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**Item No. 15.1.2**  
**Halifax Regional Council**  
**November 14, 2023**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** Original Signed

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John Traves, K.C., Acting Chief Administrative Officer

**DATE:** October 31, 2023

**SUBJECT:** **PLPROJ 2023-01544: Initiation for MPS amendments to restrict water lot infilling on the Northwest Arm**

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**ORIGIN**

- Staff-led project to initiate MPS amendments to restrict water lot infilling on the Northwest Arm
- June 8, 2021, Motion at Regional Council – Item 14.2 Councillor Mason – Letter Supporting Cessation of Infill Applications on the Northwest Arm

MOVED by Councillor Mason, SECONDED by Councillor Russell

THAT Halifax Regional Council request the Mayor write a letter to The Honourable Omar Alghabra, Minister of Transport to support the request that the Federal Government immediately invoke a cessation on all infill application approvals on the Northwest Arm of Halifax until such time as appropriate governance can be put in place to prohibit all future infilling of the Northwest Arm.

MOTION PUT AND PASSED UNANIMOUSLY.

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that Halifax Regional Council direct the Chief Administrative Officer to:

1. Initiate a process to consider amendments to the Regional Centre Secondary Municipal Planning Strategy, the Halifax Municipal Planning Strategy, the Regional Centre Land Use By-law, and the Halifax Mainland Land Use By-law to restrict water lot infilling on the Northwest Arm; and
2. Follow Administrative Order 2023-002-ADM, the *Public Participation Administrative Order*.

## **BACKGROUND**

The Northwest Arm is part of the larger Halifax Harbour and more specifically a narrow ocean inlet characterized by recreational uses, including major urban parks (Sir Sandford Fleming Park and Point Pleasant Park), historical assets, and predominantly residential uses. These uses contrast with marine-related and mixed-use developments occurring around other parts of the harbour. The Northwest Arm is also home to four boat/sailing clubs, which generate significant boating traffic in the harbour.

The Northwest Arm is currently impacted by 155 water lots. A water lot, under the Regional Centre Land Use By-law, is defined as:

*“any lot or portion of a lot located on a lake or on the Halifax Harbour, the title of which is separately conveyable, and that is normally fully or partly submerged under water.”*

Pre-confederation water lots<sup>1</sup> can typically be infilled with various natural material (rocks and soil) and become land if the owners obtain the proper approvals. Due to a lack of municipal jurisdiction, zoning is typically not applied to water lots. However, once a water lot is infilled and joined to the shoreline, it then falls under municipal jurisdiction from the aspects of land use control.

The water lots within the Northwest Arm cover a combined area of 51.56 hectares. Consequently, infilling activity tends to have a more direct impact on community character and recreational activities in the Northwest Arm than it would elsewhere in the harbour.

Issues related to the infill of water lots along the Northwest Arm have been the subject of continued interest by both Council (Attachment A) and the public. In general, concerns have been expressed about the following matters:

- restricting the navigability and use of the Northwest Arm for sailing and other boating activities by narrowing its width; and
- potentially negative environmental impacts.

However, authority over the above noted matters fall under the jurisdiction of the Federal Government through Transport Canada and Fisheries and Oceans Canada (DFO). The mandate of Transport Canada, as set out in the *Canadian Navigable Waters Act (CNWA)*, is to ensure that infilling does not significantly impede navigation. Formal approval to infill under the CNWA is only required if infilling will cause problems with navigation. The mandate of DFO, under the Fish and Fish Habitat Protection Program, is to review any project for potential impact on fish and fish habitat. The *Fisheries Act* provides mechanisms that allow development projects to occur while protecting fish and fish habitat. DFO does not approve developments, but instead assesses proposals for their potential to harm fish or fish habitat, and may authorize the harmful alteration, disruption, or destruction (HADD) of fish habitat if deemed appropriate under the circumstances.

Recently, the Justice Canada has indicated on behalf of Transport Canada a willingness to recognize or otherwise permit a limited jurisdiction for the Municipality over infilling on the Northwest Arm. Staff of the department have indicated a willingness to recommending to the Minister the issuance of conditional approvals under the CNWA, over water lot infilling activities on the Northwest Arm. This approach would see Ministerial approvals require applicants to be compliant with the Municipality's municipal land use regulations. To date, staff of the department have only committed to a conditional approval process under the CNWA applying with respect to water lot infilling activities over the Northwest Arm.

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<sup>1</sup> Water lots that existed prior to Confederation in 1867.

<b>Subject Site</b>	Water lots within the Northwest Arm
<b>Location (Map 1)</b>	The subject water lots are located on both the Halifax Peninsula and Halifax Mainland sides of the Northwest Arm.
<b>Regional Plan Designation</b>	Halifax Harbour
<b>MPS Designation (Map 2)</b>	Water Access (both the Regional Centre SMPS and the Halifax MPS)
<b>Zoning (Map 3)</b>	WA – Water Access (both the Regional Centre LUB and the Halifax Mainland LUB)
<b>Size of Site</b>	515,700 square metres (51.57 hectares)
<b>Street Frontage</b>	While some water lots have street frontage, it is not an important consideration for this project.
<b>Current Land Use(s)</b>	Both infilled and unfilled water lots used for both private and public recreational uses, including four boat/sailing clubs.
<b>Surrounding Use(s)</b>	A variety of residential, park, and institutional uses, including four boat/sailing clubs.

### **MPS and LUB Context**

In May 2007, Regional Council adopted amendments to the Halifax Municipal Planning Strategy and both the Halifax Mainland Land Use By-law and the Halifax Peninsula Land Use By-law to control the use, subdivision, and development of water lots along the Northwest Arm once infilled. The policies and land use by-law regulations controlling the use, subdivision, and development of water lots along the Peninsula side of the Northwest Arm were later carried forward into the Regional Centre Secondary Municipal Planning Strategy and the Regional Centre Land Use By-law, with minor amendments.

The policies and land use by-law regulations now in existence in the Halifax Municipal Planning Strategy, the Regional Centre Secondary Municipal Planning Strategy, the Halifax Mainland Land Use By-law, and the Regional Centre Land Use By-law accomplish the following:

1. Designate and zone the water lots in the Northwest Arm as Water Access, which limits the use of land created by infilling of the Northwest Arm to wharves, docks historic sites and monuments, passive recreation uses, public works and utilities, and ferry terminal facilities.
2. Establish a 9-metre setback from the Northwest Arm in which only boathouses, public works and utilities, ferry terminal facilities, parks on public lands, historic sites and monuments, wharves, docks, gazebos, and existing structures are permitted. The four existing boat/sailing clubs are exempt from the setback regulation.
3. Place a control over the size, height, and number of boathouses and gazebos that can be erected within the 9-metre setback of the Northwest Arm.
4. Restrict the use of water lots for lot area and setback calculations.
5. Restrict the erection of buildings on wharves, pillars, piles, or any other type of structural support located on or over a water lot. Public works, public utilities, and ferry terminal facilities are exempt from this restriction.

The core rationale for the 2007 amendments was that, while the Municipality did not have any control over the activity of infilling itself, it could nonetheless disincentivize infilling by restricting what a property owner could do with their land once infilling had occurred. The desired outcome has not been achieved, as infilling continues to be a concern in the Northwest Arm.

### **Proposal Details**

Staff is proposing that Regional Council initiate a municipal planning strategy amendment process to consider new restrictions regarding water lots on the Northwest Arm. These restrictions would be in addition to those first introduced in 2007. More specifically, staff is proposing amending applicable planning documents to prohibit most water lot infilling activities on the Northwest Arm (subject to Ministerial incorporation in the federal permitting process).

Only water lot infilling activities to enable the following would be allowed on the Northwest Arm in the proposed amendments:

- (a) public infrastructure;
- (b) Utility use;
- (c) publicly owned or operated ferry terminals;
- (d) parks on public land;
- (e) municipal, provincial, and national historic sites and monuments; and
- (f) retaining walls.

Additionally, it is being proposed that any water lot infilling activities on the Northwest Arm permitted by the Minster would first be required to obtain a development permit from the Municipality before being allowed to proceed by the Municipality notwithstanding federal permitting.

## **DISCUSSION**

Both the Regional Centre SMPS and the Halifax MPS are strategic policy documents that set out the goals, objectives, and direction for long term growth and development in the Municipality. Amendments to a MPS is a significant undertaking and Council is under no obligation to consider such requests. Amendments should only be considered within the broader planning context and when there is reason to believe that there has been a change to the circumstances since the MPS was adopted, or last reviewed.

### **Change of Circumstances**

During recent discussions between the Municipality and lawyers for Transport Canada, Transport Canada has indicated a willingness to recognize a limited jurisdiction for the Municipality over the infilling of water lots on the Northwest Arm through the issuance of conditional approvals under the CNWA over infilling activities on the Northwest Arm. This would result in applicants being required to be compliant with the Municipality's land use regulations as a condition of the Ministerial permit.

In the run-up to the 2007 amendments, the Municipality had requested that the Federal Government recognize a limited jurisdiction for the Municipality over the infilling of water lots on the Northwest Arm. However, this was denied by the Federal Government at the time. This change of position by Transport Canada represents a change of circumstances and an appreciation of the historic recreational and other uses of the Northwest Arm as a result of the community input during recent federal consultations.

However, Transport Canada has made no commitments to extend this limited jurisdiction recognition to the rest of the Halifax Harbour, including the Bedford Basin. The reason being that, unlike the Northwest Arm, the rest of the Halifax Harbour has commercial, industrial, port, and military activity, and is also a recognized receiving body for pyritic slate disposal. These activities and uses are consistent with the nature and purposes for the designation of Halifax by Canada as one of the five leading National Ports.

### **Statutory Support for the Prohibition of Water Lot Infilling**

Section 235 of the *HRM Charter* deals with the content of a land use by-law. More specifically, Clause 235(5)(g) of the *HRM Charter* states the following:

*235(5) Where a municipal planning strategy so provides, a land-use by-law may*

- (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;*

Furthermore, Clause 209(c) of the *HRM Charter* provides the following definition:

209 *In this Part and Part IX, unless the context otherwise requires*

- (c) *“development” includes the erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure and a change or alteration in the use made of land or structures;*

Based on the above *HRM Charter* clauses, the common understanding of what constitutes a water lot, and the jurisdictional boundaries of the Halifax Regional Municipality, staff is of the opinion that the following are either factual or reasonable interpretations of existing legislation:

1. A water lot is considered land fully or partly submerged under water.
2. The water lots located along the Northwest Arm are fully contained within the boundaries of the Halifax Regional Municipality and fall under the jurisdiction of either the Regional Centre SMPS or the Halifax MPS.
3. Clause 235(5)(g) of the *HRM Charter* allows the Municipality to regulate or prohibit the infilling of water lots that are included within its boundaries, if the higher level of government that has recognized jurisdiction over such infills (the Province of Nova Scotia for water lots on freshwater bodies and the Federal Government for water lots along the ocean) agrees to make approvals conditional on being compliant with municipal land use regulations.
4. The mere activity of infilling a water lot can be considered a change of use, from a navigable waterway to something else.

### **Environmental Impacts of Infilling**

There are several environmental impacts related to the infilling of water lots, these include:

- the destruction of coastal ecosystems;
- changes in coastal dynamics;
- the increased risk of coastal erosion;
- the destruction of fish and fish habitats;
- increased sedimentation; and
- other negative impacts on water quality.

### **Conclusion**

Staff have reviewed the opportunity discussed on behalf of the Federal Minister of Transport to recognize a limited jurisdiction for the Municipality over infilling on the Northwest Arm and advise that there is merit in considering the opportunity to further control the infilling of water lots. Therefore, staff recommend that Regional Council initiate the process to amend the Regional Centre Secondary Municipal Planning Strategy, the Halifax Municipal Planning Strategy, the Regional Centre Land Use By-law, and the Halifax Mainland Land Use By-law.

### **FINANCIAL IMPLICATIONS**

The HRM costs associated with this planning project can be accommodated within the approved 2023-2024 operating budget for Planning and Development.

### **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 Nova Scotia Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

## **COMMUNITY ENGAGEMENT**

Should Regional Council choose to initiate the MPS amendment process, the *HRM Charter* requires that Regional Council approve a public participation program. In June of 2023, Regional Council approved the Public Participation Administrative Order (2023-002-ADM), which staff are proposing to follow. Engagement will be performed through the HRM website and through letters mailed out to property owners within the notification area, including to the owners of the water lots. Planning staff will be available via telephone and email for one-on-one discussions with members of the community who have concerns or questions about the proposed amendments. The community will have further opportunity to engage with Regional Council at the required public hearing. Amendments to the municipal planning strategies will potentially impact the following stakeholders: residents, property owners, boat/sailing clubs, and other businesses.

## **ENVIRONMENTAL IMPLICATIONS**

No negative environmental implications are identified at this time. Staff is anticipating that the proposed amendments will have positive impacts on the environment of the Northwest Arm.

## **ALTERNATIVES**

1. Regional Council may choose to initiate the consideration of potential policy that would differ from those outlined in this report. This may require a supplementary report from staff.
2. Regional Council may choose not to initiate the MPS amendment process. A decision of Council not to initiate a process to consider amending the Regional Centre Secondary Municipal Planning Strategy and the Halifax Municipal Planning Strategy is not appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.

## **ATTACHMENTS**

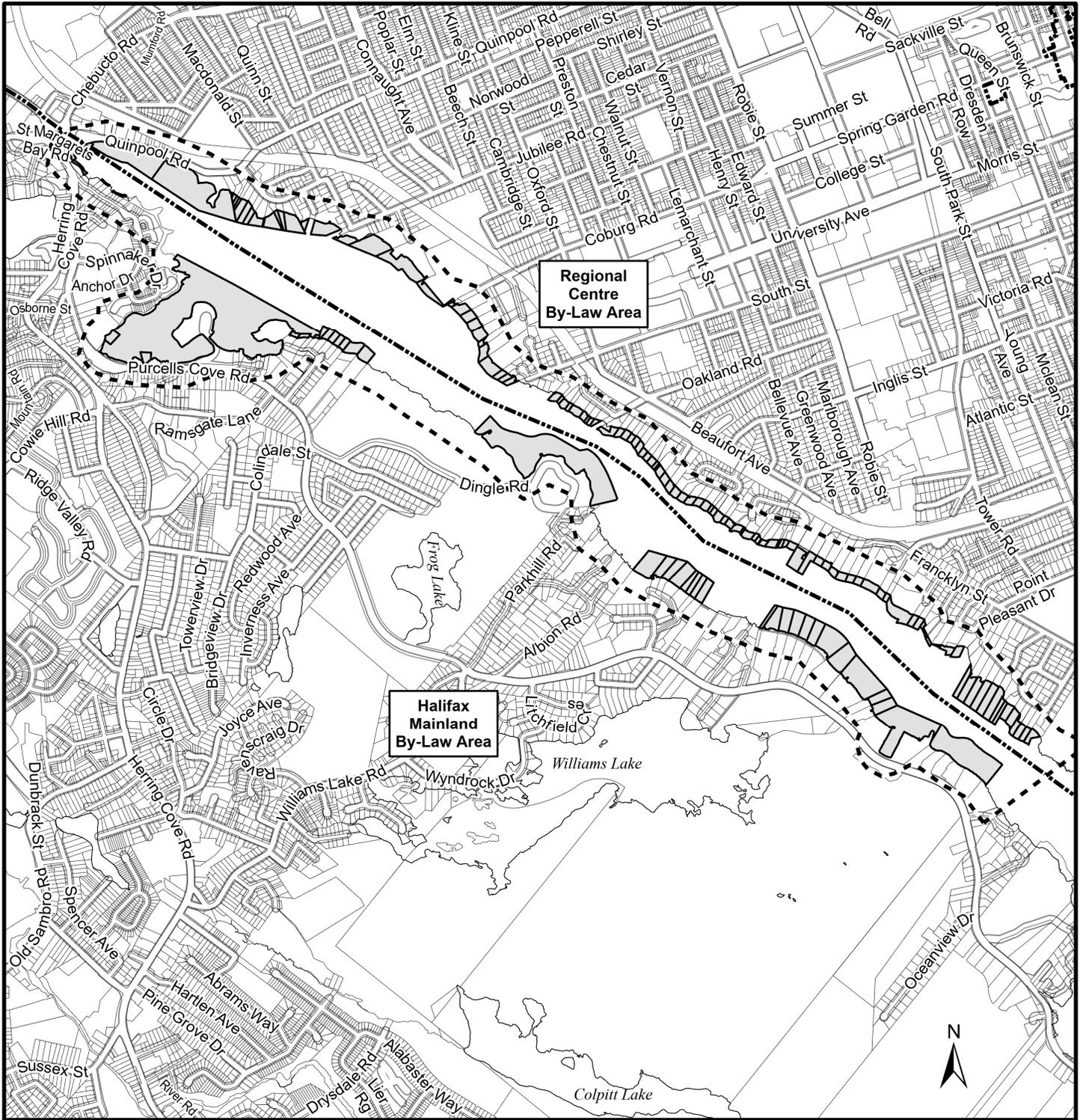
Map 1:	Location and Notification
Map 2:	Generalized Future Land Use
Map 3:	Zoning
Attachment A:	Request for Consideration – Item No. 14.2

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Rhys Burnell, Planner II, Planning and Development, 902.233.0561  
Luc Ouellet, Principal Planner, Planning and Development, 902.717.4357

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### Map 1 - Location and Notification

Northwest Arm Water Lots,  
Halifax

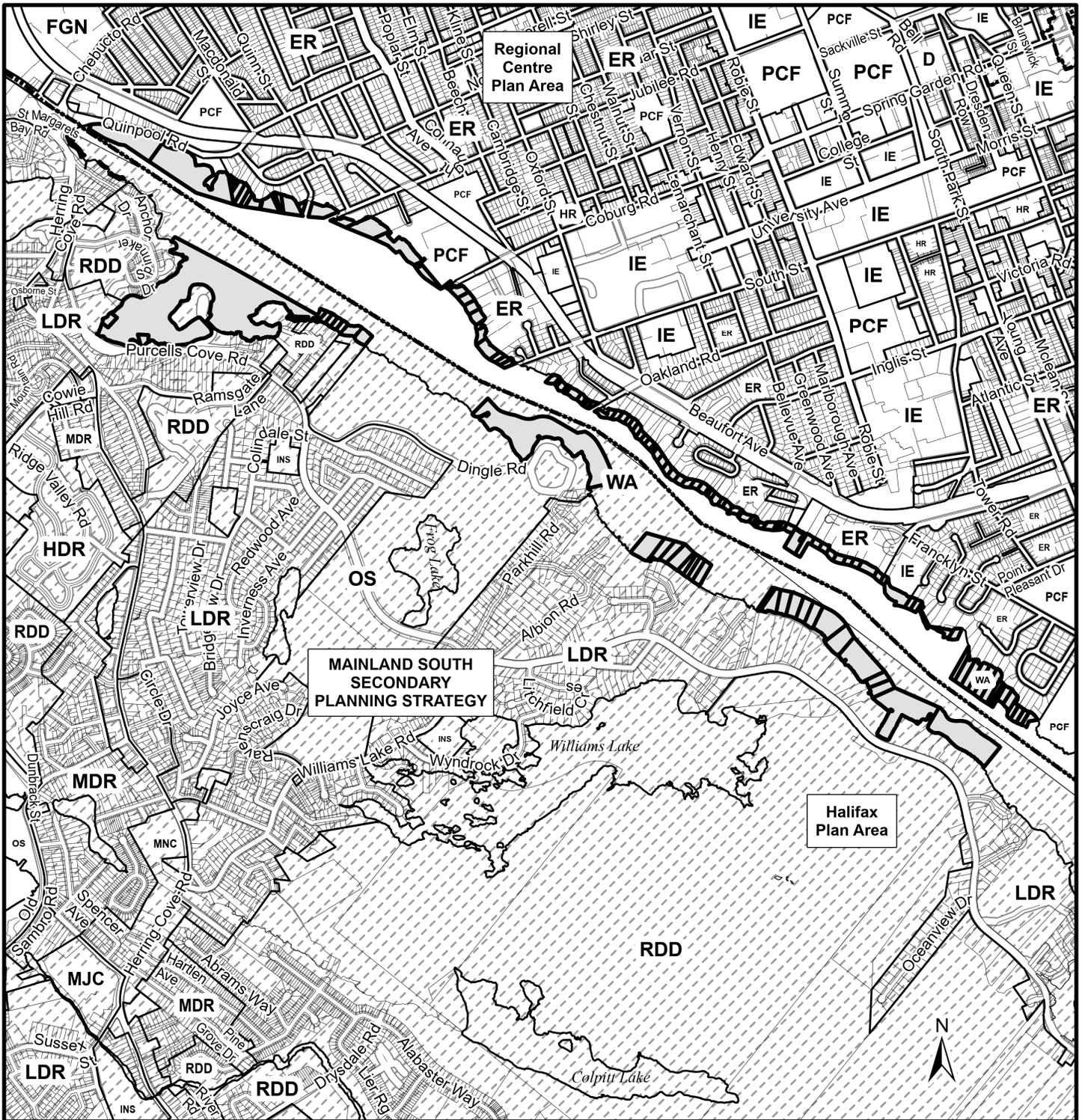
-  Subject Properties
-  Area of Notification
-  By-Law Boundary

Halifax Mainland Land Use By-Law Area  
and Regional Centre Land Use By-Law Area

**HALIFAX**



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



## Map 2 - Generalized Future Land Use

Northwest Arm Water Lots,  
Halifax

-  Subject Properties
-  Plan Area Boundary
-  Detailed Plan Area

Halifax Mainland Plan Area  
and Regional Centre Plan Area

### Mainland South Detailed Plan Area

- HDR High Density Residential
- INS Institutional
- LDR Low Density Residential
- MDR Medium Density Residential
- MJC Major Commercial
- MNC Minor Commercial
- OS Major Community Open Spaces
- RDD Residential Development District
- WA Water Access

### Regional Centre Plan Area

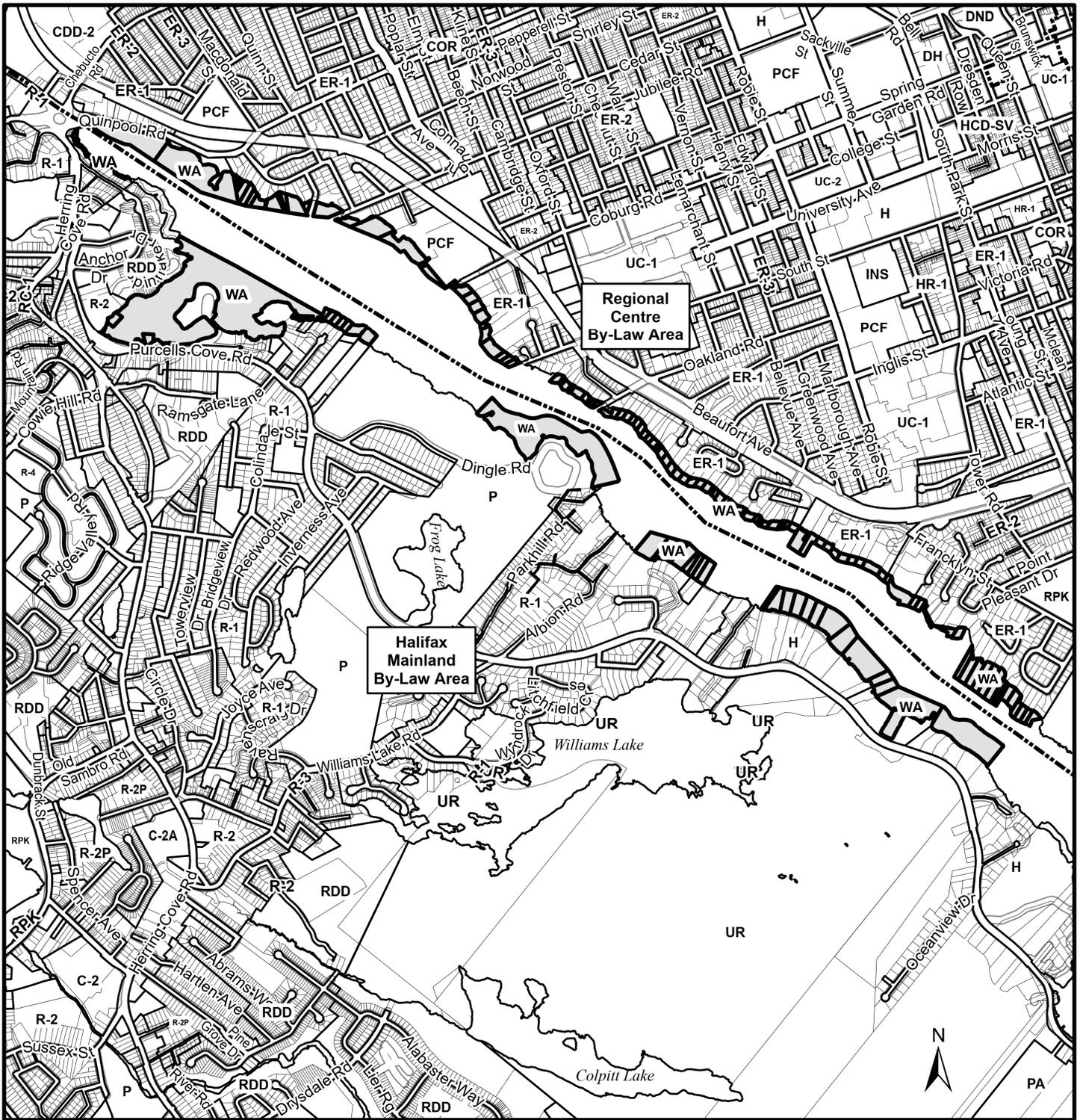
- D Downtown
- ER Established Residential
- FGN Future Growth Node
- HR Higher-Order Residential
- IE Institutional Employment
- PCF Park and Community Facility
- WA Water Access

0 150 300 450 600 Meters



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.



### Map 3 - Zoning

Northwest Arm Water Lots,  
Halifax

Subject Properties

By-Law Boundary

Halifax Mainland Land Use By-Law Area  
and Regional Centre Land Use By-Law Area

#### HMAIN

- C-2A Minor Commercial
- H Holding
- P Park and Institutional
- PA Protected Area
- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2P General Residential
- R-3 Low-Rise Apartment
- R-4 Multiple Dwelling
- RC-1 Neighbourhood Commercial
- RDD Residential Development District
- RPK Regional Park
- UR Urban Reserve
- WA Water Access

#### RC

- CDD-2 Comprehensive Development District 2
- COR Corridor
- DH Downtown Halifax
- DND Department of Natural Defense
- ER-1 Established Residential 1
- ER-2 Established Residential 2
- ER-3 Established Residential 3
- H Hospital
- HCD-SV Heritage Conservation District -Schmidtville
- HR-1 Higher-Order Residential 1
- HR-2 Higher-Order Residential 2
- INS Institutional
- PCF Parks and Community Facilities
- UC-1 University and College 1
- UC-2 University and College 2
- WA Water Access

## HALIFAX

0 150 300 450 600 Meters

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

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

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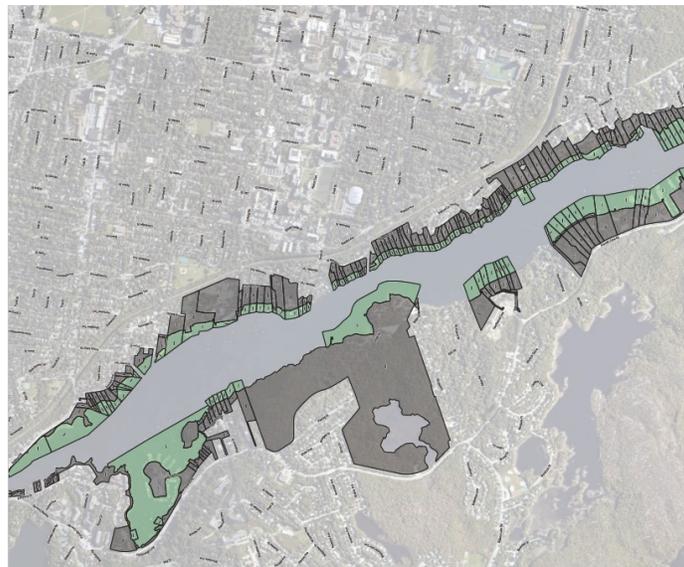
### Item No. 14.2

<b>Request for Consideration</b>			
<input type="checkbox"/> <b>Agenda Item</b> (Submitted to Municipal Clerk's Office by Noon Monday one week prior to the meeting)	X	<b>Added Item</b> (Submitted to Municipal Clerk's Office by Noon Monday one day to the meeting)	<input type="checkbox"/> <b>Request from the Floor</b>  <input type="checkbox"/> <b>Notice of Motion</b>
<b>Council or Committee: Regional Council</b>		<b>Date of Meeting: June 8, 2021</b>	
<b>Subject: Letter supporting cessation of infill applications on the North West Arm</b>			
<p><b>Motion:</b> Halifax Regional Council request the Mayor write a letter The Honourable Omar Alghabra, Minister of Transport to support the request that the Federal Government immediately invoke a cessation on all infill application approvals on the Northwest Arm of Halifax until such time as appropriate governance can be put in place to prohibit all future infilling of the Northwest Arm</p> <p><b>Reason:</b> Recently the Ecology Action Centre, after meeting with concerned community members of the Northwest Arm and on behalf of citizens who use the Arm's available recreational resources, asked if Council would endorse the call for a pause on all Northwest Arm water lot infill projects on lands referred to as 'pre-confederation water lots' while a review by federal, provincial and municipal government of this governance gap is undertaken.</p> <p>Federal jurisdiction of this segment of the coastline invokes regulation under the Navigable Waters Act (Transport Canada) and the Fisheries Act (Fisheries and Oceans Canada), both of which have undergone significant changes in recent years. Depending on the location of the infilling, there could also be Species at Risk Act implications.</p> <p>This situation will continue to plague the coastline of the Northwest Arm until appropriate governance measures are put in place to reduce this destructive and unnecessary practice.</p> <p>If this problem is not resolved, the Northwest Arm is at risk of being radically altered over the coming years. If all of these water lots were infilled, the surface water area of the Arm would decrease by 31% and the width of the entrance to the Arm would shrink by more than 50%.</p> <p>A briefing note and map are attached.</p> <p><b>Outcome Sought:</b> Letter to the Minister</p>			
<i>Moved Councillor Waye Mason</i>		<i>District 7</i>	
<b>ORIGINAL SIGNED</b>			

## Information for Councillor Mason's office regarding Northwest Arm Infilling Issue

Infilling for development along the coastline has been taking place for more than half a century in many of Nova Scotia's coastal towns. While this practice may have seemed sound at one point in time, in the face of coastal climate change, that is no longer the case. Coastal climate change impacts, such as sea level rise, storm surge, coastal flooding and increased frequency and intensity of weather events, put structures along our coastline at risk. For more than a decade, municipal and provincial governments have been creating regulations in an effort to mitigate risky development practices and enhance public safety. Creation of artificial land through infilling to extend development out into the ocean is dangerous and damaging to coastal ecosystems. This ill-advised practice puts people and structures at risk, strains our coastal ecosystems, damages fish and fish habitat and threatens water quality. Yet the practice of infilling for development continues regularly along Halifax Harbour and in the Northwest Arm.

Numerous properties along Halifax's Northwest Arm include a 'water lot' in the property's deed. This map shows water lots lining the Northwest Arm:



These 'water lots' are portions of the seabed that extend outward from the shoreline. Governance of these water lots is complex. The municipality does not govern them, as they are submerged lands or seabeds and as such do not fall under municipal land use bylaw regulation. However, if the water lot is partially or fully infilled, the municipality is then responsible to govern use and development of the newly created 'land' that results from the infilling activity. Ordinarily, the submerged land in the intertidal zone would fall on the cusp of provincial governance, with potential implications under the Environment Act, the Crown Lands Act, the Beaches Act and the incoming Coastal Protection Act, but the unique 'water lot' designation granting private ownership instead puts the water lot in an odd governance space between federal jurisdiction and property rights. Federal jurisdiction of this segment of the coastline invokes regulation under the Navigable Waters Act (Transport Canada) and the Fisheries Act (Fisheries and Oceans Canada), both of which have undergone significant changes in recent years. Depending on the location of the infilling, there could also be Species at Risk Act implications.

This odd federal designation of the seabed with municipal jurisdiction over infilled land on a water lot and no provincial environmental assessment of impact has left a 'governance gap' or loophole in the system. It takes very little for a property owner to gain approval for an infilling permit, despite the tremendous damage and great risk associated with an infilling project. At this time, there is no provincial assessment of damage or risk associated with water lot infilling, despite the vast array of potential impacts under the above mentioned pieces of provincial legislation. Both the municipal and provincial government respond to any 'water lot' inquiry by quickly pointing out that this is not an issue they have jurisdiction over while confirming that it is environmentally problematic.

In order to receive a permit to infill a water lot on the Northwest Arm, a property owner must apply to Transport Canada under the guidance of the Navigable Waters Act for a permit to infill. Transport Canada considers whether the infilling will cause problems with navigation of the waters. Water navigability impacts are the only criteria for this assessment and Transport Canada's mandate does not address environmental impacts or any other risks or damage caused by the infill project. Transport Canada reviews an application and offers a 30-day feedback period for the public to express their concerns, but the parameters of those concerns are restricted to impacts to the navigability of the water.

Additionally, a proponent (developer/property owner wishing to infill) is responsible for contacting Fisheries and Oceans Canada to request a review of the potential impacts of the infilling project on fish and fish habitat. If the project could result in the death of fish and/or the harmful alteration, disruption or destruction of fish habitat, the proponent must obtain authorization from Fisheries and Oceans Canada. The authorization includes terms and conditions the proponent must follow to avoid, mitigate, offset and monitor the impacts to fish and fish habitat resulting from the project. Failure to abide by these terms and conditions may result in fines. Failure to apply for the DFO project review can result, if DFO becomes aware of the project, in a stop of work and could potentially result in a removal of infill and restoration of the site. However, it is unclear how often DFO enforcement applies that measure. This 'fox guarding the henhouse' system is not sufficient to protect coastal ecosystems. At minimum, any infill permit to Transport Canada should immediately trigger a robust environmental assessment conducted by both DFO (for fish and fish habitat) and by NS Environment (to assess other environmental impacts).

In Halifax's Northwest Arm, infilling water lots for development purposes became an issue that the municipality had to address in 2005-2007, with numerous community complaints and increasing media attention to the problem. At that time, the municipality increased its governance over the land created by infills by adding land use bylaws to restrict the use of the infilled area. These bylaws limited development on the infilled land to boathouses, gazebos, parks, wharves, docks, historical sites and monuments, trails, public works and utilities and ferry terminal facilities. Height of allowable structures was also restricted. It was set out in these new regulations that the infilled water lot would not change the minimum setback requirements of the previously existing lot and that the infilled water lot would not be included in the calculation of the minimum lot area requirements.

<http://legacycontent.halifax.ca/council/agendasc/documents/Case00596HalifaxMPSWaterLotsNorthwestArm.pdf>

Despite the municipality's efforts to strengthen the land governance of infilled areas, property owners have continued to infill water lots along the shores of the Northwest Arm. Despite HALIFAX's land

development limitations on the infilled land, the additional land has a financial value and this appeal serves as financial incentive to some of the Arm's property owners and developers. The by-laws have not limited the risky and damaging act of infilling and determined developers have been testing the strength and boundaries of these regulations. As an example, in 2016, a developer and property owner launched a lawsuit challenging HALIFAX's governance of an infilled water lot on the Arm. The property owner's request for a permit to build a pool had previously been denied due to the setback requirement along the shoreline. The property owner then attempted to make his property eligible for the pool by infilling his water lot. When the property owner's second pool permit request was denied by HALIFAX, because the infilling does not change the original shoreline and therefore does not exempt the pool from the required setback, the property owner took the municipality to court. Thankfully, the bylaws held and the lawsuit was unsuccessful.

<https://nsuarb.novascotia.ca/sites/default/files/Decision%20Ghosn.pdf>

This problem has not been resolved and one can logically assume that motivated developers will continue to test the boundaries, costing taxpayers and straining HALIFAX's resources unnecessarily.