



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 13.1.2
North West Community Council
September 10, 2018

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Kelly Denty, Director, Planning and Development
Original Signed

Jacques Dubé, Chief Administrative Officer

DATE: July 11, 2018

SUBJECT: **Case 19461: Site Specific Amendments to the Municipal Planning Strategy and Land Use By-law for Planning Districts 1 and 3 to permit an asphalt plant at PID# 41457821, north of Highway 103 and west of Little Indian Lake, Head of St, Margarets Bay**

ORIGIN

- Application from Scotian Materials Limited
- April 28, 2015 Initiation of MPS Amendment by Regional Council
- September 20, 2016 Motion of Regional Council
MOVED by Deputy Mayor Whitman, seconded by Councillor Walker
THAT Halifax Regional Council direct HRM's Planning and Development staff to conduct an additional public consultation session in relation to Case 19461 – Amendments to the Planning Districts 1 and 3 Municipal Planning Strategy and Land Use By-law to enable an asphalt plant on lands west of Little Indian Lake, Head of St. Margarets Bay for the residents of Westwood Hills, Tantallon and surrounding communities prior to a staff report on the matter being presented to North West Community Council. *MOTION PUT AND PASSED*

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that North West Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Planning Districts 1 and 3, (St. Margarets Bay) as set out in Attachments A and B of this report, to permit an asphalt plant on a portion of PID# 41457821 north of Highway 103 and west of Little Indian Lake, Head of St, Margarets Bay and schedule a public hearing; and
2. Approve the proposed amendments to the MPS and LUB for District 1 and 3 (St. Margarets Bay), as set out in Attachments A and B of this report.

BACKGROUND

Scotian Materials Limited proposes to develop an asphalt plant on 4.0 hectares (9.8 acres) of a 16.2-hectare (40 acre) parcel (PID# 41457821) which is situated on lands north of Highway 103 and west of Little Indian Lake at the Head of St. Margarets Bay (Map 1). These lands also contain the Island Lake rock quarry. On April 28, 2015, Regional Council Initiated Case 19461, a request for a site-specific amendment to the Planning Districts 1 and 3 Municipal Planning Strategy (MPS) to consider land use policies which would enable an asphalt plant on lands in the Head of St. Margret's Bay area (Maps 1 and 2).

Subject Property (Map 1)	PID# 41457821 Head of St. Margarets Bay.
Location (Map 1)	North of Highway 103 and west of Little Indian Lake
Lot Area	4.0 hectares (9.8 acres) on lands 16.2 hectares (40 acres) in area
Regional MPS Designation	Open Space under the Regional Municipal Planning Strategy (RMPS)
Community MPS Designation (Map 1)	Resource (RSC) under Planning Districts 1 and 3 Municipal Planning Strategy (MPS).
Zoning (Map 2)	Mixed Resource (MR-2) under Planning Districts 1 and 3 Land Use By-law (LUB)
Surrounding Uses	<u>North:</u> N.S. crown forestry and resource lands. <u>South:</u> Privately held forestry and resource lands. Residential uses (2.0 km). Highway 103 (0.8km). <u>East:</u> Residential uses -Westwood Hills (2.5km). NS Power Hydro Electric Plant (1.8 km) <u>West:</u> Privately held forestry and resource lands.
Current Use(s)	Rock quarry

Proposal Details

The applicant is proposing site specific MPS and LUB amendments for Planning Districts 1 and 3 to permit the development of an asphalt plant. The features of the proposed asphalt plant are:

- The plant would work in conjunction with an existing aggregate quarry already on the property.
- All future access points to the asphalt plant and existing quarry would be from Highway 103 at the new Ingramport Interchange. The access route would be coordinated through the Department of Transportation and the Department of Natural Resources.
- The applicant states that the proposed asphalt plant would provide asphalt service to the general metro area, and more specifically to areas west of the metro area including St. Margarets Bay in what they have indicated is a location which is underserved by this business type.

Should Council approve a site specific MPS and LUB amendment, the applicant would require a development permit for asphalt operations on the subject property.

History of Asphalt Plant Operations on the Site

During the summer of 2014, the Province gave authority to enable the operation of an asphalt plant on the subject site for a period of two months. Since provincial authority supersedes municipal zoning regulations

no development permit was required at that time. This authority was given to ensure a local supply of asphalt to facilitate paving the St. Margarets Bay Road from the Superstore at the Crossroads to Hubley in 2014. When this infrastructure project was complete, the asphalt plant operations were no longer authorized by the Province, and municipal land use regulations then came into effect. It was then determined that in the absence of a Provincial exception, asphalt plant operations were not a permitted use in accordance with the LUB regulations that pertained to the subject property.

MPS and LUB Context

The Planning Districts 1 and 3 MPS does not specifically discuss asphalt plants nor does the LUB define the use. The MPS does not enable asphalt plants as a light or service industrial use and therefore the subject site is not eligible for a rezoning to enable an asphalt operation. As such, a site-specific amendment to both the MPS policy and the LUB are required to enable an asphalt plant on the subject lands.

Asphalt Plant Operations

An asphalt plant is equipment that combines aggregates, sand, bitumen and filler material in specific proportions to produce asphalt concrete. The asphalt mixing plant heats aggregate and mixes it with bitumen and other adhesive substances to prepare the hot mix asphalt that is used as a paving material.

Asphalt plant emissions are a key concern for community residents. Although it is largely under provincial jurisdiction, MPS Policy E-16 requires that air pollution emissions be considered when establishing a new industry. Provincial operational requirements dictate that asphalt plants must have air pollution control devices such as bag filter units. These units are used to collect dust which is then reintroduced into the aggregate elevator system. In terms of effluent emissions, it should be noted that the asphalt plant proposed on the subject property will utilize a “dry system” method in which no effluent or water based by-product is directed to the ground.

To address the concerns of residents and at the request of staff, the applicant has supplied studies addressing nuisance impacts (referencing sound, unsightliness and odour) to demonstrate potential mitigation of operational impacts to the neighbouring community. While studies have been provided to assess impacts of this description, matters of environmental health and safety are regulated by the Provincial Department of the Environment (DOE) and not under the purview of Municipal policy. Municipal land use regulation evaluation is limited to nuisance impacts as referenced under the Discussion section of this report.

The proposed use would potentially impact local residents and property owners.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy, the HRM Charter, and the Public Participation Program approved by Council on February 25, 1997. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area, and a Public Information Meeting (PIM) held on June 1, 2015. After the PIM on June 1, 2015, it was identified by staff that approximately 200 persons had been turned away due to the occupancy limit of the meeting room. Comments received at the PIM from approximately 20 speakers were overwhelmingly in opposition to the proposal. Concerns addressed at the June 1st 2015 PIM were as follows:

- Negative overall impressions of asphalt plant operations on the property citing concerns regarding the potential for impacts to:
 - Environment
 - Human Health to residents living within proximity to the site
 - Property values of residential houses in the area
 - Recreational use of the subject lands

Attachment C contains a copy of the minutes from the June 1, 2015 meeting.

Community Liaison Committee

In March of 2016, the applicant created a Community Liaison Committee (CLC). The purpose of the committee was to undertake a community based review of the asphalt plant proposal. As per the Community Liaison Committee Organization Charter drafted by the applicant, committee membership was intended to represent stakeholders who may be, or might perceive that they may be, affected by the proposed land use. As with all such committees, HRM's position is that the CLC process and completed report was an independent initiative that would not form part of the HRM's formal planning process, but would instead become a submission to the Planning case file. Accordingly, their work would be treated equally with the hundreds of other application submissions from residents and interest groups. The CLC continued to meet through the summer of 2017 and staff attended a number of these sessions as observers.

The CLC submitted their findings on September 5, 2017 and indicated that they were neither for or against the proposed asphalt plant. They did find that the proponent of the asphalt plant was responsive to the community concerns regarding potential impacts from asphalt operations. Accordingly, the applicant agreed to include additional mitigation measures for potential impacts outside of the municipal regulatory process for land use planning.

Second Round of Community Consultation - Community Open Houses

Given the capacity issues with the original Public Information Meeting and the amount of interest in the project expressed by the community, Regional Council passed a motion on September 20, 2016 directing that staff undertake additional community consultations. Accordingly, on January 25 and 26, 2017 staff conducted 2 community open houses which were attended by a total of approximately 480 persons. Of the 480 attendees, approximately 330 persons responded to a survey regarding the proposal.

Of the survey respondents, 86% indicated that the proposed location was not suitable for asphalt operations, while 95% were concerned that approval of asphalt operations would lead to wider industrial zoning on the lands. A summary of survey responses is shown on Table 1.0 below:

**Table 1.0 Consolidated Summary of Issues Ranked by Percentage of Respondents
(Sample size – 330 Persons)**

1	Approval of Application would lead to additional Industrial zoning in the area	(95%)
2	Lands unsuitable for an asphalt plant	(86%)
3	Environmental Emissions and Human Health concerns	(82%)
4	Property values will decrease in the area based on the proposed use	(74%)
5	Recreational use of the lands in the area will decrease or be obstructed	(54%)
6	The operation will create sound impacts to residential development	(53%)
7	The operation will create impacts to residential development due to increased truck traffic	(50%)
8	The operation will create visual impacts to residential development	(29%)

Attachment D contains a consolidation of the survey questions in graphic format from the community open houses held on January 25 and 26, 2017.

In addition, it should also be noted that a community group also distributed their own survey, the collection of which was delivered to the Municipal Clerk's office as a separate package.

DISCUSSION

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in the Municipality. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests.

Staff recommend approval of the amendments proposed to Planning Districts 1 and 3 to permit an asphalt plant on a portion of PID# 40042822 as shown in Attachments A and B of this report. The following paragraphs review the rationale and content of the proposed MPS and LUB amendments.

Policy Review

Site specific Municipal Planning Strategy amendments should be considered only in cases where it can be clearly demonstrated that the property is of such a unique character, or that the circumstances under which policy was originally conceived has changed to such an extent that recognizing this circumstance in policy is appropriate. In reviewing the application staff considered community feedback, agency feedback, and background study provided as part of the application submission as well as other submissions made through the process.

MPS Policy RE-7 establishes the ability to undertake discretionary planning approval for non-resource related light and service industrial uses within the Resource Designation. However, Asphalt Plants are not listed as a permitted use within the Districts 1 and 3 Plan Area nor have they been defined in the LUB. An asphalt plant has been deemed to be beyond the scope of a "light" industrial use and as a result, an MPS amendment is required.

Land Use Compatibility

A key outcome of the comprehensive planning process is to ensure that a land use such as an asphalt plant or any other type of local unwanted land use is situated so impacts such as unsightliness from operations, truck traffic, vibration, sound and odour, do not overly conflict with more sensitive land uses. To this end, impact mitigation is a principal objective with the understanding that impact elimination in many cases is not a realistic outcome.

Furthermore, it is recognized these types of uses are often necessarily located in response to restrictions such as proximity to raw materials and proximity to highways. Accordingly, determining if a proposed location is sufficiently separated from more sensitive uses is key in the determination of land use compatibility.

Distance Separation from Residential Use to Proposed Asphalt Plant Operations

Adequate distance separation from the proposed asphalt plant to the existing residential homes in the Westwood Hills neighbourhood to the east is a key consideration in staff's recommendation.

Separation from the proposed asphalt plant site to the Westwood Hills Community is approximately 2.6kms (Map 3). Residentially developed lands to the south are located closer at 2.3kms but are separated by Highway 103 which creates a substantial visual and acoustic barrier to the subject property.

Scope of HRM Evaluation and the Role of the Province

For matters dealing with provincial roads, the impacts to the environment, and matters of human health HRM Planning staff defers to Provincial authority having jurisdiction over such matters. Matters concerning property values are not contemplated as part of the planning process. Accordingly, staff recommendations of the proposed asphalt plant were not informed by the following factors:

- Impacts to property values
- Environmental Impacts/ Assessments
- Impacts to Human Health (Air Quality)
- Traffic on Provincial Roads

Notwithstanding this jurisdictional division, staff acknowledge the concerns of residents on the important matters as referenced above. However, under the HRM Charter, planning evaluation is based primarily on nuisance impacts such as sound and odour impacts, visual impacts plus vehicular access to the site. Matters under provincial jurisdiction are not the principal issues upon which the recommendations of this report are based. Accordingly, HRM's evaluation contemplated the following impacts:

Sound Emissions

The applicant has undertaken modelling to determine sound impacts from a distance of up to 2 kilometers. Results of the model indicate that the average predicted noise levels within 2 kms the asphalt plant will be less than 20 dBa (about the sound level of the average bedroom at night). Residents of Westwood Hills live a minimum of 2.6 kms from the proposal asphalt plant. Staff considers distance separation adequate to mitigate these concerns (Map 3).

Odour Impacts

Odour can be a product of the mixing process that goes into creating asphalt. Accordingly, the applicant has an Asphalt Plant Operation Approval from the Department of the Environment that requires that the applicant cease operations if they deem the odour generation to be deemed excessive. Additives can be used to neutralize odour if excessive. Research suggests that distance separation is a key factor in addressing odour impacts. When combining mitigating factors of distance and Department of Environment regulation on odour, staff considers the distance separation adequate to address these concerns (Map 3).

Access to and from the Asphalt Plant

It is acknowledged that truck traffic would increase because of asphalt plant operations. In accordance with an agreement between the DNR and the Department of Transportation the applicant is prepared to direct all traffic to and from the proposed asphalt plant to the new interchange at Ingraпорт which is in the opposite direction from the Westwood Hills neighbourhood. This is done so that no traffic will use the Bowater Access Road known as Hiking Trail Road (Map 4).

Visual Impacts

To address visual impacts, the applicant undertook analysis from the five highest peaks in the Westwood development. These locations were chosen because they represented the best vantage points in Westwood Hills from which to view the asphalt plant. They also assessed contours of the quarry face, quarry floor as well as heights of the asphalt plant and treeline of the quarry face. By using this information, it was determined that only 5 metres of the asphalt plant's silo protrudes above the tree line. At the distances more than 2.5 kilometres away this protrusion is indistinguishable with the horizon. However, at different vantage points a small portion of the asphalt plant may be visible in the Westwood Hills neighbourhood. However, given the distance separation and the relatively small size of the asphalt plant, in most cases the asphalt plant will be obstructed and largely indistinguishable for the households within Westwood Hills. In terms of impacts to residential communities, staff considers distance separation adequate to mitigate concerns of visual impact (Map 3).

Additional Concerns Identified through the Community Consultation

Additional concerns raised by local residents through the community consultation are addressed as follows:

Recreational Use of the Bowater lands will be Impeded if the Asphalt Plant is Approved

The DNR is owner of the lands that surround the subject site. Municipal regulations acknowledge that resource based activity will continue in the area. To the extent that resource industries can coexist with recreational access to the back lands, both uses could continue. With this said, the Province of Nova Scotia would be in the best position to provide a clearer picture of the long-term plan for this area. The land area proposed for an asphalt plant is 4 hectares in size within a parcel of 16.2 hectares. This is a small portion of the overall Bowater land. It has not been assessed that asphalt plant operations on these lands would impede recreational use of the Bowater lands.

Approval of Asphalt Plant would lead to additional Industrial zoning

The approval of a site specific MPS amendment does not lend to similar MPS amendments being approved on the subject property. No Regional Plan or Council direction has been provided to designate the balance of these lands Industrial in the future.

Further, the potential increase of industrial and commercial uses is unlikely. The proposed asphalt plant is a product of its location being fixed within an existing quarry on private lands that provide a synergy between the two uses. The quarry is a permitted use in accordance with the Resource designation. Further, while

the subject property is privately owned, all surrounding lands are owned by DNR. The DNR has not expressed any interest in rezoning these lands for industrial or commercial purposes.

Appropriateness of Lands for the Asphalt Plant Operations

Staff have reviewed the application and advise that distance separation from the proposed use to more sensitive residential development is sufficient to mitigate impacts from the proposed asphalt plant operations. Further, all vehicular traffic will only be permitted in the opposite direction of the residential community.

Proposed MPS and LUB Amendments

Staff considered the existing MPS policy and LUB context, the extent of the request, and public feedback when drafting the proposed amendments. Attachments A and B contain the proposed MPS and LUB amendments. A summary of the proposed amendments are as follows:

- New Policy and a Schedule in the MPS that enables an asphalt plant on a site-specific basis;
- New regulations and a Schedule in the LUB to establish access provisions and to provide regulations to enable the use of the asphalt plant on a site-specific basis without enabling asphalt plants on other lands within the existing zone.

In addition, the following definition of an Asphalt Plant is proposed as an amendment to the land use by-law:

“An asphalt plant is generally a use of land, building or structure, or parts thereof, which produces and/or recycles asphalt or similar coated road stone and has equipment designed to heat and dry aggregate and to mix mineral aggregate with bitumen and/or tar, and includes the stockpiling and storage of bulk materials used in the process or finished product(s) manufactured on the premises, the storage and maintenance of equipment, and facilities for the administration or management of the business.”

Rationale

Staff consider the following rationale for the consideration of the proposed amendments:

- The lands are considered a suitable location for a site specific MPS and LUB amendments for an asphalt plant which is otherwise not permitted under the current planning regulations;
- The existing zoning and designation allows for a quarry operation and asphalt plants are typically found in conjunction with this use;
- An asphalt plant has recently been operated on an adjacent crown land parcel with no issues or concerns from regulators or nearby residents;
- The surrounding land is owned by the Crown and zoned so that future expansion of the proposed use is unlikely; and,
- There is adequate distance separation to sensitive residential uses.

North West Planning Advisory Review

On September 6, 2017, the North West Planning Advisory Committee reviewed the proposal for an asphalt plant on the subject property and recommended against changing the MPS and LUB as they considered that the location was not an appropriate site for an asphalt plant.

Conclusion

Community concern for this proposal was significant. As with any of it's type, a locally unwanted land use is difficult to gain public approval. Despite these types of uses performing a necessary function for the community at large, the perception is that they have an imbalanced impact on the specific community in which they are proposed to locate. Most members of the public agree that the use itself is important but, few if any individuals agree it should be located within their community. Consultation on these types of applications serves an important function in understanding local community knowledge to ensure that local issues can be identified within the context of the application. With this knowledge, staff can then look for

opportunities to mitigate impacts. In this case, several concerns were brought to the attention of staff through the engagement process which may not have otherwise been identified through a standard staff review or traditional public consultation process. As such, this expanded engagement has been very beneficial to the process. Staff has since worked with the applicant and is satisfied that the issues of noise, smell, access, and visual impact have been addressed. Therefore, staff recommends that that Regional Council amend the Municipal Planning Strategy and land Use By-law for Planning Districts 1 and 3 to enable an asphalt plant at PID# 40042822 (Attachment A), north of Highway 103 and west of Little Indian Lake, Head of St, Margarets Bay.

FINANCIAL IMPLICATIONS

There are no financial implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred to satisfy the terms of this Development Agreement. The administration of the development agreement can be carried out within the approved 2018-19 budget with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

The primary environmental implications of priority to the municipality include water quality, energy consumption and solid waste management. None of these implications are associated with the recommendations of this report. It should be noted that the Nova Scotia Department of the Environment (NSE) requires that as part of the permit to operate, the asphalt plant is required to undergo demonstrated emissions testing such as Odour Control, Sound Levels, and Air and Particulate Emissions. In addition, the asphalt plant operation also has to have adequate Erosion and Sedimentation Controls and Separation Distance to sensitive land uses.

ALTERNATIVES

The North West Community Council may choose to recommend that Regional Council:

1. Modify the proposed amendments to the MPS and LUB for Planning Districts 1 and 3, as set out in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Refuse the proposed amendments to the MPS and LUB for Planning Districts 1 and 3. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification
Map 3:	Separation Distance to Residential Development
Map 4:	Access from Proposed Asphalt Plant Restricted to the Highway #103 Interchange at Ingramport
Attachment A Schedule A	Amendments to the Municipal Planning Strategy for Planning Districts 1 and 3 Lands Permitting an Asphalt Plant
Attachment B Schedule S	Amendments to the Land Use By-law for Planning Districts 1 and 3 Area Permitting an Asphalt Plant Operation
Attachment C	Public Participation Minutes – June 2015
Attachment D	Consolidated Survey Questions from Asphalt Public Meetings - Jan 25 & 26, 2017
Attachment E	Relevant Excerpts from the District 1 and 3 MPS and LUB

Initiation Report <http://legacycontent.halifax.ca/council/agendasc/documents/150428ca1116.pdf>

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Shayne Vipond, Planner III, 902.490.4335

Original Signed

Report Approved by: Carl Purvis, Acting Manager of Current Planning, 902.490.4797



Map 1 - Generalized Future Land Use

PID 40042822
 Head of St. Margarets Bay



Subject Property

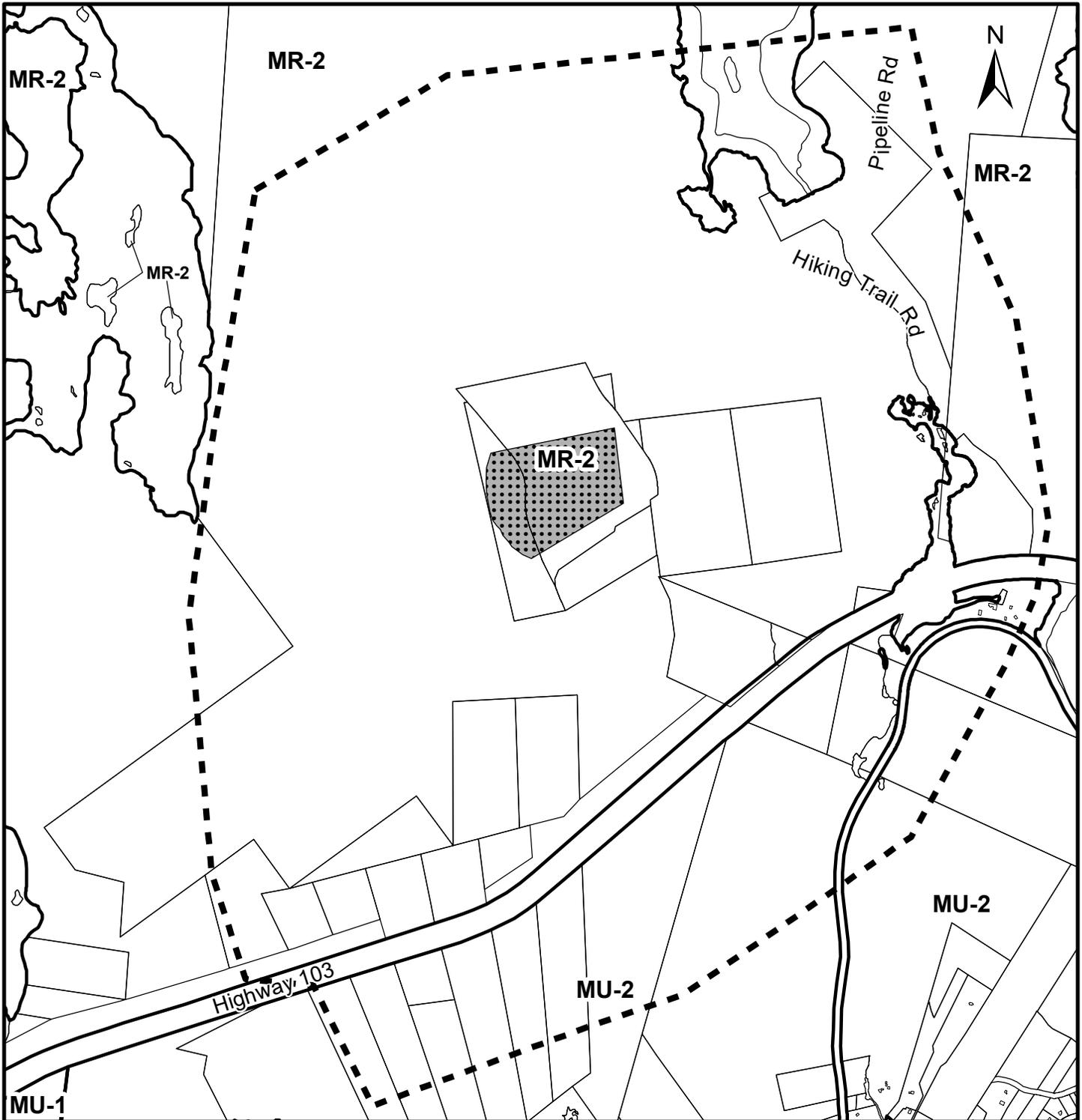
- Designations**
- RSC Resource
 - MUA Mixed Use A
 - MUB Mixed Use B
 - HML Hubley Mill Lake
 - PP Provincial Park
 - TCCV Tantallon Crossroads Coastal Village



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Planning District 1 & 3
 (St Margarets Bay) Plan Area



Map 2 - Zoning and Notification

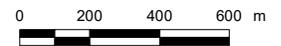
PID 40042822
 Head of St. Margarets Bay

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 Subject Property

Zones

- MU-1 Mixed Use 1
- MU-2 Mixed Use 2
- MR-2 Mixed Resource 2

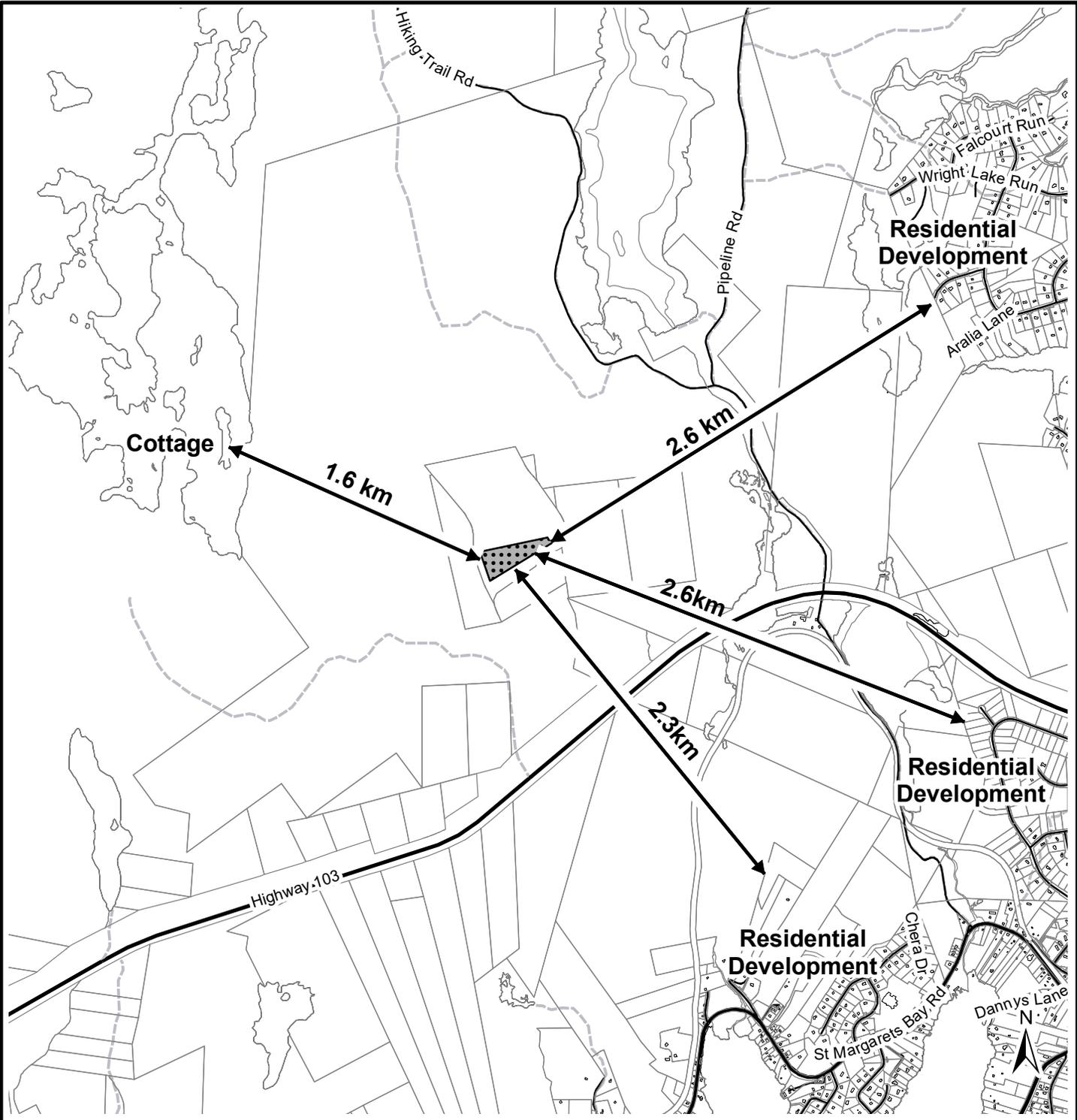


 Area of notification

This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

Planning District 1 & 3
 (St Margarets Bay) By-Law Area

The accuracy of any representation on this plan is not guaranteed.

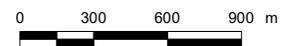


Map 3 - Separation Distances from Residential Development

Head of St. Margarets Bay

HALIFAX

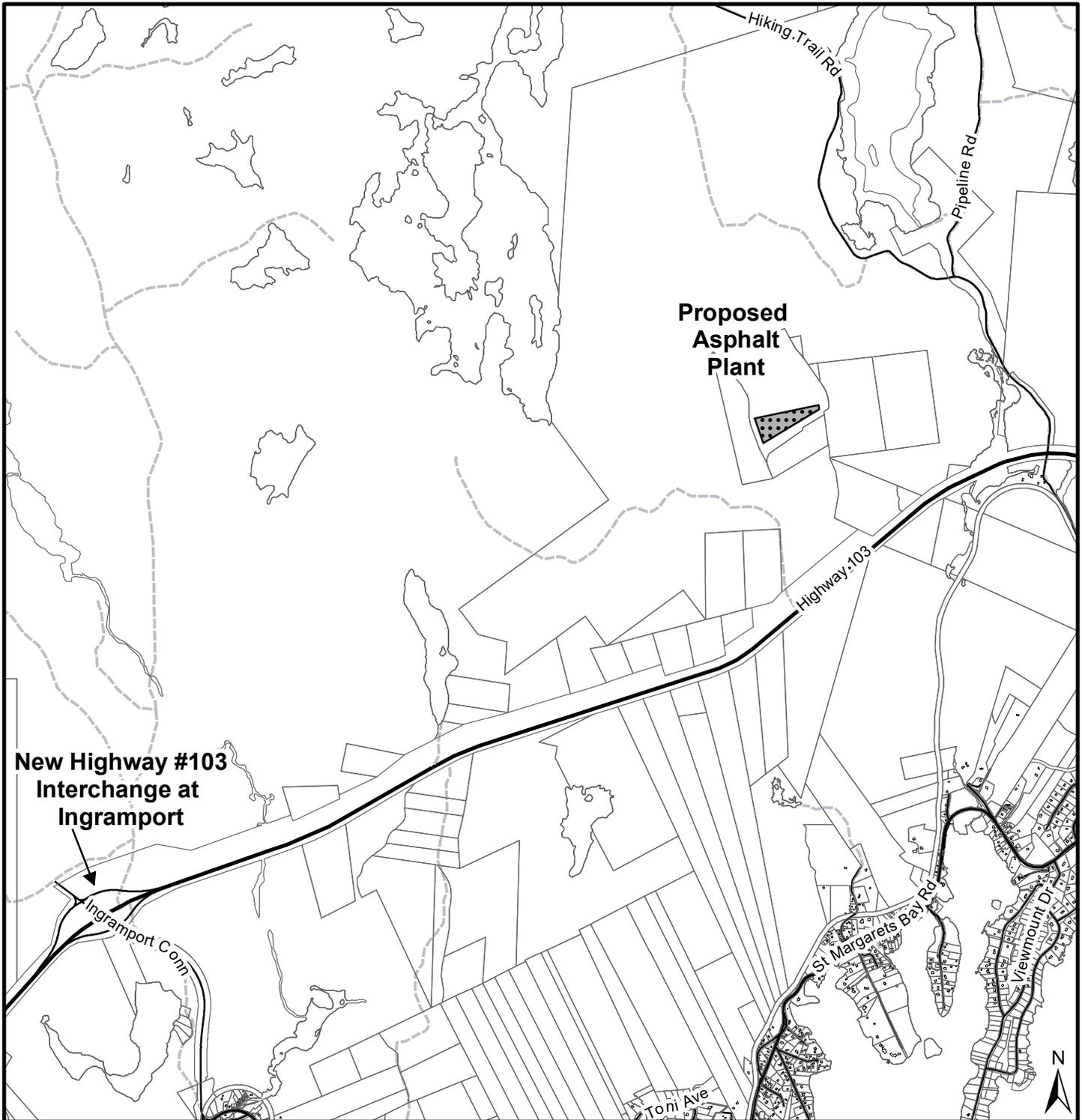
 Location of Proposed Asphalt Plant



Planning District 1 & 3
Land Use By-Law Area

This map is an unofficial reproduction of a portion of the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.



Map 4 - Access to Proposed Asphalt Plant Restricted to the Highway #103 Interchange at Ingramport

HALIFAX

Head of St. Margarets Bay

 Location of Proposed Asphalt Plant



Planning District 1 & 3
Land Use By-Law Area

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Attachment A

Proposed Amendment to the Municipal Planning Strategy for Planning Districts 1 and 3

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Planning Districts 1 and 3 (St. Margarets Bay), is hereby amended as follows:

1. The Table of Contents shall be amended by adding the text “**Schedule A – Area Permitting an Asphalt Plant Operation**” immediately after “Map 2-Tantallon Crossroads”. Furthermore, the appendixes shall be amended by adding “**Schedule A – Area Permitting an Asphalt Plant Operation**” attached hereto as Attachment A Schedule A, immediately after Map 2 – Schedules M,N,O,P and R.
2. The text shown in bold below shall be added immediately to Section II, Resource Designation, after Policy RE-7 and before the preamble of Policy RE-8:

As a working landscape within the Resource Designation, in which an existing quarry operation has already been established for the purpose of mining aggregate to produce asphalt, Council shall support an asphalt plant on lands as shown on Schedule A provided that adequate distance separation can be achieved and vehicular impacts can be mitigated from residential uses within proximity to the site’s operations.

RE-7A - Notwithstanding Policy RE-7 and IM-5, Council may consider permitting an asphalt plant on lands shown on Schedule A in accordance with the following:

- (a) **adequate separation to existing residential development is achieved to mitigate visual, and sound impacts resulting from asphalt operations; and,**
- (b) **all vehicular access and egress to and from the asphalt plant site shall limited to lands that access the Inqramport Interchange.**

I HEREBY CERTIFY that the amendments to the Municipal Planning Strategy for Planning Districts 1 and 3, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the day of , 2018.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this day of , 2018.

Municipal Clerk



Schedule A - Area Permitting an Asphalt Plant Operation

HALIFAX

PID 41457821
Head of St. Margarets Bay

 Area Permitting an Asphalt Plant Operation (4.0 Hectares)



This map is an unofficial reproduction of a portion of the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Planning District 1 & 3 Plan Area

Attachment B
Amendments to the Land Use By-law for Districts 1 and 3

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Land Use By-law for Planning Districts 1 and 3 (St. Margarets Bay) is hereby amended as follows:

1. The Table of Contents shall be amended by adding the text “**Schedule S Area Permitting an Asphalt Plant Operation**” immediately after the text “Schedule Q Tantallon Crossroads Coastal Village (RC-Jul 22/14;E-Oct 4/14) – Deleted (RC-Jun 23/15;E-Jul 14/15)”. Furthermore, the appendixes shall be amended by adding “**Schedule S Area Permitting an Asphalt Plant Operation**” attached hereto as Attachment B-Schedule A, immediately after Schedule M,N,O.P and R.
2. The text shown in bold below shall be added immediately after Section 2.5 ALTERATION of Part 2: DEFINITIONS:

2.5A ASPHALT PLANT means a use of land, building or structure, or parts thereof, which produces and/or recycles asphalt or similar coated road stone and has equipment designed to heat and dry aggregate and to mix mineral aggregate with bitumen and/or tar, and includes the stockpiling and storage of bulk materials used in the process or finished product(s) manufactured on the premises, the storage and maintenance of equipment, and facilities for the administration or management of the business.

3. The text shown in bold below shall be added immediately after “Community Uses” of Section 18.1 of Part 18: MR-2 (MIXED RESOURCE 2) ZONE:

Asphalt Plant

An Asphalt Plant on lands as shown on Schedule S - Area Permitting an Asphalt Plant Operation

4. The text shown in bold below shall be added immediately after Section 18.7 of Part 18: MR-2 (MIXED RESOURCE 2) ZONE:

Requirements for an Asphalt Plant on lands as shown on Schedule S

18.8 Notwithstanding Section 18.2, an asphalt plant shall be permitted on lands shown on Schedule S provided that all vehicular access and egress to and from the asphalt plant site shall be from the Ingraпорт Interchange.

I HEREBY CERTIFY that the amendments to the Planning Districts 1 and 3 Land Use By-law (St. Margarets Bay), as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the day of , 2018.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this day of , 2018.

Municipal Clerk



Schedule S - Area Permitting an Asphalt Plant Operation

HALIFAX

PID 41457821
Head of St. Margarets Bay

 Area Permitting an Asphalt Plant Operation (4.0 Hectares)



Planning District 1 & 3
Land Use By-Law Area

This map is an unofficial reproduction of a portion of the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

ATTACHMENT C: Public Participation Minutes – June 1 2015

HALIFAX REGIONAL MUNICIPALITY
Public Meeting
Case 19461

Monday, June 1, 2015
7:00 p.m.
St. Margarets Centre (Gym)

STAFF IN

ATTENDANCE: Richard Harvey, Major Projects Planner, HRM Development Approvals
Andrew Bone, Senior Planner, HRM Development Approvals
Alden Thurston, Planning Technician, HRM Development Approvals
Cara McFarlane, Planning Controller, HRM Development Approvals

ALSO IN

ATTENDANCE: Councillor Matt Whitman, District 13
Councillor Barry Dalrymple, District 1
Rob MacPherson, Scotian Materials, Applicant

PUBLIC IN

ATTENDANCE: Approximately 540 (Approximately 200 persons turned away)

The meeting commenced at approximately 7:03 pm.

1. Call to order, purpose of meeting – Richard Harvey

Mr. Harvey introduced himself as a Major Projects Planner with the Municipality and Facilitator of the meeting; Andrew Bone, Senior Planner, guiding the application through the planning process; Councillor Matt Whitman, District 13; Councillor Barry Dalrymple, District 1; Alden Thurston and Cara McFarlane, HRM Development Approvals; and Rob MacPherson, Applicant, Scotian Materials.

The agenda was reviewed.

2. Overview of planning process – Andrew Bone

The application was received and presented to Regional Council and Council asked Staff to start the planning process: a) hold a public meeting to find out the residents' concerns in the community; b) perform a detailed view with internal/external agencies; c) draft a Staff Report, with Staff's recommendation, to be presented to Council outlining the issues and notes from the Public Meeting; and d) Council will look at the matter, typically schedule a public hearing and render a decision.

3. Presentation of Proposal – Andrew Bone

The application was submitted by Scotian Materials to amend the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Planning Districts 1 and 3 to permit an asphalt plant on their lands in the Head of St. Margarets Bay.

The subject land is approximately 1.3 km to the northwest of Highway 103. Hiking Trail Road (dashed yellow line) is the existing access way and connects to Nova Scotia Natural Resources logging roads and back woods roads. This access will change with the proposal.

The site is designated Resource and zoned MR-2 (Mixed Resource). The current zone permits forestry and other resource type uses. Currently, asphalt plants are not permitted in this area. There is an existing quarry on the site that was approved by the Province of Nova Scotia, Nova Scotia Environment (NSE). It is adjacent to a site that was previously used for a mobile asphalt plant as permitted by the Province in the past. The Province has the ability to override Municipal rules for uses on their land.

The proposed asphalt plant access to Highway 103 (shown by red line) and the new Ingra Airport Interchange, has been coordinated through discussions held by the Province and the applicant. This would be over existing woods roads over Crown lands.

The site in relation to existing residential development is somewhere between 1.6 km and 2.6 km away from existing development. It is approximately 2.6 km to Westwood Hills, 2.6 km to St. Margaret's Bay Village and as close as 2.3 km to an existing home in the Bay area. There are some seasonal homes that appear to be on Crown land. Some of them may be privately held and at this point one has been located approximately 1.6 km away.

An asphalt plant has equipment to heat/dry aggregate and mix aggregate with bitumen or tar to produce asphalt. It is very common that an asphalt plant is located next to a quarry because the asphalt making process does require aggregate as a base material.

The MPS in Planning Districts 1 and 3 lays out the policies for development of the area. These are the rules that the LUB and Council have to follow in a standard planning process. The LUB is the implementation of the MPS and sets out the regulations that enable land uses to be established. The MPS and LUB do not specifically mention asphalt plants; however, through the I-1 (Industrial) Zone. They are permitted in select areas within the Municipality and specifically within this plan area. However, the current MPS and LUB do not permit an asphalt plant on this existing site.

The request is to add a policy to the MPS to identify an asphalt plant as a permitted use on the site and secondly, to add a section to the LUB, in this case, to the MR-2 Zone which allows for an asphalt plant on this specific site. This is not a request to rezone the lands to I-1 (Industrial) Zone.

NSE would be involved in the detailed review for comment on the proposal. Under the Environment Act, asphalt plants require a permit from the Province. Although the applicant has indicated they have had consultations with NS Transportation and Infrastructure Renewal (NSTIR), Staff would confirm these discussions and get a formal opinion as well. This site is surrounded by a significant amount of Crown land and used for public purposes; therefore, NS Natural Resources (NSNR) would be consulted. Due to a hydropower project adjacent to the site, NS Power may also be involved. Also, any other relevant agencies that Staff feel are relevant to add to the review.

Presentation of Proposal – Rob MacPherson, Scotian Materials

Leading up to this meeting, Mr. MacPherson has heard many concerns from the community regarding emissions, noise, lights, traffic, water quality, etc. If these concerns become a reality and occur then this won't be the site for an asphalt plant. The application will probably be withdrawn. However, if the issues can be mitigated and addressed so they don't have a negative impact, he would like to be awarded the opportunity to move his business forward.

Things of interest and requested documents will be posted on Scotian Materials' Facebook page. Recently the permit showing the terms and conditions for the asphalt plan was posted on this website.

Scotian Materials head office is located in Burnside and is a Nova Scotia aggregate provider. The company originally was Northern Construction Enterprises located in New Brunswick. When he recently took over managing the company, he moved the company to Nova Scotia. The company's management practice is to have an open door policy with the communities and go beyond the minimum requirements and supply local contractors with quality products for competitive prices.

Scotian Materials has one approved quarry in Halifax and another under application. There are a number of other properties along Highway 103 between here and Barrington in various stages of approval.

The location of the quarry (in red) and proposed asphalt plant (in yellow) was shown. The lands, not Crown land, were purchased from Barrett Lumber. In 2013, NSTIR approved a quarry for a job that was being done on St. Margaret's Bay Road. May to June 2014, a mobile asphalt plant was operational on a site adjacent to the quarry. A Letter of Authority with the Province was issued to operate the asphalt plant for a two month period on a piece of Crown land. July 2014, Scotian Materials applied for a quarry under

4 hectares and in December 2014, a public consultation was held. Written comments were received and in March 2015, the quarry approval was received.

The application to amend the Planning District 1 and 3 MPS was submitted to HRM in July 2014. It was felt that the best scenario would be site specific because if approved, only an asphalt plant would be permitted in the quarry.

The site does meet or exceed all Provincial guidelines for the permit. It is environmentally responsible to locate the plant near the source of materials. The extensive separation from residential communities and the MPS acknowledges that the resource designation has some potential for industrial uses that complement the resource uses.

It is required, under the permit, to be located 360 metres from residentially zoned communities. There is no commercial access to the site until the Ingramport Interchange is constructed. The process for the Interchange will take some time; therefore, we would like to have our approvals in place for when that happens.

Currently, Scotian Materials has a 250 tph counter flow drum with a wet scrubber (ran on the site from May to June, 2014). There is also a 400 tph ALMIX uni-flow drum mixer with a baghouse (picture shown and description given). Particulate matter and some gases from the burner are monitored, tested and reported to NSE as required by the permit.

The permit requires the company to be responsible for: erosion sediment control, service water, separation distances, sound levels, air and particulate emissions and odor control.

For the water quality protection, there would be erosion and sediment controls put in place. They are actually in place now for the quarry but are also required for the asphalt plant. The total suspended solids monitoring is undertaken on a regular basis to confirm that the water leaving the site is within the guidelines of the permit. The monitoring plan has to be approved by NSE in advance and all monitoring reports are submitted to NSE on a monthly basis.

The location of a sedimentation pond and a dispersion ditch was shown. Dark blue arrows outlined the site drainage. The sedimentation pond is in the lowest point of the quarry which allows any surface water in the quarry to run down to the dispersion ditch and disperse on the site.

The permit requires separation distances (list shown).

Modeling is done for the noise levels. The average predicted noise levels beyond 2 km of the plant would be below 20 dba. Under the property line, the permit allows up to 65 dba. There are hills and valleys in the area which would impact how the noise travels. Noise monitoring is part of NSE's approval. Hours of plant operations would affect the noise levels as well.

The permit requires a test performed by a third party consultant for air emissions (particulate matter and combustion gases) which is sent directly to NSE. A list of emissions that require testing was shown (Schedule A). If results don't meet operational standards, corrective action has to be taken.

A graph was shown demonstrating that at 1.2 km away from the plant the particle concentrations in the air are equivalent to those of other sources in the community.

Third party testing is performed and submitted to NSE for pollution control.

Testing for odour control is not required but it is complaint driven. If the plant is not operating properly or processes are being done incorrectly, NSE would shut it down and corrective action would have to be taken. Under normal conditions, there really isn't any odour.

Mr. Harvey opened the floor to questions and comments but mentioned that Staff would like to know what questions the residents need to have answered through this review process and what issues the residents have with the siting of the asphalt plant on the property, particularly from compatibility and impact point of view.

4. Questions and Comments

Dennis, Westwood – What process will be used for sweating the trucks? Will there be a dyke in that area? Will the waterways in that area be protected from the sweating process? **Mr. MacPherson** – The Company's practice is to have proper areas for those types of activities but he will provide additional information.

Brian, Oceanstone Drive Westwood – He read some information regarding toxic emissions associated with asphalt production plants and the health issues they cause. He asked the applicant, given this information, if he would like to have such a facility built near his home? **Mr. MacPherson** – He has, for many years, lived next to an asphalt plant (about 1 km away) and now works about 300 m from one. **Brian** – He referred to a report of the residents of Blue Ridge, Virginia, who lived within 1 km of a newly constructed asphalt plant, and health issues they have encountered from that plant. In that community as well, there was a 56% drop in property values. Those concerns are shared by this community.

Trevor Brown, Highway 333 – The prospect of having any kind of retaining or settling pond is terrifying. Everything is downhill from the site and the watertable will be affected. Children are going to experience the after-effects of this. Also, air emissions are a problem. There is no guarantee that chemicals won't get out into the community. The site is right in the middle of the community. Bitumen (liquid asphalt) is part of the process and is the worst chemical to use. Once the City opens the door to these companies, there will be an industrial complex here.

Beth McGee, Seabright – She is concerned about the safety of the access road to/from the site across Crown land. Scotian Materials has a right of way agreement with DNR over approximately 10 km of Crown land. She understands that Scotian Materials would be required to provide upgrades to this road to ensure the suitability and safety for the mix of users of this very narrow road. These Crown lands are for recreation as well as resource use. Scotian Materials has a site on Boulder Road in East Chester where an asphalt plant could go as of right. Their site is adjacent to the on/off ramp at Exit 7 giving an easy and cost effective access to Highway 103.

Ms. McGee – She is concerned about the planning in this area of HRM. If Council approves this application by Scotian Materials at the proposed site, this will set a precedent for processing resource materials in an MR-2 Zone not just in HRM but across the Province. It won't be long before Council is asked to rezone the site to Industrial. She referred to the Bowater Lands and asked that HRM and DNR work together and not make any LUB changes until that work is complete.

Ms. McGee – She disagrees with the piece meal planning for the area and would like HRM Council and Provincial representatives to look at an overall plan for the area. She would like to see the boundaries of the St. Margarets Bay Planning and Advisory Committee expanded to include the watershed of St. Margarets Bay from Exit 4 to Hubbards.

Trevor Magarvey, Westwood Hills – What involvement did Council have in the application? What are their guidelines? **Mr. Bone** – Regional Council is the keeper of the MPSs for each area and any request to amend the plan requires their approval. In this particular request, Council initiated the request and asked Staff to look at the application. In the end, they will review all advice and render a decision on the matter. **Mr. Magarvey** – He referred to Page 3 of Mr. Bone's report, regarding considerations for changes to the MPS and asked if this was his view or the policy. **Mr. Bone** – In general, that is the Planning Department's position and any request to change the MPS requires a plan amendment to be approved by Council. **Mr. Magarvey** – Would Policy RE-7 of the MPS apply here? **Mr. Bone** – RE-7 is the current policy set and it has been identified to Council that the asphalt plant it is not permitted. **Mr. Magarvey** – Would an asphalt plant be considered as a light industrial use? The Bedford MPS considered it a heavy industrial use. **Mr. Bone** – It is an industrial type of use. Every plan would treat an asphalt plant differently. The Bedford plan has no relevance in this area. The relevant document in this area is the Planning Districts 1 and 3 MPS and it doesn't identify anything related to asphalt.

Mr. Magarvey – He asked Mr. MacPherson, aside from HRM Staff, if he discussed the application with HRM Councillors? Was pricing of asphalt discussed and the fact that if he entered the market, he would supply asphalt to HRM at lower prices than the current rate? **Mr. MacPherson** – He spoke to the local Councillor to make him aware of what was coming forward. There was no discussion about pricing. Scotia Materials' goal is to be as competitive as possible.

Mr. Magarvey – In discussions with Councillors, was the same rationale used that is in the application as the reason of wanting this application to go through? The presentation was on Scotian Materials. The Registry of Joint Stocks office says that Northern Construction, formerly in New Brunswick, changed its name and imported the company from another jurisdiction. Is Scotian Materials really Northern Construction? **Mr. MacPherson** – The same rationale would have been shown. Scotian Materials is Northern Construction Enterprises and it was an incorporated company in New Brunswick. He took over the management and moved it to Nova Scotia and it was re-incorporated as Scotian Materials to reflect those changes. A shareholder in the company is part of the Belanger family (from Grand Falls, NB).

Mr. Magarvey – Scotian Materials has an approved quarry at Exit 7. Does the zone prevent an asphalt plant at that site? There was no mention of that site (13 miles away) in the application but it was mentioned that this proposed site is an underserved area. **Mr. MacPherson** – The intent of the wording in the presentation was referring to available lands for the location of an asphalt plant.

Mr. Magarvey – He contacted two other asphalt companies in HRM to get an understanding of market conditions and asphalt pricing. Demand for asphalt in the HRM area is stagnant. There is no need for an additional plant as this is not a growing area and present plants are operating at about 50% capacity. The price charged in HRM is around \$90. Why consider another asphalt plant within HRM? **Mr. MacPherson** – He is unable to speak to the numbers provided or other businesses' data.

Mr. Magarvey – Scotian Materials has an agreement with DNR. Can a copy of that agreement be shared with the audience? **Mr. MacPherson** – Once the agreement has been reviewed for sensitivities, it will be posted to the website. **Mr. Magarvey** – Who negotiated the right of way agreement for Scotian Materials? What is the person's name at DNR and their position held? **Mr. MacPherson** – He negotiated the agreement with many people at DNR.

Mr. Magarvey – He asked Mr. MacPherson what CHF asphalt mix meant as it is the most basic asphalt product in NS. **Mr. MacPherson** was unsure.

Chris Turner, Westwood Hills – He spoke to the potential geological impact specific to the surrounding community. A distance of 360 m is insufficient. Canada does not follow its own regulations and often refers to EPA regulations. He suggested using Edomic modeling which evaluates the values of residents' homes in an area that experience encroachment of industrial sprawl. When dealing with the types of toxins from asphalt plant, properties can be devalued by 30%.

Nick Horne, Westwood Hills – The access road to the quarry and proposed asphalt plant consists of over 8 km of woods roads over Crown lands. Is Scotian Materials responsible for upgrades and maintenance of these roads? **Mr. MacPherson** – Throughout the term of the right of way agreement, Scotian Materials is responsible. There is no cost to the Province. **Mr. Horne** - Asked the audience who opposes to this application. According to Mr. Horne, everyone put their hands up. HRM should work with the Province, assign a piece of Crown land and give that Crown land to a successful proponent to operate, by permit, an asphalt plant for the twinning project. When the project is done, the site is done and everything is gone. He believes the public would accept that and other companies could bid competitively. He noted that the proponent and local companies have mobile asphalt plants available for this to work. Residents are concerned about a possible expansion into an industrial park or the quarry expanding several times (4 hectares at a time). A potential landfill at the quarry site was mentioned to Regional Council. Does an amendment to the MPS allow this in the future? Is there a way to prevent it? **Mr. Bone** – He is not aware of any requests of a landfill in this particular area. This request in the MPS would be very specific. He doesn't have enough information to identify whether the quarry, which is relatively small, provides any risk of that happening.

Mr. Horne – The proposed changes to the MPS and LUB are advertised not to be subjected to the NSUARB appeal process. Why is HRM denying its citizens the right to fair process? **Mr. Bone** A change in the LUB that implements a MPS amendment is not appealable. We will identify that section of the HRM Charter in our report to Council. **Mr. Horne** – With tonight's large crowd, he formerly requested an additional meeting in order to give everyone a chance to speak on the application.

John Hamblin, (lives behind RCMP station) – He moved to this community because it is a pristine area with beautiful property. How can you say that placing an asphalt plant in the middle of the community is

compatible with no issues? The possibility of amending the MPS is absurd.

Mike Murphy, Boutiliers Point, Chair of the St. Margarets Bay Coastal Planning Advisory Committee (SMBCPAC) – He was disappointed that this application didn't come to the SMBCPAC because it did not fall within the PAC's jurisdiction. He believes that Councillor Whitman is working with Staff to address this. The request for an amendment to the MPS is a prime example of how incremental change can pervert the planning process and why citizens get so upset at any kind of development. The staff report dated April 28, 2015 is very clear that a MPS amendment is the only way to permit this. The opposition to this request is not of NIMBY mentality, but comes from the distrust of the entire planning process as it appears to be driven by incremental decisions that seem to be minor at the time but have huge consequences in the future. How will the operation of a permanent asphalt plant affect future development in this area? By amending the MPS we are in effect changing this area to a general industrial zone. If Council approves this request to amend the MPS, it allows industrial use in the future without Council or citizen input.

Peter Lund, Dartmouth, Co-chair of the Five Bridges Wilderness Heritage Trust – He reassured everyone that a landfill would never go on that site. Provincial regulations do not cover all types of chemicals and toxins that come from an asphalt plant. There are different types of asphalt plants which emit different toxins. There has to be test data available. If this is a mobile plant, it should be stated as such. The existing access road is narrow and has steep grades, blind corners, atv riders, walkers, etc. He is concerned about safety of the road. If a truck goes off the road and there is a spill, it will disappear into the granular soil and make cleanup impossible. There are waterways and lakes to be protected. He is concerned that this will open the doors for the rest of the Province. He understands that an application for an expansion to the quarry would not require an environmental assessment to be submitted. Has Scotian Materials received approval? **Mr. MacPherson** – A permit has been issued for that application. **Mr. Lund** – Expansion of 3.9 hectares is permitted without an environment assessment. Referring to the site map, he asked if this area is private land holdings. **Mr. Bone** – Much of it is Crown land. Those parcels need further clarification and research.

Michelle Horne, Westwood Hills – She read some excerpts from Item # 11.1.6, a memo to Mayor Savage and members of Halifax Council submitted by Richard Butts, CAO, and Mike LeBrecque, Deputy CAO, dated March 31, 2015 and as a result had several questions:

- There are numerous studies and reports outlining the negative environmental impact on surrounding areas. How does a site specific amendment for a permanent asphalt plant fit in with the prioritization of protecting the natural environment? There is a reason at the time the existing plan was approved to purposefully exclude industrial zones. What has happened to cause the need to revisit the plan? If there was no application filed, would the plan be undergoing the same consideration for an amendment at this point in time?
- A) The term significant is very subjective, there needs to be a more clearly defined term for separation from existing residential development. B) What studies/reports were reviewed to determine that the impact would be limited?
- There are conflicting comments from the staff review. It was indicated that the environmental impact would be limited. Again, what studies/reports were reviewed to allow such a statement?

She referred to some excerpts from the applicant's rationale for consideration in the same memo:

- Outside of an existing quarry already operating on the property, how is this site suitable and sensible for a permanent plant being the entire area and site itself is zoned MR-2 to maintain the priority for protection of the natural environment.
- An asphalt plant has recently been operated on a Crown land parcel with no issues or concerns from regulators or nearby regulators. No issues or concerns documented by the applicant. The public was not engaged or informed properly regarding the plant. Although the public did not know it was there, they could still smell it operating.
- Surrounding land is owned by the Crown and zoned such that future developmental encroachment would not be a concern moving forward. There is preferably 100 hectares of MR-2 lands surrounding the proposed site. This could be to significant industrial creep.
- There is currently a lack of asphalt plants in the metro area and this site is well positioned to accommodate the growing market in the area including the recently announced Ingraport Interchange and future plans for twinning Highway 103. The applicant has recently been approved to open a plant in East River, Chester, yet to commence operation. Asphalt plants are currently operating at 50% capacity. I fail to see the economic need to have two fully functioning asphalt plants within 50 km of each other for two, possibly only one, short term project.

She referred to excerpts taken from the application letter submitted by Scotian Materials to Planning & Development dated July 11, 2014.

- What exactly is the difference between site specific and rezoning?
- There is no mention of surface watercourse in the document although that was presented on the slide by Scotian Materials. She read the definition of a watercourse. A) What zone or zones will be considered for the proposed site? B) What studies/reports have been reviewed to verify no watercourses are connected to any of these three lakes that are within 100 feet of the proposed site? C) Is Council aware there are numerous underground lakes in the vicinity of this site? Westwood Hills and quite possibly Pockwock Watershed share the watertables of these lakes and other watercourses for its potable water.
- A) Has Council received an economic assessment verifying that the savings on construction costs will significantly compensate the lost revenue on the depressed property taxes the residential areas will experience? B) Has Council received an environmental assessment to verify that the reduced carbon footprint will significantly offset the life-long health issues experienced from the noise, dust, fumes, truck traffic or other matters that a permanent asphalt plant will bring to a natural environment that Planning District 1 and 3 is trying to preserve? If so, can this information be released to the public?

James Friday, Black Point – The public owns the Crown lands. HRM has approved many projects around the City that the residents either were opposed to or uninformed. The law, MPS, states that this doesn't belong here; therefore, it should have been stopped on submission. This meeting shouldn't be taking place. He is appalled that DNR allows this company to simply have access to Highway 103 when he had to fight to get a key to the locked gate to access a piece of property he owns. He fears that the road will be locked and the residents will be denied access to the lands. Those roads are not safe and not conducive to what everyone has been working towards for years and this application should be shut down now.

Lynda Corkum, Head of St. Margarets Bay – She referred to the HRM brochure regarding protecting the watershed. It suggests that residents can contribute to the overall ecosystem health through many ways but the small efforts of the public won't quite be enough compared to the effects that industries will have on polluting the water. She was surprised Mr. Bone didn't recall the landfill being mentioned by Councillor Hendsbee during the April 28, 2015, Council meeting just shortly after he presented. Councillor Hendsbee believed that this area was considered one of the landfill sites.

Roger Bowman, Head of St. Margarets Bay – He has, over the years, watched the natural habitat cut down and animals losing their homes. It has to stop. Where does it stop?

Brody Jacobson, Westwood – Why put the plant so close to a neighbourhood? This will pollute the environment. There is a local charity that has raised more than \$5000 for cancer. This asphalt plant will increase the risk of cancer in the community. **Mr. MacPherson** – He has learned tonight that there are other chemicals that may be emitted which are not tested for. Therefore, he'll have seek further information and provide an appropriate answer. The location was chosen because the quarry is adjacent to it. Competitiveness is dependent on proximity to job sites which is what the business is based on. **Mr. Jacobson** – What does the community get out of it? **Mr. Harvey** – This is a question that needs more investigation. The Planning Department cannot answer it.

Yarrow Gillis, Westwood Hills – He reiterates the previous questions. Referring to the company's mobile plants, are you trying to get ahead of the competition for future projects? Why this site? **Mr. MacPherson** – The plants that we currently have are mobile. The change to the MPS is to allow this location to be permanent. **Ms. Gillis** – She believes that the demand for asphalt in the Tantallon area is quite low. There is no benefit to the community. For HRM, revenue from this permanent asphalt plant must be higher than what will be lost from the decreased taxes on the value of the land. Is HRM okay with that? What about the downstream healthcare costs to the people who live in the community? Who is liable when something tragic happens? **Mr. Bone** – Property values will be researched and a comment provided in the Staff Report. Staff would not normally comment on health costs but as with a lot of information tonight, research on relevant matters will be done. **Ms. Gillis** – Do future potential lawsuits the company's responsibility? If the company changes its name, then perhaps HRM?

Stacey Rudderham, Fall River – The residents of Fall River have been fighting the same proponent for the last 3.5 years. There was an application to amend the Planning Districts 14 and 17 LUB and rezone

for an asphalt plant as well as a concrete plant. People purchase their homes based on future plans. There is a game sanctuary almost 100 years old located there. Residents from Fall River were at the meeting to support the community of Tantallon. She gave some results of an economic impact study that was performed regarding the effect industrial applications have when they are applied to well-established residential communities. Property values in Fall River decreased by 11% due to a proposal. Why would HRM think that it is appropriate to engage a community in investing in building and developing a lifestyle all to eventually turn around and rip that out from under them. One would believe that amendments or LUB updates would be done to better the community and not degrade it. She suggests that the HRM work diligently and quickly to figure out a solution to whatever aggregate issues the proponent is claiming to have. Through research, and knowledge, there is an aggregate supply of 100 years in this province.

Councillor Barry Dalrymple, District 1, Wellington – His communities have been in a court battle with Northern Construction for 3.5 years. They were turned down for a permit by HRM Development Services. They appealed to the UARB who decided with the community and upheld the appeal. They appealed to the courts and they also agreed with the community and upheld the decision. The company then decided to appeal to the courts on two different issues. The appeal court favoured with the community on one issue but unfortunately ruled in favour of the company on the other issue. That battle continues. His communities are in total support of this community. He doesn't want to be the purveyor of bad news but he is aware of two other major construction companies that are in negotiations with land owners to either lease or buy properties near the community of Fall River and Waverley. Why? Because applications like this forces them to. They have to move closer to Highway 102 and to the City to be competitive. Communities face the same thing together. If this is approved by Council, how could they ever say no to the next application?

David Wimberly, St. Margarets Bay, live within the circle of pollution and downhill from the site – Particulate matter tends to flow downhill and winds are very effective purveyors as well. He has been in this process of looking at zoning on that particular site since the early 90's because of an interest he has in solid waste management issues and the follies of HRM planning staff around that even before it was HRM (it was Metropolitan Authority). He sat on the Waste Management Advisory Committee to Metropolitan Authority. There was a proposal for a landfill at Sandy Lake but not an interchange to access it. Now the infrastructure is being constructed. Councillor Hendsbee mentioned in HRM Council that this would be an appropriate site because it is on the opposite side of the Harbour from his District. By allowing this application to happen and allowing changes and the access road to be built right up to the edge of Sandy Lake, HRM is putting a big arrow on the community for the next landfill. He invited the Planners to look at those planning documents. This is a Liberal process because they shut down their own portable asphalt plant. The community is paying for the political folly and becoming more exposed for future asphalt sites and industrial uses here. He invited this process to expand its size just a bit and undergo an environmental assessment. He believes members of the St. Margarets Bay Stewardship Association, after going through multi-year processes of helping to create the LUB for the area, would agree that they were trying to protect the area from industrialization and make it a real village and community. He does not trust a report coming from Planning but would trust an environmental assessment. Based on the LUB, HRM should refuse the application so residents don't have to go through this again. Does the applicant really think the community wants this? Is the community benefitting in any way?

John Turnbull, Westwood Hills Subdivision – He is opposed to this application by Sotcian Materials. Residents all over the Province are being treated badly by industry. For 17 years he has lived at his current location. The possibility of an asphalt plant, or any other industrial operation, setting up permanently in close proximity to his home is deeply troubling. He is concerned about potential impact of the exhaust and fumes that may seep into the groundwater and the health risk to residents, including approximately 2000 children, from this plant or any other industrial operation. He is concerned about the potential impact of the plant on the environment although Mr. MacPherson indicated that a temporary asphalt plant operated in the same area last summer without complaints from the residents. None of the residents knew about the plant but wondered what the pungent odours were. He is also concerned about the impact of this asphalt plant on the residents' quality of life. He is certain that no one chose to live here to live close to an industrial operation. From his home, he hears large boulders tumbling and lately the fracturing of stone which he assumes is from the quarry. The increased large truck traffic, the sound of the rock fracturing and the operation of the 250 and 400 ton drums used in the asphalt plant will combine to create an unacceptable level of noise pollution. This is unacceptable. He asked Mr. Bone and City Councillors to be bold by recognizing the interests and rights of their constituents and come up with another solution. Mr. Bone referred to an access road that has been granted for the trucks from the plant

to access Highway 103. Does this have Provincial approval? **Mr. Bone** – The applicant indicated they have had discussions with the Province regarding that particular road. HRM is waiting to get all of the input from tonight before seeking advice and comments from the Province on the proposal. **Mr. MacPherson** – Scotian Materials has a right of way agreement with the Province. **Mr. Turnbull** – He wonders if all of the residents' concerns this evening have been directed to the wrong people. Does the Province already have a plan to go ahead with supporting the applicant's bid? Could HRM refuse this request and possibly be overridden by the Province?

Chris Bain, Westwood Hills – He is opposed to any MPS amendment and hopes that it is not indicative to the fact that Mayor Savage isn't at this meeting. In a letter dated December 12, 2014 from Mr. MacPherson to the Director of Planning for HRM, it quotes, "Asphalt plants and concrete plants are manufacturing uses that are to be located in established industrial parks." That says it all. Asphalt plants should be located in an industrial park. At one point, Mr. MacPherson said that if the community doesn't want this plant then he would find another solution. **Mr. MacPherson** – There are a lot of concerns around the asphalt plant and if those concerns can't be addressed or mitigated, then the company wouldn't want to have the plant here. Some information has come to light that will have to be investigated. **Mr. Bain** – He hopes that the residents don't have to go to the Superior Court of NS to decide this and that the applicant listens to the residents of this area.

Ron Fitzgerald, Haliburton – He doesn't understand the economic model that has been used. What is Plan B? Is having the asphalt plant here a plan for something bigger on Scotian Materials' behalf or something larger on behalf of HRM? Are they going to reopen Sandy Lake now that they have an asphalt plant and a gravel plant there? **Mr. MacPherson** – Mobile quarries and asphalt plants are job specific. As long as there is market demand then they are operating. **Mr. Fitzgerald** – He understood that the application is for a permanent plant not a mobile one. **Mr. MacPherson** – The application is for a permanent change to the land. The actual plant would be brought in based on job demand. **Mr. Bone** – In general, HRM does not review the economic models that a business proposes. There is no Plan B on Planning's end. **Mr. Fitzgerald** – This sounds like a done deal rather than an application. **Mr. Harvey** – He emphasized that this is not a done deal but part of the process.

Donna Buckland – She is concerned with the fact that Mr. MacPherson has to research the chemicals involved when he has been in the business for 20 years. **Mr. MacPherson** – He has been in the development business for 20 years but aggregate and asphalt is new to him. **Ms. Buckland** – She grew up in this community and is owner/operator of Giant Steps Children Centre. All three of her Centres are close to this proposed asphalt plant. She and all the children in this community do not want an asphalt plant in St. Margarets Bay. There are also two other licensed daycare centres in the area. The total capacity of daycare centres in the area is 414 children. Licensed centres require the children to play outside twice a day. Poor air quality would be an extreme condition that would inhibit this. In addition to the daycare centres, there are three elementary schools and a high school where children are outdoors playing sports. Is there a chance that the quality of the air will be tainted by an asphalt plant? Is this a chance the applicant is willing to take with our children? Children are more susceptible to carcinogens for the simple fact that they breathe twice as much as an adult. Can it be proven that these chemicals emitted from an asphalt plant will not adversely affect the health of our children now or over the long term? She urged members of Council, on behalf of all the children, to say no to this proposed asphalt plant and the rezoning of this beautiful area. Asphalt plants need to be located in non-residential or industrial areas. Show St. Margarets Bay residents, and most importantly the children, that they are at the top of HRM's list, not an asphalt plant.

Shawn Duggan – The slide in the presentation indicated that only greenhouse gases will be monitored. The existing regulations for monitoring are inadequate. He thanked the Councillors in attendance for listening to the residents and asked them to do what is right and be bold. The community does not need this proposal.

David Law, Head of St. Margarets Bay – He is concerned about emissions from the plant being emitted into a pristine environment. NSE has shown, particularly from Northern Pulp, how poorly emissions are regulated in NS. Do you have any data or studies on the most toxic part of particulates and emissions from your plant? **Mr. MacPherson** – He couldn't answer tonight but will look into it. **Mr. Law** – There have to be management systems in place to keep the plant in working order. Can both the baghouse and scrubber systems be used based on this permit? The baghouse system works very well for dust. **Mr. MacPherson** – The 400 ton system has the baghouse system. **Mr. Law** – Can alternate fuels be used?

Where do you get your waste oil from? People are worried about the emissions from the metals in the recycled, reused oils. Are there any regulations on the quality of the oil that is used? **Mr. MacPherson** – There are other fuels that can be used and he will certainly see if there is a more appropriate fuel that could be used at this site. **Mr. Law** – There are also different qualities of bitumen. There are higher volatile organic compounds in bitumen that have smells and pollutants that would be emitted into the community. Have studies been done for the harmful toxins or the odours? **Mr. MacPherson** – There haven't been any studies done but based on some of the comments, that is something that will probably have to be addressed as part of this application. **Mr. Law** – Coastal fog in the area would trap and disperse the pollutants into the air. What type of technology would be in place to continue monitoring toxins and particulates if there was an upset? He is concerned that there are no aspects for continuing monitoring on the site.

Emily McDonah, Glen Margaret – She gave to the applicant a sign that her son had made regarding the asphalt plan. Her son knows all too well what air pollutants can do to people. These are conversations that families have had and it is likely scaring kids about mortality, their health, health of their parents, and the health of their environment. She sincerely hopes the Councillors listen to the crowd. If not, there will be a new generation of kids with an innate distrust for government. If this application is approved, it is very clear that the citizens do not have a say.

Renée Hines, Westwood Hills –She has two young children, one with heart and lung conditions. She pleases not to add to her son's health battle and all of the children that are going to be affected in our surrounding community. Make the right decision and put the children first.

Robert Kraitzek, a builder in St. Margarets Village – He came to the meeting with an open mind but after listening to all the comments, he is now on the side of the community. Economically, he is against this application and suggests that Staff take a look at the numbers and the loss of income in terms of taxes. He suggested to the public to appeal property assessments.

Suzanne, Hacketts Cove – The people can do something about this application by working together as a community.

Jacqui Tupper, Head of St. Margarets Bay – Her and her husband took their life savings and invested in 25 acres where they built their home and established a hobby farm through their blood, sweat and tears. The asphalt plant is going to decrease their property values and degrade their recreational area. She regularly rides her horse and ATV on the Crown lands where asphalt is going to be trucked. The plant will also put the health of her family at risk. Their farm is within the 3 km pollution zone and they also own 30 acres of resource land within 1 km of the proposed asphalt plant. What is the benefit to her family and this community for taking that kind of risk with their lives? What will they get out of it? If there is a spill, it will run down into the community and pollute the water. How long will it take to clean it up? What happens to her life savings and blood, sweat and tears that has gone into building her hobby farm?

5. Closing Comments

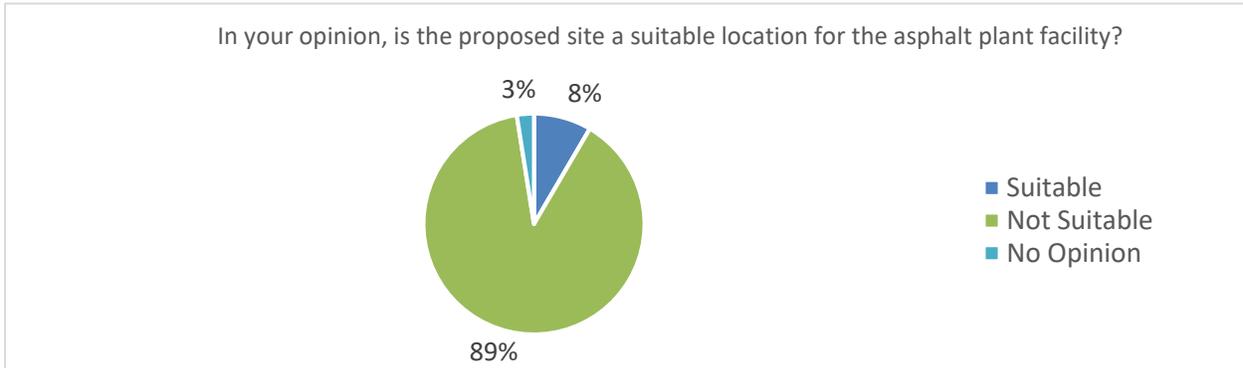
Mr. Harvey thanked everyone for coming and expressing their comments.

6. Adjournment

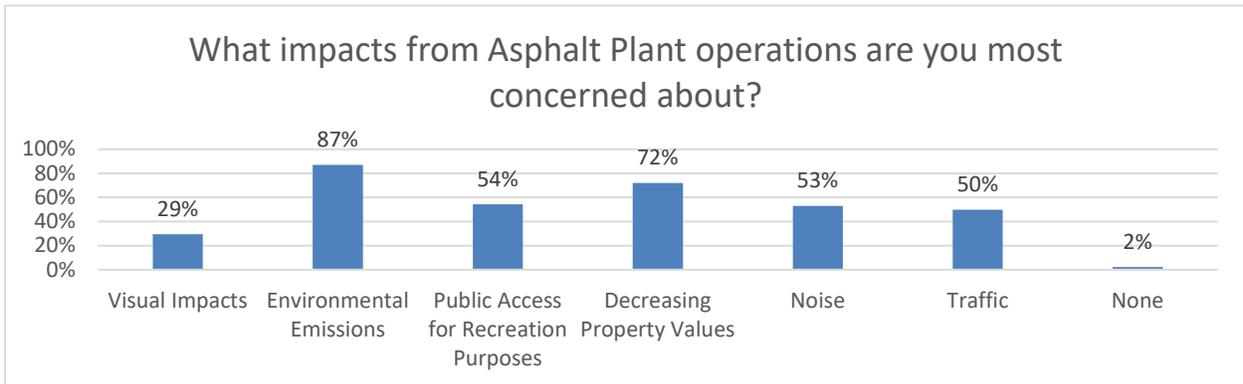
The meeting adjourned at approximately 10:06 p.m.

**Attachment D - Consolidated Survey Questions from Asphalt Public Meetings
January 25 and 26, 2017 (330 respondents)**

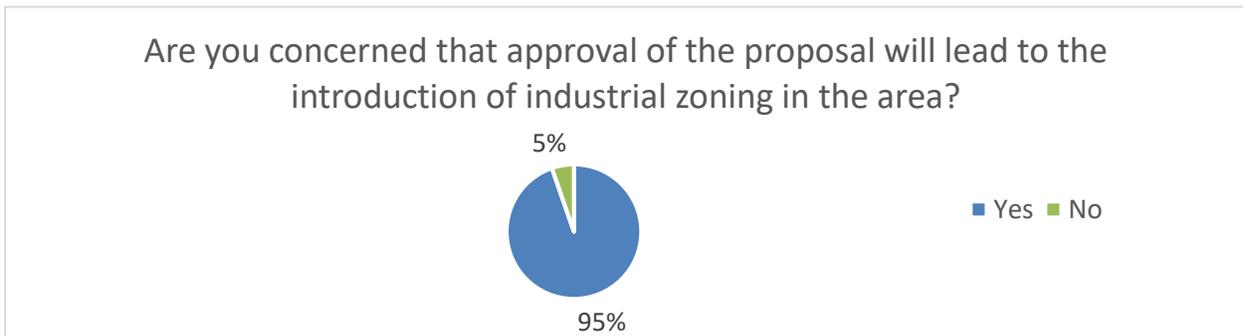
Question 1



Question 2



Question 3



Attachment E Relevant Excerpts from the District 1 and 3 MPS and LUB

MPS

There is also some potential for non-resource related industrial development within the designation, given both its size and unpopulated nature. Additionally, there are instances where non-resource industries can complement resource industries. However, given the overriding concern for the natural environment, industries that produce process waste water which cannot be treated by an approved on-site system will not be permitted. Uses such as this should be directed to industrial parks or serviced areas that are equipped to handle such water. Similarly, hazardous waste disposal or sanitary land fill sites will not be permitted within the designation.

Therefore, although it is not the intention of the plan to actively encourage non-resource industrial development within the Resource Designation, such uses may be permitted through an amendment to the land use by-law.

RE-7 Notwithstanding Policies RE-2 and RE-3, within the Resource Designation, Council shall establish a mixed industrial zone which permits all uses permitted in the MR-1 and MR-2 Zones, non-resource related light and service industrial uses. This zone shall be applied to existing industrial uses, and establishes controls on outdoor storage and display, parking and loading area, and buffering, including setbacks from watercourses. Council shall only consider new industrial uses by amendment to the land use by-law to permit such uses, Council shall have regard to the following:

- (a) the potential for adversely affecting nearby land uses by virtue of either the nature or scale of the proposed industrial operation;
- (b) the effects of the proposed use on air quality;
- (c) the effects of the volume and type of vehicular traffic using the access road to the proposed site;
- (d) consideration of the compatibility of the proposed development with existing and potential resource development;
- (e) that the use does not create effluent which cannot be disposed of by means of an on-site sewage disposal system; and
- (f) the provisions of Policy IM-9.

There is also concern regarding air pollution from smoke, dust, fumes, etc., from industries that may be established in the Plan Area. Though this is a matter that is, to some degree, outside municipal jurisdiction it should be taken into account by the Municipality when considering applications to establish any new industry in the area. The same criteria shall be applied as the case of liquid effluents mentioned previously, that is, no industrial use will be permitted unless it has a system for the treatment of airborne pollution that meets all federal and provincial government requirements.

E-16 It shall be the intention of Council upon the advice of the appropriate Provincial or Federal agencies to prohibit the establishment in the Plan Area of any industry where there is a potential for air pollution.

LUB

PART 18: MR-2 (MIXED RESOURCE 2) ZONE

18.1 MR-2 USES PERMITTED

No development permit shall be issued in and MR-2 (Mixed Resource 2) Zone except for the following:

Residential Uses

Single unit dwellings
Two unit dwellings
Mobile dwelling units
Businesses uses in conjunction with permitted dwellings

Resource Uses

Forestry uses
Fishery uses
Extraction facilities and bulk storage
Agricultural uses

Composting operations (see section 4.29) (MC-Feb 26/96;M-Mar 28/96)

Commercial Uses

Hunting lodges
Fishing lodges

Community Uses

Open space uses

18.2 MR-2 ZONE REQUIREMENTS

Except as otherwise provided for in this part, no development permit shall be issued in any MR-2 Zone except in conformity with the following:

Minimum lot area	100,000 square feet (9290.3 m ²)
Minimum frontage	150 feet (46 m)
Minimum front and flankage yard	30 feet (9.1 m)
Minimum rear or side yard	30 feet (9.1 m)
Maximum height of the building	26 feet (8 m)

18.3 OTHER REQUIREMENTS: EXTRACTIVE USES AND BULK STORAGE FACILITIES

In any MR-2 Zone, where extractive facilities and bulk storage facilities are permitted, no building, structure, plant, or product stockpile shall:

- (a) be located within one hundred (100) feet (30.5 m) of any property line;
- (b) be located within three hundred (300) feet (91.5 m) of any zone other than a Mixed Resource or Industrial Zone or within one half (.5) miles (.8 km) of a Residential Zone;
- (c) be located within one hundred (100) feet (30.5 m) of a public road; or
- (d) be located within three hundred (300) feet (91.5 m) of a watercourse.

18.4 OTHER REQUIREMENTS: AGRICULTURAL USES

In any MR-1 Zone where agricultural uses are permitted, the following shall apply:

- (a) No barn, stable, or other building intended for the keeping of more than fifty (50) domestic fowl or ten (10) other animals shall be located:
 - (i) less than fifty (50) feet (15.2 m) from any side lot line;
 - (ii) less than one hundred (100) feet (30.5 m) from any dwelling or potable water supply except a dwelling or supply on the same lot or directly related to the agricultural use;
or
 - (iii) less than three hundred (300) (90.3 m) feet from any watercourse.

18.5 OTHER REQUIREMENTS: FORESTRY USES

In any MR-2 Zone where forestry uses are permitted, the following shall apply:

- (a) No sawmill or other industrial mill related to forestry shall be located less than fifty (50) feet (15.2 m) from any lot line or less than one hundred (100) feet (30.5 m) from any dwelling except a dwelling located on the same lot or directly related to the forestry use.
- (b) Where any sawmill or other industrial mill over two thousand (2,000) square feet (186 m²) related to forestry abuts any residential zone, a visual and physical barrier shall be provided.

18.6 OTHER REQUIREMENTS: BUSINESS USES

In any MR-2 Zone where business uses in conjunction with a dwelling are permitted, no more than fifty per cent of the gross floor area of any dwelling shall be devoted to any business use and in no case shall the gross floor area of any dwelling or accessory building devoted to a business use exceed one thousand five hundred (1,500) square feet (134.4 m²).

18.7 OTHER REQUIREMENTS: OPEN SPACE USES

In any MR-2 Zone where uses are permitted as Open Space Uses, no development permit shall be issued except in conformity with the following:

Minimum Frontage or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	30 feet (9.1 m)