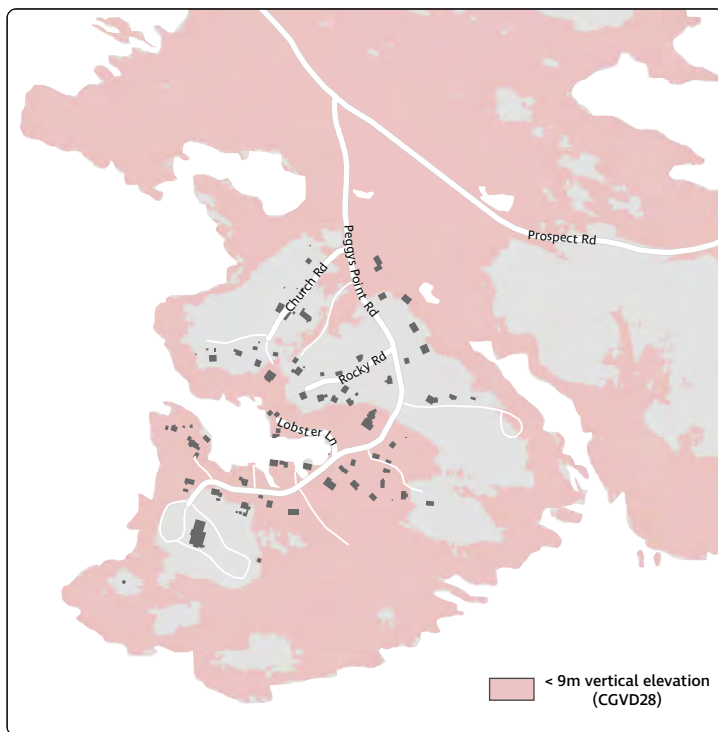
# LAND USE



## CLIMATE AND COASTAL RISK

Peggy's Cove, as with many coastal communities in eastern Canada, has a relatively cold climate and experiences relatively frequent and destructive storm events. Peggy's Cove has experienced numerous storms that caused flooding and destruction in the community: a storm in 1881 flooded the lighthouse, washing away many items from the keeper's home; a storm in 1898 caused a storm surge that reportedly lifted and carried the deGarthe Studio building to its present location from across the road; in 2003 Hurricane Juan breached the breakwaters and flooded homes and roads; and in 2009 Hurricane Bill damaged several fishing sheds and the pathway near the lighthouse.

Climate change is causing sea levels to rise, as well as increasing the intensity and frequency of storm events. While there are broadly accepted models predicting the elevation at which coastal infrastructure should be safe from rising waters and storm surges, it is understood that the science is continually evolving and readjusting in the future may be necessary.



The Canadian Extreme Water Level Adaptation Tool (CAN-EWLAT) website provides sea level rise, storm surge and vertical allowance projections based upon the IPCC AR5 and incorporating high precision GPS data for many locations in coastal Canada. For Peggy's Cove, the predicted sea level rise for 2100 (using RCP 8.5) is 0.83 metres. The Vertical Allowance for 2100, which refers to the vertical distance that infrastructure must be raised to maintain the present likelihood of flooding, is 1.15 metres. These numbers do not account for changes in the shoreline that could occur – for instance the destruction of a breakwater or the erosion of a shoreline.

To identify an elevation that would be safe from rising sea levels and storm surges similar to the destructive storms of the past, EDM Planning created a sea level rise and storm surge projection based on historic data of storm surge and tide levels for Peggy's Cove and nearby locations that could be used for planning purposes in the Master Plan. The 7m rise over normal sea level that occurred during Hurricane Juan was added to a range of sea level rise projections from studies of the nearby Halifax Harbour to result in safe elevations ranging from 8.3 metres to 9 metres above the Canadian Geodetic Vertical Datum 1928 (CGVD28) for various scenarios, or 7.1 metres to 7.8 metres above the current high tide mark.

The map at left illustrates the potential for significant impact to the community under such scenarios. Consequently, the Master Plan includes a number of initiatives to adapt infrastructure to the increased risk. This does not, however, directly affect private development, and the Bylaw review process should be mindful of these future risks. Indeed, Nova Scotia has established the *Coastal Protection Act* to protect coastlines from development, and development from the risks of erosion and sea level rise. However, Regulations to implement the Coastal Protection Act have not yet been enacted so the exact implementation is yet unknown.







# 3 BUILDING INVENTORY



**1** 48 Peggys Point Road

**Use:** Bubba Magoos Restaurant  
**Zone:** Commercial  
**Style:** 2.5 storey cottage with dormers in gabled roof. Extension for shop added in Newfoundland shed style.



**2** Garage

**Use:** Garage accessory to residence  
**Zone:** Residential  
**Style:** Loosely resembling Cape Cod style, very large garage door create contemporary suburban look.



**3** 62 Peggys Point Road

**Use:** Residence  
**Zone:** Residential  
**Style:** Cape Cod with walk-out basement including garage on the north-western side.



**4** 72 Peggys Point Road

**Use:** Residence  
**Zone:** Residential  
**Style:** Typical 70s/80s bungalow with off-centered cross-gable, prominent side chimney, and walk-out basement



**5** 78 Peggys Point Road

**Use:** Residence with garage  
**Zone:** Residential  
**Style:** Cape Cod roof shape, but dormers in attic not typical of that style. Choice of siding reminiscent of a log home.



**6** Visitor Information Centre

**Use:** Centre with washrooms  
**Zone:** Public Facilities  
**Style:** Tall fishing shed with centred gable, outbuildings in style of smaller sheds with steep roof pitch.



**1** 104 Peggys Point Road

**Use:** Workshop  
**Zone:** Public Facilities  
**Style:** Double garage with workshop area in attic. Attic space opens up through very large dormer space with 5 windows.



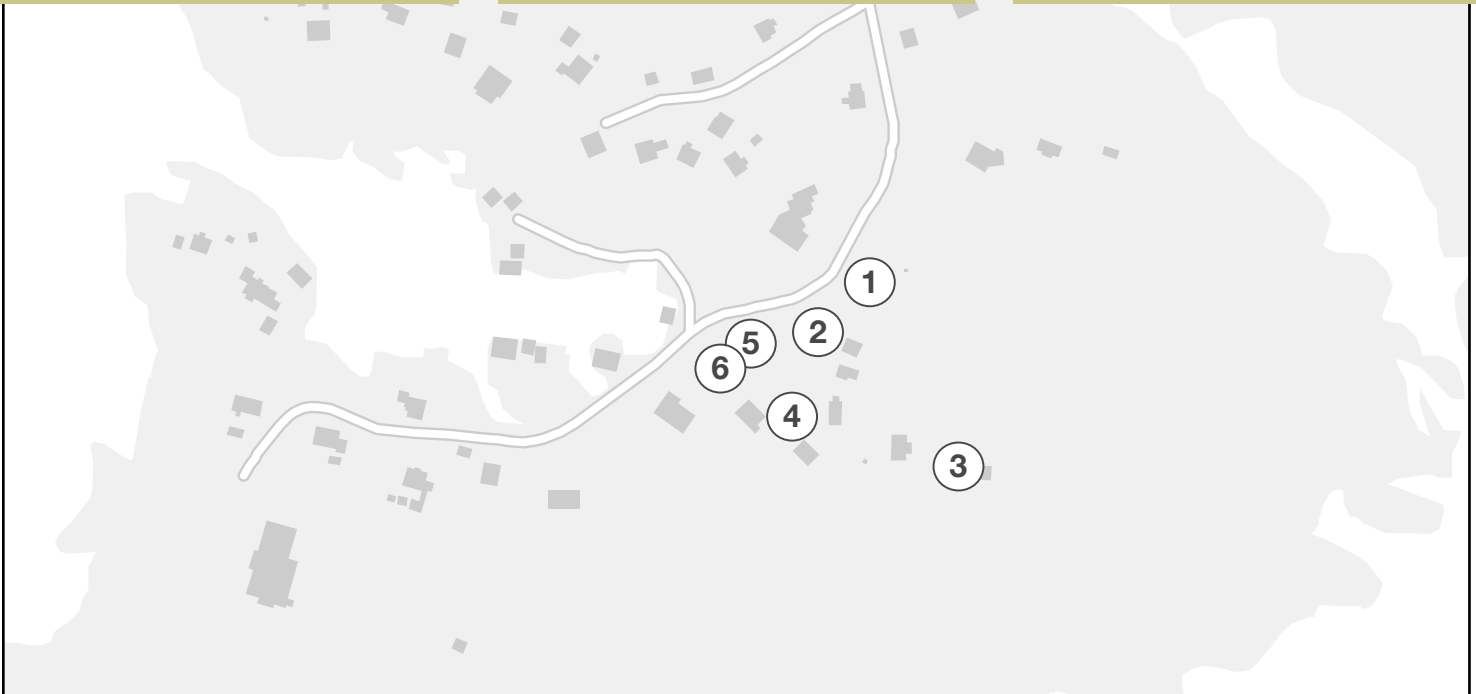
**2** 108 Peggys Point Road

**Use:** Residence  
**Zone:** Residential  
**Style:** One-storey cottage with semi-sloped roof and characteristic front porch.



**3** 116 Peggys Point Road

**Use:** Residence  
**Zone:** Residential  
**Style:** One-storey cottage with unspecific style and large wooden siding boards.



**4** 120+126 Peggys Point Road

**Use:** Two residences  
**Zone:** Residential  
**Style:** Typical 1.5 storey Cape Cod architecture. The gray building in particular creates the characteristic visual effect of 'hugging the ground'.



**5** 110 Peggys Cove Road

**Use:** Tom's Lobster Shack  
**Zone:** Residential  
**Style:** Cape Cod roof shape interrupted for extended attic. Upper floor possibly used as residence.



**6** 124 Peggys Cove Road

**Use:** Vacant commercial building  
**Zone:** Commercial  
**Style:** Shop with rounded footprint and awnings. Style is dominated by geometry of window panes.



**1** 130 Peggys Point Road

**Use:** Residence and B&B (R)  
**Zone:** Residential  
**Style:** Elements of Victorian Greek Revival style with typical return eaves in roof and dormers. However, entrance is on the longer side of house, with three-bay symmetry.



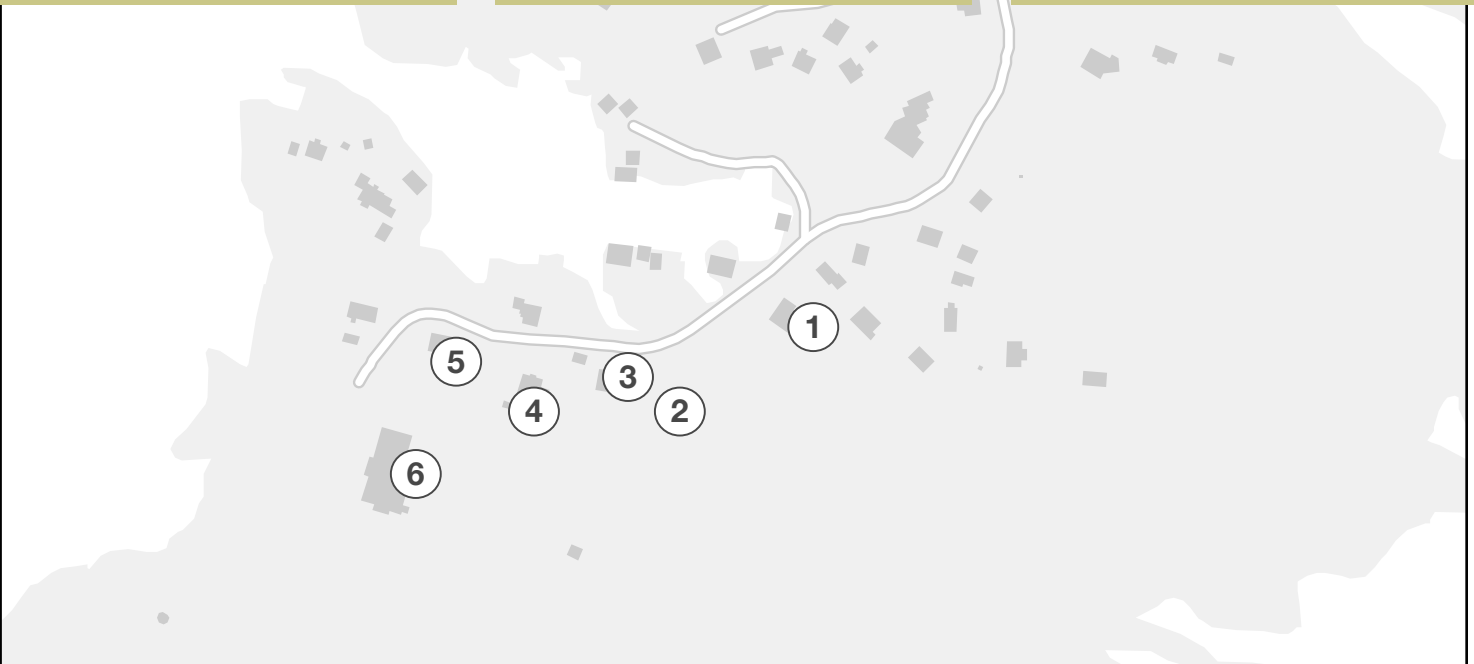
**2** 140 Peggys Point Road

**Use:** Residence  
**Zone:** Commercial  
**Style:** Typical 70s/80s Bungalow with very large window mouldings. Facade without clear symmetry,



**3** 148 Peggys Point Road

**Use:** Residence  
**Zone:** Residential  
**Style:** Victorian Foursquare footprint and roof with addition to ground floor. Accessory Newfoundland-style shed differs in roofline and cladding.



**4** 154 Peggys Point Road

**Use:** Clothing store  
**Zone:** Residential  
**Style:** Victorian building with Gothic and Greek Revival elements. Very characteristic row of outbuildings in the rear of building.



**5** 162 Peggys Point Road

**Use:** Gift shop  
**Zone:** Residential  
**Style:** Cape Cod roof shape interrupted by dormers and saltbox roof extension.



**6** Sou'Wester

**Use:** Restaurant and gift shop  
**Zone:** Commercial  
**Style:** Large 1.5-storey commercial building with joined dormers in attic and entrances emphasized by gable peaks.



**1** 173 Peggys Point Road

**Use:** Gift shop  
**Zone:** Residential  
**Style:** One of the oldest buildings in the community. Simple vernacular style with small side addition. Shed with Newfoundland semi-pitched roof.



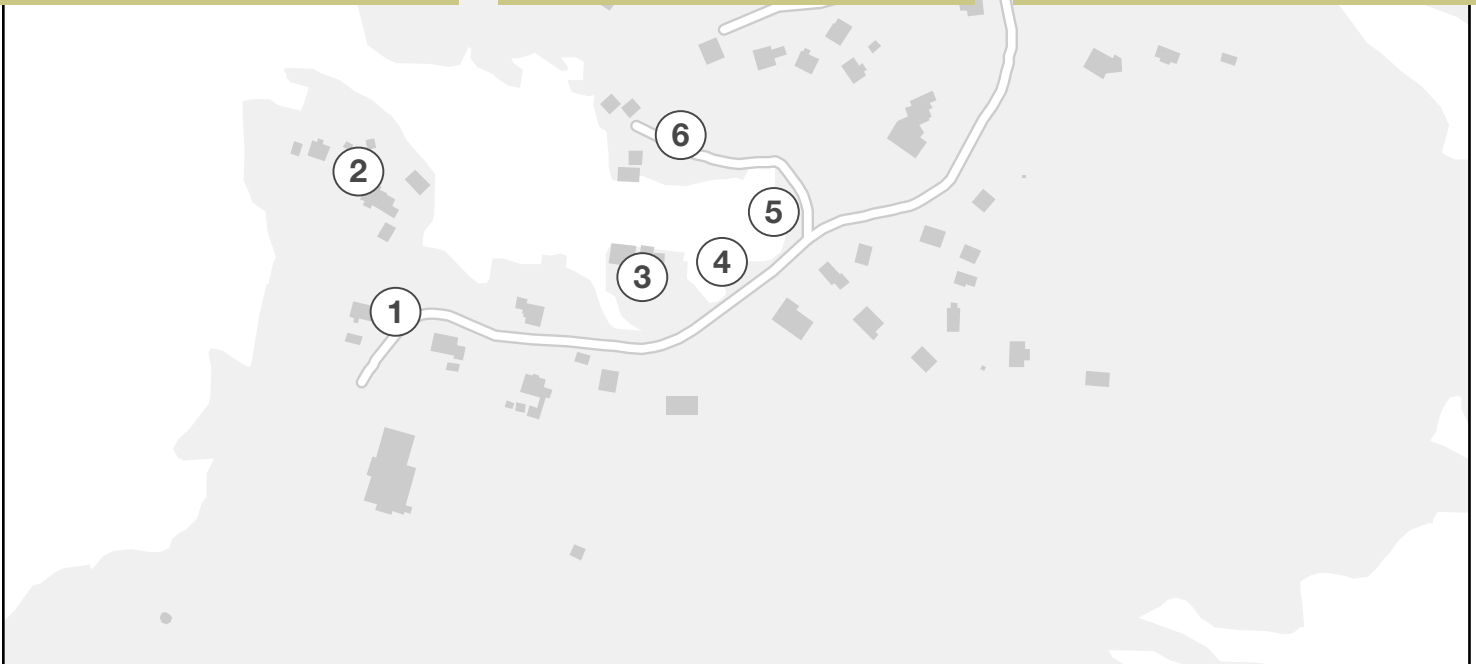
**2** 165+167 Peggys Point Road

**Use:** Residences on waterfront  
**Zone:** Residential  
**Style:** 2.5-storey eclectic home and next to typical Cape Cod home. Boat shed in matching roof style.



**3** Southern Side of Cove

**Use:** Waterfront boat sheds  
**Zone:** Fishing Industry  
**Style:** Semi-sloped and cape cod roofs, common shingle type and colour of cladding.



**4** Large waterfront shed

**Use:** Shed elevated on posts  
**Zone:** Fishing Industry  
**Style:** Large variety of window styles and two different types of roof lines.,



**5** deGarthe Studio

**Use:** Vacant historic shed  
**Zone:** Public Facilities  
**Style:** Simple, vernacular style with recently renovated shingles



**6** Northern Side of Cove

**Use:** Boat sheds and residence  
**Zone:** Fishing Industry  
**Style:** Array of 1.5-storey waterfront building with steep roof pitches and uniform cladding colour. The same style is used for main and accessory buildings.



**1** Public Washrooms

**Use:** Recently-built public facility  
**Zone:** Public Facilities  
**Style:** Contemporary interpretation of traditional fish sheds. Combination of roof pitch and building width creates a tall appearance.



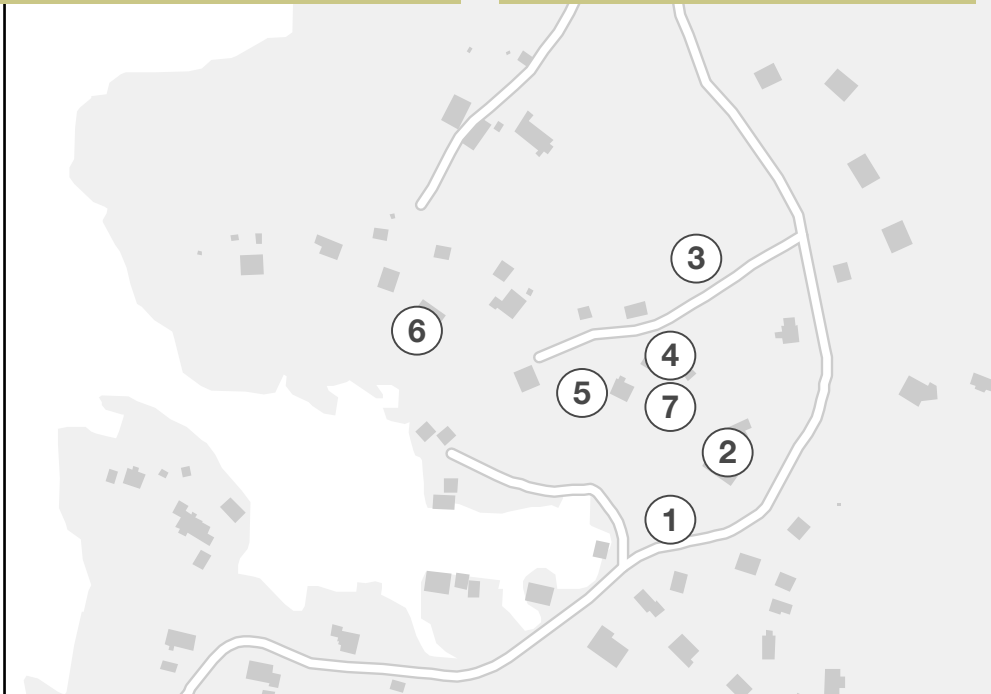
**2** deGarthe House

**Use:** Park and gallery museum  
**Zone:** Public Facilities  
**Style:** Composite building made up of many additions and extensions. Characteristic window lintels and drip mouldings throughout building.



**3** Rocky Road Shed

**Use:** Shed  
**Zone:** Residential  
**Style:** 1.5-storey shed with gambrel roof and large, characteristic shingles.



**7** Peggy's Cove Cottage

**Use:** Accommodations  
**Zone:** Residential  
**Style:** Cape Cod with shed dormer (likely addition). Notable feature of stone masonry foundation.



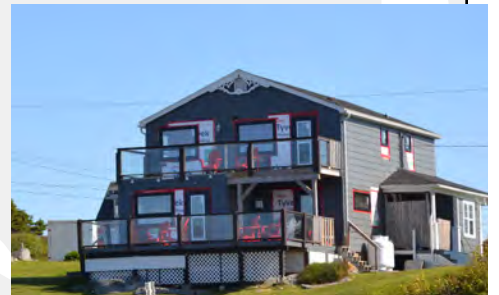
**4** 8 Rocky Road

**Use:** Residence  
**Zone:** Residential  
**Style:** 1.5-storey bungalow with saltbox roof extension. Three-bay symmetry has been altered to accommodate door. Porch facing cove.



**5** 12 Rocky Road

**Use:** Residence  
**Zone:** Residential  
**Style:** Cape Cod roof home with rear 'L-plan' addition and added bay window.



**6** 19 Church Road

**Use:** Residence  
**Zone:** Residential  
**Style:** Adaptation of the Newfoundland-style shed roof to a residential context. Replacement of windows was ongoing during site visit.



**1** Wharfside Cottage

**Use:** Residence  
**Zone:** Fishing Industry  
**Style:** Adaptation of steep-roofed fish shed style to a residence. Vertical board and batten siding makes this buildings unique in Peggy's Cove.



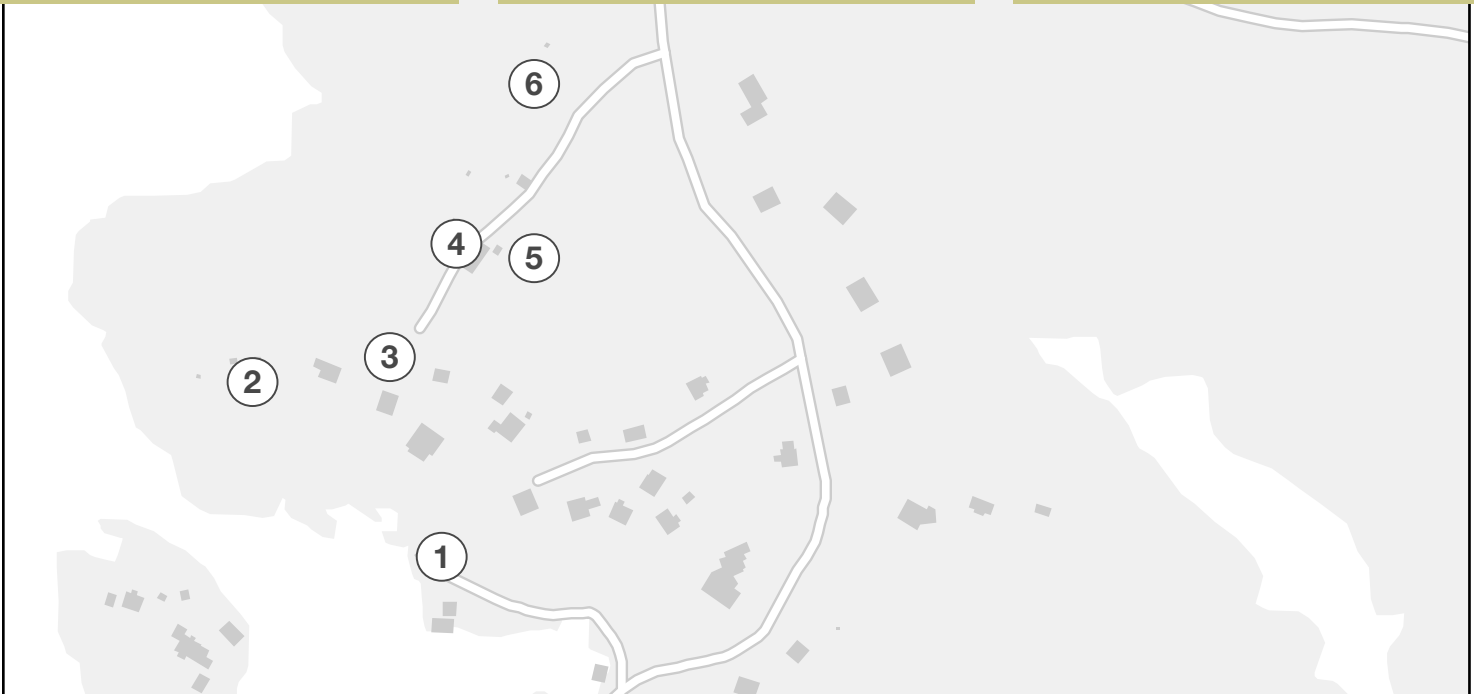
**2** 27 Church Road

**Use:** Residence  
**Zone:** Residential  
**Style:** Cape Cod building with very regular bay and window patterns.



**3** 23 Church Road

**Use:** Cottage  
**Zone:** Residential  
**Style:** Adaptation of the semi-sloped Newfoundland-style roof pitch for a residential dwelling.



**4** 9 Church Road

**Use:** Residence  
**Zone:** Residential  
**Style:** Modern interpretation of various traditional styles found in Peggy's Cove. Notable septic tank under patio.



**5** St. John's Anglican Church

**Use:** Church  
**Zone:** Residential  
**Style:** Gothic Revival style. Emphasis is on the vertical dimension, with wooden battens. Roof recently replaced with metal.



**6** 1 Church Road

**Use:** Residence  
**Zone:** Residential  
**Style:** Small cottage on a small footprint. Roof pitch is similar to other buildings in Peggy's Cove, yet the ratio of building roof to wall makes the roof appear small.







# 4 LEGAL FRAMEWORK AND REGULATIONS

## PEGGY'S COVE COMMISSION ACT

Peggy's Cove is located within Halifax Regional Municipality ("HRM"). However, the regulatory framework for land use and construction activity is distinct from the rest of the municipality and indeed from the rest of the province. The *Peggy's Cove Commission Act* (further referred to as 'the Act') establishes a Commission for the Peggy's Cove Preservation Area (further referred to as 'the Area') and exempts the Area designated therein from any rules "relating to erection, use, occupancy, construction, alteration, repair, destruction or demolition of buildings" if they are contained in any by-law, municipal planning strategy or provincial legislation including the *Halifax Regional Municipality Charter*. There is somewhat of a contradiction because while the Act does not mention exemption from other by-laws or municipal planning strategies regarding land use, later sections of the Act do mention the ability of the Commission to enact regulations on land use and to adopt bylaws "in respect of any other matter or thing deemed necessary by the Commission to the carrying out of its purpose".

The Preservation Area lies within two HRM plan areas: Districts 1 and 3, and District 4. Since the exemption is so specific to rules relating to buildings, this suggests the Peggy's Cove area is not necessarily fully exempt from the Municipal Planning Strategy and Land Use By-law for the plan areas. The Districts 1 and 3 Municipal Planning Strategy incorrectly notes that "The Act also states that the Preservation Area is not subject to the provisions of municipal planning strategies and accompanying by-laws as they relate to land use." Other than this note, there is no mention in that Planning Strategy that the area would be exempt from municipal planning rules, and the Land Use By-laws for both plan areas are silent on the matter. Consequently, one can suggest that HRM land use by-law rules that do not relate to buildings still apply to the Peggy's Cove Area. At this time, this may be a technicality since the vast majority of rules in the Planning Districts 1 and 3, and Planning District 4 Land Use By-laws relate to buildings. However, this could change during future plan revisions. Consequently, clarity should be considered in the Act and/or HRM planning documents.

Secondly, there are twofold implications from the Act's exemption of rules relating to buildings. On the one hand, the legislation gives the Peggy's Cove Commission a high degree of independence and flexibility in the establishment of rules for development. The Land Use Bylaw for Peggy's Cove does not need to follow all legal requirements of the *Halifax Regional Municipality Charter*, but instead draws its authority from a more lean planning framework of the *Peggy's Cove Commission Act*.

Specifically, the Act gives authority to:

- + designate zones where certain types of development or businesses are permitted, or not permitted;
- + regulate uses and occupancies of buildings and land;
- + control of architectural design or appearance of buildings;
- + create rules related to public safety of buildings and removal of buildings;
- + regulate campgrounds and other development related to transient accommodation;
- + require building inspections; and
- + any other matter or thing deemed necessary by the Commission to the carrying out of its purpose.

With the Act stating the purpose of the Commission as "to preserve the unique scenic beauty, character and atmosphere of the Area for the enjoyment of both residents and visitors", the last item named by the Act leaves wide room for interpretation and could enable the Commission to establish a wide range of planning rules for the area.

On the other hand, the wide exemption for various rules related to buildings means that there is a large void of planning rules to be filled by the Peggy's Cove Land Use Bylaw. The wording of the Act does deactivate many provisions which cover basic municipal routines such as the administration of 'dangerous and unsightly premises' under the *Halifax Regional Municipality Charter* and related municipal by-laws. However, other HRM by-laws such as the Regional Subdivision By-law, and Grade Alteration By-law would still apply.

## ADMINISTRATION

In summary, the Act has created a unique planning regime with an eclectic mix of planning rules that apply under various jurisdictions. For the review of the Peggy's Cove Land Use Bylaw, it will be therefore very important to verify that:

- + all provisions of the Bylaw are enabled by legislation
- + conflicts with other regulatory documents are kept to a minimum, and
- + the planning rules cover all routine administrative functions related to buildings, which may have been rendered inoperative through the wording of the Act.

One of the major roles of the Commission is to administer the Land Use Bylaw to control development within Peggy's Cove. Property owners must apply for a development permit before undertaking any development. The Commission will review the proposal against the Peggy's Cove Land Use Bylaw and issue or deny a permit accordingly. The Commission is currently resourced by a professional land use planner from the Province; however, he is a non-voting member and does not ultimately vote on the approval or denial of permits.

Building and fire inspection is conducted by HRM under agreement with the Commission.

The *Peggy's Cove Commission Act* as currently worded does create some challenges with administration. Notably, there is no mechanism outlined for the appeal of the Commission's decision on a permit. This in itself is a challenge. However, in a community the size of Peggy's Cove there is the additional challenge that arises from placing the burden of having the final word on a Commission that includes members of the community – members who likely share close relationships with the neighbours they are tasked to regulate.

A second challenge is in relation to enforcement. While the Act does include provision for enforcement, meaningful enforcement requires the Commission to bring the proceedings to the Trial Division of the Supreme Court. Successfully achieving this requires significant resources, both in the preparation of a case (e.g. collecting evidence of non-compliance with the Bylaw), and in carrying it out. As a volunteer committee, the Commission understandably lacks the resources and skills to undertake such enforcement.

Finally, since the Commission is a creation of the Province, the regulations enacted by the Commission do not apply to provincial (or federal) development activities. While the Province traditionally follows local land use and development rules (or at least the spirit of them), it is under no obligation to do so. Given the significant role of the Province in Peggy's Cove, this emphasizes the need to establish development rules that are clear in their intent and well-founded in their rationale.

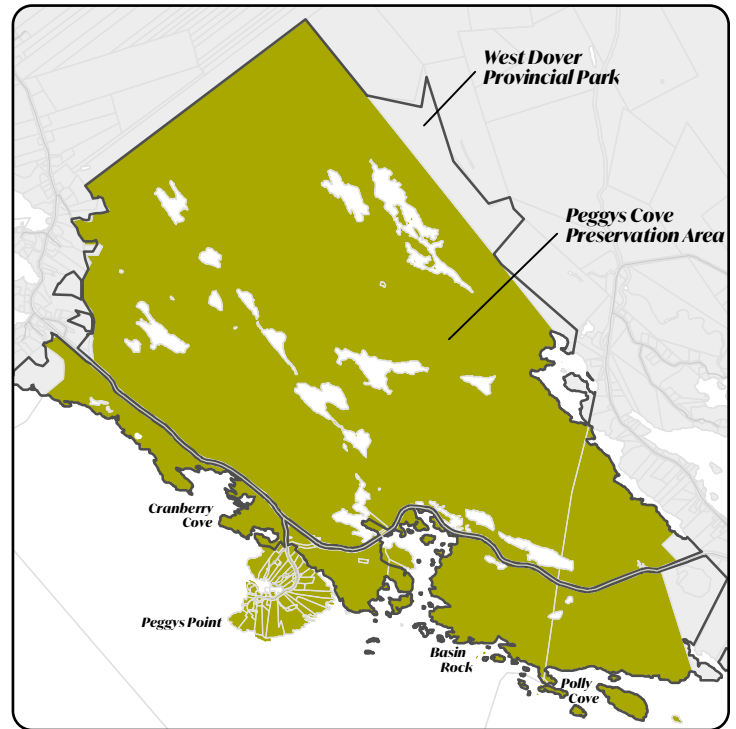
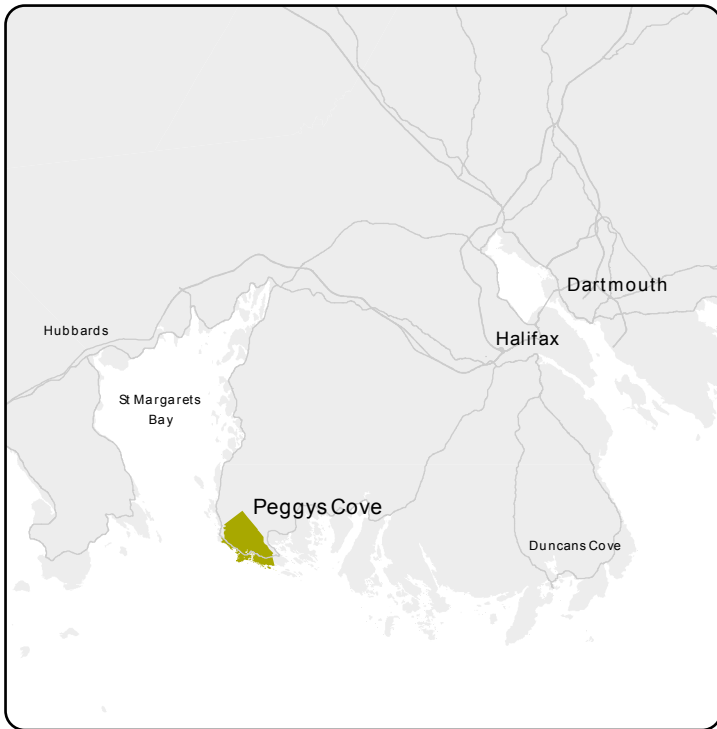
## PEGGY'S COVE PRESERVATION AREA

The 'Peggy's Cove Preservation Area (PCPA)' is the area to which *Peggy's Cove Commission Act* applies. The area was designated by the Governor in Council and spans approximately 987 hectares between the communities of Indian Harbour and West Dover. The PCPA contains a community of the same name and the actual village of Peggy's Cove, which contains about 37 hectares and therefore constitutes approximately 4% of PCPA's overall land mass.

The remaining 96% of land outside of the village's community boundary are largely protected Crown Lands and left in their natural state. Soil conditions, high winds, and other natural factors give these lands a bare appearance with limited and scrubby vegetation, which is characteristic of the unique landscape setting of Peggy's Cove. To complicate administrative matters, these lands comprise the majority (but not exactly the same boundary) of the West Dover Provincial Park, designated under the *Provincial Parks Act*.

The western extent of the area is also shown in planning documents of the Halifax Regional Municipality's Planning Districts 1 and 3 plan area. The PCPA is shown in the Generalized Future Land Use Map and Zoning Map in the Municipal Planning Strategy and Land Use By-law respectively.

While Halifax Regional Municipality has adopted a policy in its Municipal Planning Strategy stating Municipal Council shall discourage any extension of the PCPA, the *Peggy's Cove Commission Act* itself provides discretion to the Governor in Council in defining the boundary of the PCPA and the ability change the boundary of the PCPA in the future.



## LAND USE BYLAW

The current Land Use Bylaw for Peggy's Cove was originally adopted by the Commission in 1993 and amended in 2003. The Bylaw generally follows the typical model of land use bylaws in the Nova Scotia beginning with administrative provisions and the interpretation of zones, and moving on to general provisions applicable for the entire plan area, followed by specific rules for individual zones.

The main difference to typical land use bylaws in rural Nova Scotia is Section 10, which deals with architectural requirements. While land use bylaws elsewhere in Nova Scotia often include rudimentary architectural controls, the Peggy's Cove Land Use Bylaw is more encompassing. Specifically, the architectural design section sets rules for the following building elements:

- + Architectural styles
- + Building footprints
- + Building proportions
- + Roofs
- + Windows
- + Exterior materials
- + Colours
- + Decoration
- + Accessory Structures

The architectural design requirements generally require building elevations that resemble the looks of a traditional fishing village, with a mix of cottage-style architecture, Victorian styles, and 'Newfoundland-style' buildings for commercial land uses. The section is heavy on the side of technical terms, but does provide short explanations or definitions of these terms.

The architectural controls have in the past created challenges for the Commission and residents alike. While the architecture of the community is a defining feature and requires careful cultivation going forward, the current approach to regulation is difficult to understand for members of the general public, and difficult to consistently interpret and apply for the Commission.

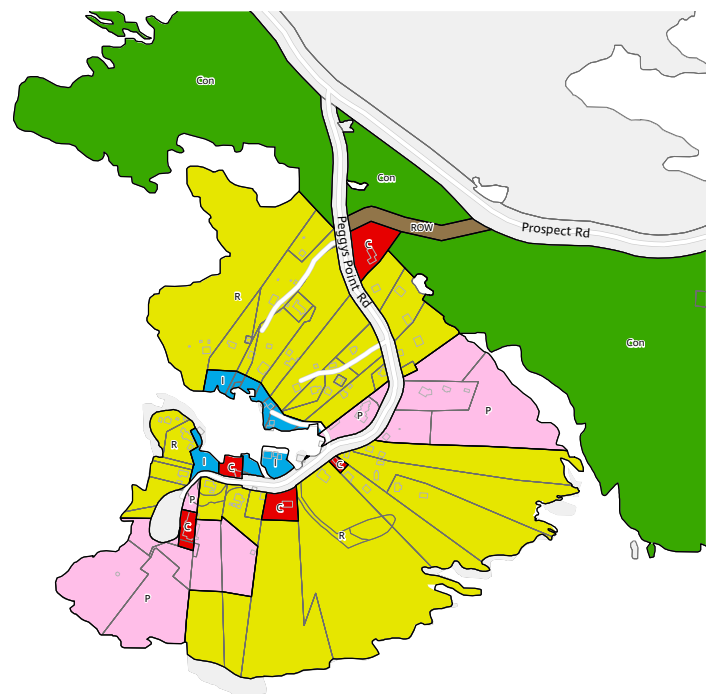
Other planning tools commonly found in other Nova Scotian jurisdictions, such as site plan approval and development agreements, are not present in the Peggy's Cove Land Use Bylaw. Indeed, such tools are not mentioned by the Act.

## CURRENT ZONING

Land Uses in the Peggy's Cove Land Use Bylaw are regulated through the following five zones:

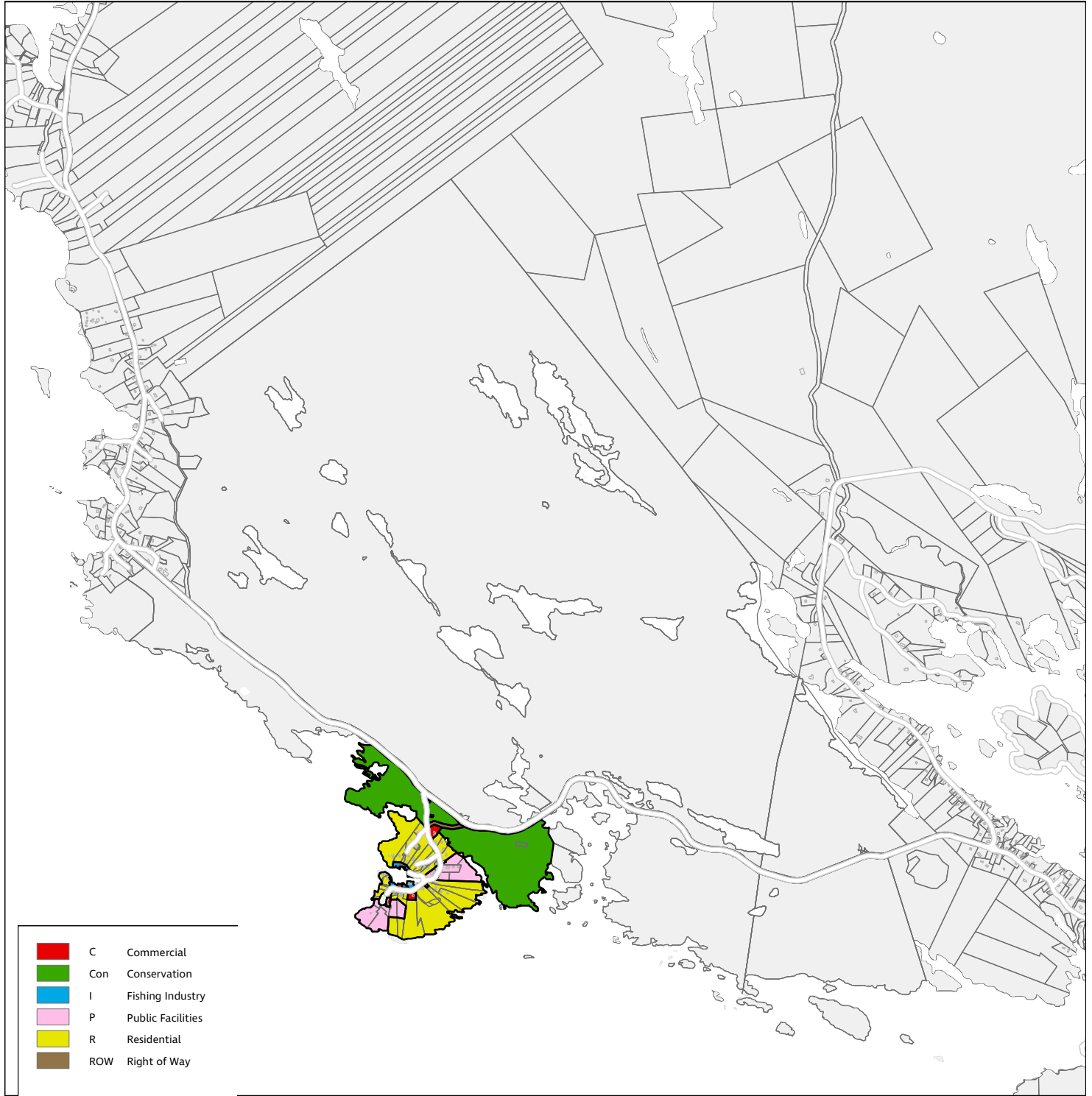
- + Residential (R)
- + Fishing Industry (F)
- + Commercial (C)
- + Public Facilities (P)
- + Conservation (Con)

There are also parts of the Peggy's Cove Preservation Area that are not shown on the zoning map. It is unclear if this was an error, or a deliberate choice since those areas mostly involve Crown Lands left in their natural state.



The area surrounding the inner cove is zoned for 'Fishing Industries'. The cove also splits the zoning into three district residential areas: one extending between D'Aubins Point and Peggys Point Road, one between the cove and Clam Pond and finally a small area nestled into the southwestern shoreline of the cove. The zoning is completed by several isolated commercial zones, public facilities, and protected natural lands outside of the community core. Right-of-way zoning between Peggys Point Road and Prospect Road protects an old footpath in that area.

# COMPLETE ZONING MAP



## REGIONAL SUBDIVISION BY-LAW

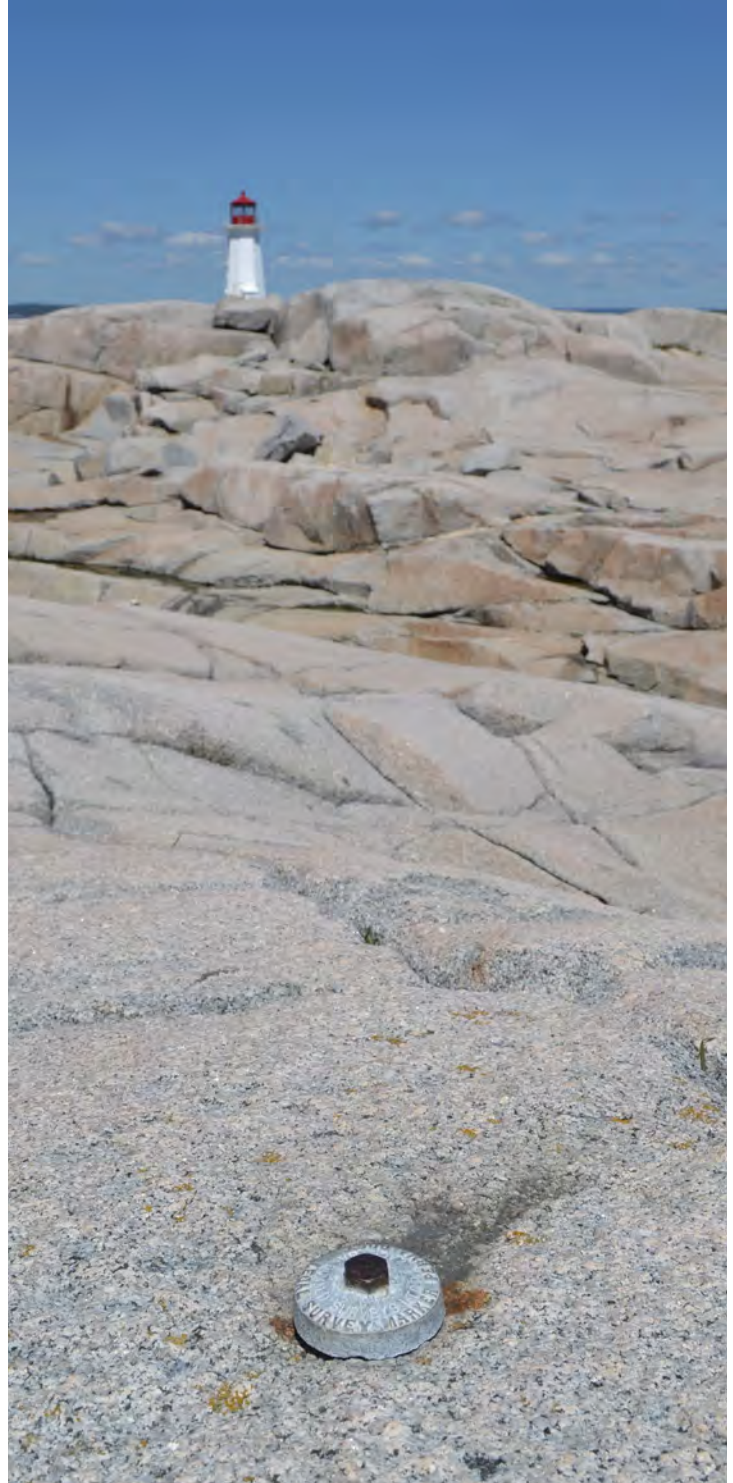
Since municipal rules on the subdivision of land are not altered by the *Peggy's Cove Commission Act*, the Halifax Regional Municipality's 'Regional Subdivision By-law' applies to its full extent. Peggy's Cove is designated as 'Rural Commuter' in the Halifax Regional Municipality Regional Plan, so the Subdivision By-law allows for subdivision on newly created public roads. Since there are no minimum lot size requirements in the Peggy's Cove Land Use Bylaw, these conditions on first glance appear to allow for vibrant subdivision activity.

However, there are limiting factors that make subdivisions within Peggy's Cove a rare case. Since the area is not serviced by municipal septic sewers, properties need to rely on on-site sewage disposal systems. Related to this circumstance, the provincial sewage disposal regulations under the *NS Environment Act* override municipal provisions and require large minimums for lot sizes. Since most of the lots in Peggy's Cove are likely already below these thresholds, subdivision of land will rarely allow the creation of new lots.

Sections 40(4), 41 and 42 of the Subdivision By-law create rules for lot boundary alterations in various situations that require property lines to be moved (e.g. in the case of encroachments). These types of subdivision plans are permitted in the area, and are expected to constitute the majority of subdivision files in the community.

As this Bylaw review progresses, it should include consideration of whether or not the absence of minimum lot size requirements in the Land Use Bylaw could create situations with potential to abuse sections 40 through 42 of the Subdivision By-law. Additional controls may also be necessary if the currently ongoing infrastructure upgrades in Peggy's Cove would result in community collection systems that would exempt properties from the on-site sewage disposal regulations for minimum lot size.

Finally, the lot pattern within Peggy's Cove arises from its history as a fishing community and in part defines the unique character of the community. However, this pattern would be difficult, if not impossible, to create under the current provisions of the Regional Subdivision By-law. During this Bylaw review, some consideration will be needed as to how this lot pattern can be continued and reinforced in any future subdivision activity.





**PEGGY'S  
COVE** LAND USE  
BYLAW

