Dear [Redacted]

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MA/99/2016]

On December 1, 2016 the Department of Municipal Affairs received your request for access to the following records/information:

“All correspondence between the Town of Witless Bay (and Council members) and MIGA involving land, roads or planning pertaining to Gallows Cove, Mullowney’s Lane and/or Ragged Beach.”

On December 2, 2016 you clarified your request to indicate that the period of time that you are seeking is from May 1, 2016 to present.

I am pleased to inform you that a decision has been made by the Deputy Minister of the department to provide access to the requested information. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and Protection of Privacy Act, 2015 (the Act). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.
Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 729-6528 or by e-mail at scottwinters@gov.nl.ca.

Sincerely,

Scott Winters
Manager of Accountability / ATIPP Coordinator
Good morning Honourable Minister Joyce and Deputy Minister Chippett,

As a follow up to discussions of our last meeting relating to a Crown Reserve for Witless Bay, please see the attached letter detailing Council's request to the Department of Environment and Conservation Minister to establish a reservation of Crown Lands in Witless Bay. This letter confirms that there is already an active application in place, and has been since July 15, 2014. The Department is yet to apprise the Town of the status of this application. Our Council is requesting that you please assess and review this request prior to registering the Town Plan. Thank you.

Geraldine Caul
Town Clerk/Manager
Town of Witless Bay
15 July 2014

Hon. Vaughn Granter
Minister
Department of Environment and Conservation
4th Floor, West Block, Confederation Building
P.O. Box 8700
St. John’s, NL A1B 4J6
(709) 729-2577

Hon. Minister Granter,

Re: Request for Minister to Establish a ‘Reservation of Crown Lands’ in Witless Bay, as per Section 8 of the Lands Act.

At the July 8th, 2014 Public Meeting of the Town Council of Witless Bay, Council discussed and approved a motion to request that the Minister, by order, reserve and set apart Crown Lands within our Town boundaries for the Purpose and Period set out below, as permitted under Section 8 of the province’s Lands Act.

The motion approved by Council states:

Be it resolved Council petition the Department of Environment & Conservation to establish a Crown Land Reserve under Section 8 of the Crown Lands Act along the southern coastline of Witless Bay. This Crown Land Reserve should begin at the first section of Crown Land located south of Mullowney’s Lane, extend south to the end of the Witless Bay boundary for a width of 450 metres, and encompass an area of 99 hectares.

THE PURPOSE: To protect and provide for current and future generations open and unfettered access to and use of this very unique natural and pristine ocean shoreline and wilderness environment, bordering on the world-renowned Witless Bay Ecological Reserve, for traditional and historical uses and activities, and public enjoyment.

THE SPECIFIC AREA: That area of Crown Lands comprising the southern coastline of the Town of Witless Bay, commencing at the most northerly border of Crown Land located south of Mullowney’s Lane, and extending south to the Town’s southwest boundary, and then extending inland for a width of 450 metres along the coastline, and in total encompassing an area not exceeding 99 hectares.

THE TIME PERIOD: In perpetuity.

Minister, we request a meeting with you and your senior staff to discuss in further detail the reasons why the Town is making this formal request, the context for, and its relevance to, both...
the Provincial Interest and the Town’s Municipal Interest, and how this Crown Lands Reserve flows from and integrates with the Town Vision, the Town Municipal Plan, existing environmental and development strategies for the Northeast Avalon region, and your Government’s increasing interest and action on ecological integrity and environmental protection. In addition, we wish to discuss with you and your staff the process and timing of your action, and how we can work together in the most positive and proactive manner to bring this initiative to life. In the interim, we have prepared the following Backgrounder with the support points which have informed Council and guided the analysis and discussions that have led to this formal request.

Commitment to Sustainable Development and Balance. The Town of Witless Bay recognizes the critical importance of securing a fair and sensible balance between sustainable residential and business development, and the protection of our natural environment. That’s the reason why, in our new Town Plan, we have set aside significant conservation zones within our municipal boundaries; at the same time, we have also rezoned significant portions of the Town for residential, commercial, and industrial development.

He Who Doesn’t Learn from History is Bound to Repeat It. We are keenly aware of the intense pressures for development in many communities in the Northeast Avalon region. Failures to plan, poor planning, and ad-hoc and reactionary decision-making often result in disastrous and irreversible consequences. Beyond the negative consequences within our borders here in the Northeast Avalon region, our research has also revealed the very negative consequences which resulted from the short-sightedness of Municipal and Provincial Governments in Nova Scotia – as well as in PEI and Maine and along the Eastern Seaboard – in allowing Crown Lands in coastal areas be converted into private and commercial developments, resulting in massive over-development as well as practically eliminating access for local residents and citizens, and visitors to the pristine rural (and previously publically owed) ocean coastline, and the traditional land uses and activities which had been locally accessed and practiced for centuries. For this reason, the Town Council of Witless Bay is fully committed to intelligent and informed and proactive planning for smart land use for the decades and generations yet to come.

Government’s “Coastal and Ocean Management Strategy and Policy Framework.” Council has also been inspired and guided in its decision to establish this Crown Land Reserve by your Government’s Coastal and Ocean Management Strategy and Policy Framework and it’s objective. We recognize this Strategy and Framework as an intelligent and informed and proactive initiative, with its strategy and plan developed hand-in-hand with multiple community stakeholders over the past five (5) years. We agree wholeheartedly with two key priorities identified in this Strategy and Policy Framework document:

1. Healthy Marine Environments;
2. Social, Cultural, and Economic Sustainability.

In addition, Council is in complete alignment and agreement with Government’s vision and the Plan’s conclusion that “Healthy and productive coastal areas and ocean resources contribute to a prosperous economy, and to the well-being of present and future generations of Newfoundlanders and Labradors.”
The “Municipal Interest.” The Town of Witless Bay is requesting that the Minister establish a Crown Lands Reserve to protect and safeguard this fragile coastline area in order to protect the Town’s Municipal Interest.

1. Protection of our Town’s Tourism Industry and Tourism Potential. Witless Bay has a fledgling and growing tourism and hospitality industry. Two Consultant’s Reports have identified Tourism as the Town’s best opportunity for robust and sustainable economic growth. Our town has a rich portfolio of world-class natural attractions to promote to the tourism market generally, and to the 450,000 annual non-resident visitors to St. John’s. This tourism product portfolio includes the globally recognized Witless Bay Ecological Reserve, the province’s most accessible whale watching, North America’s largest (and most accessible) colony of Atlantic Puffins (and other seabirds), the most accessible section of the province’s East Coast Trail, as well as a stunningly pristine ocean coastline which National Geographic rated the Top Coastal Destination in the World in 2010. As a result, the Town is currently developing a comprehensive and integrated Tourism Development Strategy and Plan – to guide and stimulate the growth of this high-potential source of sustainable economic growth for the benefit of the Town, the region, the province, as well as future generations. Protection of these key assets through the establishment of a Crown Lands Reserve is essential to our Strategy and Plan.

2. Protection of our Coastline from Suburban Sprawl. As noted in the “He Who Doesn’t Learn from History...” section, we have all seen how increasing pressures for residential and other commercial developments have resulted in haphazard and ad-hoc suburban sprawl into pristine rural and shoreline areas – and, along the way, step by step, the irreplaceable loss of public lands and coastline. There are a growing number of examples here in the Northeast Avalon region. In Nova Scotia, and other parts of the Maritimes and the Eastern Seaboard, governments have had to resort to legislative action – and the expenditure of very large amounts of Government money to buy and repatriate coastal properties in order to set them aside for public use. It would have been so much simpler, sensible and much less expensive, to have proactively avoided the loss of Crown Lands in the first place.

The Town Council of Witless Bay has the responsibility, as vested to the Town by Provincial legislation, for directing and managing the lands – and land use – within its boundaries; this is a responsibility which we hold as a sacred trust and, to enable execution of which, we request that the Minister establish this Crown Land Reserve under Section 8 of the Lands Act. The importance of this particular parcel of Crown Land to the public, and for public use by both local residents as well as visitors, was clearly and unequivocally established by the strong opposition to a 2011 rezoning and subdivision proposal for this specific area of Crown Land: during the short public consultation phase of the rezoning process, Council received some 1,400 individual letters of opposition, almost a full third of which came directly from residents of Witless Bay; furthermore, the letters of opposition went one step further, and stated their “…objection to the Town making any changes to the traditional use and long-standing ‘Rural’ zoning designation of lands in the Ragged Beach area…” The creation of this Crown Lands Reserve will ensure that we will protect this small but critical portion of our coastal land for public use.
3. Protection of Our Unique Coastline for Future Generations. "We do not own the land; we are but guardians of it for future generations." Council has made the decision that the time to make responsible choices for future generations is now. Council has zoned a significant portion of our municipality as Conservation in the new Town Plan; however, we are all aware – and very concerned – that the protection that a Conservation zoning offers is only as strong as the next amendment to the Town Plan.

When we imagine New York City without Central Park, or St. John's without Bowring Park and Signal Hill, we are faced with a surprisingly bleaker picture of these cities. Many decades ago, planners and governments in these cities had the foresight and determination to set aside and protect in perpetuity these natural areas for future generations to enjoy. Even small rural towns, such as Witless Bay, have a sacred responsibility to do the same – to protect the irreplaceable natural areas and public lands which characterize our landscape and represent a deep part of our traditional culture and way of life. This southern coastline area of Witless Bay is a signature feature in our Town's landscape. It expresses the character and soul of our people and ancestors. And it must be protected as a Crown Lands Reserve for future generations.

4. Protection of a Key Community Asset. One of many recent initiatives of Council to bring together and unite the citizens of our Town, in support of community spirit and pride, is the Town's entry (for the very first time) in the 2014 Municipalities NL Tidy Towns competition. Our dramatic and pristine coastline has been identified as one of Witless Bay's key assets by the Community Enhancement and Tidy Towns Committee. The Tidy Towns competition cares deeply about protecting natural resources, and it identifies this criterion in 3 of its 8 categories. Judging will likely favour a town with the initiative to truly protect a key asset in its area. A Tidy Town win results in improved resources, greater economic growth, and healthier citizens.

5. Protection of the Witless Bay Ecological Reserve and its Seabird Populations. Memorial University seabird researcher Dr. Bill Montevecchi has stated that "of all the Ecological Seabird Reserves in Newfoundland and Labrador, the Witless Bay Ecological Reserve is the one in closest proximity to coastal communities – and the one most at risk to human activities and development." Research shows conclusively that human activity can drastically and negatively impact seabird populations; one reason is because seabirds are especially vulnerable to artificial lights from streetlights, from vehicles, and from residences.

In Witless Bay, we have been witness to this devastating impact on young seabird populations every summer: young penguins, leaving their nesting burrows for the very first time, become dangerously disoriented by (and attracted to) the lights of nearby human habitation and, as a result, end up on the streets and parking lots of Witless Bay, where they are killed by vehicles and domestic pets. The creation of this Crown Lands Reserve will ensure that there will not be any additional light pollution emitted from this coastal shoreline located immediately adjacent to and facing the Witless Bay Ecological Reserve.
6. **Protection of the East Coast Trail.** The section of the East Coast Trail known as the 'Beaches Path' runs through the area of coastline selected by Council for this Crown Lands Reserve. The 'Beaches Path' is one of the most easily accessible and highly used trails in the entire East Coast Trail system. More than 20,000 people who hike this trail every year already provide Witless Bay with a significant number of visitors; these visitors, including many travellers from Europe and the USA, make a significant economic contribution (and social enrichment) to our Town's tourism and service industry. In addition, residents of the Town and people of all ages from all over the Avalon and beyond love this Trail; the shoreline and beaches that border it are cherished and used by families and couples and children for family, social, and traditional cultural and lifestyle uses. It is a Crown Jewel – fragile and irreplaceable public lands owned and treasured by all.

Sections of this trail are under constant threat from coastal erosion due to more frequent storm surges in recent years. Protection of this coastline will ensure the necessary adjustments to the location of the trail as needed. The East Coast Trail needs the protection afforded by the creation of this Crown Lands Reserve.

The "Provincial Interest." Minister, in addition to the important matters of 'Town Interest' noted above, there are also a number of highly important matters and vital assets which are of 'Provincial Interest' — and which will be protected by the creation of this Crown Lands Reserve.

1. **Protection of the “Provincial Interest” in the fragile Witless Bay Ecological Reserve, and in this ocean shoreline environment and lands which are immediately adjacent to it.**

2. **Protection of the “Provincial Interest” in the East Coast Trail, and the province's investment in both the East Coast Trail and in Tourism. This shoreline area is one of the most accessible, and most used sections of the entire East Coast Trail system.**

3. **Protection of the “Provincial Interest” in the Tourism industry.** The province has invested more than $70,000,000 in tourism marketing, promotion, and 'product' development — over the past five (5) years alone — to attract high-end tourists to Newfoundland. Of the more than 500,000 'non-resident' visitors to Newfoundland, more than 450,000 visit St. John's. This Crown Lands Reserve area, including the Witless Bay Ecological Reserve, as well as the East Coast Trail from Ragged Beach to Mobile, is a highly important, highly differentiated, and easily accessible 'product' experience that's located within 25 minutes travel of St. John's; it offers a highly desirable 'product' experience, as well as an excellent opportunity to generate visitor satisfaction and delight, as well as positive word-of-mouth referrals and editorial coverage in the decades ahead. The Province needs to protect and preserve this 'Crown Jewel' in perpetuity.

4. **Protection and preservation of the “Provincial Interest” in these Crown Lands, and its unique ocean shoreline, which have received international attention and acclaim, and which National Geographic has named as the Top Coastal Tourism Destination in the entire world.** This highly rated Jewel in the province's Tourism crown, and valuable
economic and cultural asset, is (if not now prevented) at very high risk of being lost forever.

5. **Protection of the “Provincial Interest”** in one of the few remaining, undisturbed, completely unsettled and undeveloped rural ocean shoreline environments in the Northeast Avalon – and protection of the unspoiled physical environment and ecology, unique flora and fauna, wildlife, and traditional uses and activities in practice for hundreds of years. This area of Crown Land must be set aside and held in Reserve, in its current state, in perpetuity, for current and future generations, for the “Provincial Interest.”

6. **Protection of the “Provincial Interest” in Seabird Populations and Ecology** in the Witless Bay Ecological Reserve – and, more specifically, the prevention of further artificial night light pollution (from lights in new houses and streetlights) which currently causes serious mortality rates among baby Puffins and Leach’s Storm-Petrels each summer – a significant problem, as documented and supported by scientists, ecologists, and experts such as Dr. Bill Montevecchi over the past 25 years. This area is described as a “global seabird capital...that warrants very careful and special protection...”. The ‘Provincial Interest’ extends beyond the Tourism and economic assets which this area represents – to global scientific and research and ecological assets and responsibilities; the province needs to avoid short-sightedness and prevent, for example, the situation in Maine where once-thriving Puffin and seabird colonies have been decimated – and that state has ‘imported’ Puffins from the Witless Bay Ecological Reserve in an attempt to restock its coastal islands and regenerate Puffin colonies.

Minister, in addition to protection of the ‘Provincial Interest’ and the ‘Town Interest’, we are also guided by the concept of ‘Crown Land’, and the responsibility and authority vested to municipalities for Crown Lands within their boundaries.

**Crown Lands.** More than 89% of the total land area in Canada (8,886, 356 km²) is Crown Land. Almost 95% of all land area in Newfoundland and Labrador is Crown Land.

In the USA, Crown Land is defined as “a repository of land held by the federal government, to be used for the benefit of the nation as a whole”. In Manitoba, Crown Lands are held and used for environmental protection, public recreation, resource management, and research. In no part of Canada is Crown Land held by governments for anything but the public good.

In Newfoundland and Labrador, it used to be that most Crown Land could only be leased – and never sold – meaning that ownership always remained vested in the people. Times have changed. Over the past 20 years or so, changes in legislation and government practice have resulted in a ripe opportunity for individuals and corporations to acquire full and absolute ownership of Crown Lands for personal and private use, commercial benefit, and pursuit of profit, in perpetuity. Whether the negative consequences and problems associated with removing the public’s right to long-standing and traditional uses of Crown and public lands we now witness in Newfoundland and Labrador today were ever anticipated by Government, is unclear. But one thing is clear to all well-meaning and clear thinking citizens and governments: our people’s most cherished and most valued and most valuable and irreplaceable Crown Lands should not – and cannot – be taken away from the people and handed over to individuals and corporations for personal and private use and commercial profit. It is our sacred trust – as
Municipal Governments, and as Provincial and Federal Governments – to protect our most valuable Crown Lands, in perpetuity, as was the original objective and continued practice intended by the legal and judicial system we inherited from Britain. And that, Minister, is the underpinning of our request to you – to act under the authority vested in you through Section 8 of the Lands Act. It’s clear that this authority was specifically created by the legislators of our Province in anticipation of the need to protect public Crown Lands – and the need to balance out and provide protection to the most vulnerable land assets with the change to selling versus leasing Crown Lands.

It is in this spirit, and under the principles which public and Crown Lands were first established – held in trust for the people by the Government – that Town Council of Witless Bay has made this request for timely action by you and your staff.

Could you please acknowledge receipt of this request and application, provide us with the requisite information on the process and next steps to bring this Crown Land Reserve to life, and the time(s) when you will be available to meet with Council.

We look forward to discussing this request with you.

Sincerely,

Town Council of Witless Bay

Cc: Hon. Tony Corner, Minister, Department of Tourism, Culture, and Recreation Hon. Dan Crummell, Minister, Department of Municipal and Intergovernmental Affairs Hon. Keith Hutchings, Minister, Department of Fisheries and Aquaculture Hon. Steve Kent, Former Minister, Department of Municipal and Intergovernmental Affairs, Candidate for leader of the Conservative Party of Newfoundland and Labrador
Deputy Mayor Wiseman,

Thank you for clarifying your question about Mullowney’s Lane and how the May 2013 Witless Bay Municipal Plan will impact it if development is proposed using Mullowney’s Lane for access. I have reviewed with staff and the following is the information they wish to pass along.

The May 2013 Witless Bay Municipal Plan (Plan A) selected by the residents in the September 2015 plebiscite does not speak to the specific situation about whether or not Mullowney’s Lane should be upgraded in order to accommodate development at Ragged Beach. Similarly, the current Witless Bay Municipal Plan does not speak to upgrading of Mullowney’s Lane as a specific issue.

If Council is presented with a development application that includes subdivision of land using Mullowney’s Lane as a traffic access, Council will have to assess whether or not Mullowney’s Lane should be upgraded to a current Council standard (expressed either in the Development Regulations or the Town’s Engineering Standards). That assessment is required by the generality of Part IV of the Development Regulations associated with the May 2013 Witless Bay Municipal Plan. Section 73 of the Development Regulations associated with the May 2013 Witless Bay Municipal Plan specifically requires that Council consider “the transportation network and traffic densities affecting the site” when assessing a development application that includes subdivision of land.

Council will have to make a decision with respect to any improvements that are necessary to existing roads if presented with an application for development that includes subdivision of land.

I hope this helps.

Regards,
Jamie

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Dear Deputy Minister Chippett,

Thank you for the information regarding Crown Land reserves as well as information on questions that council had regarding the town plan.

In re-reading the answers to the questions I realized that it appears that there may have been a misunderstanding about the question regarding the correspondence from the former the Minister on the requirement by the
Province that the Town would have to upgrade Mullowney's Lane in order to accommodate development at Ragged Beach.

The question was not if there was conflict between the two letters from Municipal Affairs but rather how this road upgrade requirement now conflicts with Town Plan A. I am sure you can appreciate the importance of this to council as a motion has already been made for council to not upgrade the road.

Thank you for your time,

Dena

Sent from my iPad

On Apr 29, 2016, at 5:35 PM, Chippett, Jamie <JamieChippett@gov.nl.ca> wrote:

Mayor Despres,

As promised, and as articulated at our recent meeting, please see below information related to Council’s questions on the issues you raise below:

The Town Council raised a number of questions at the January 19, 2016 meeting.

1. What did the Commissioner mean when he indicated that a number of submissions to him at the Public Hearing were outside of his authority and within the authority of the Town Council?
   The Commissioner clarified his comments where he indicates the Town Council has authority to consider the request made to him at the Public Hearing. The Commissioner noted that a policy of the Municipal Plan provides for the Town Council to interpret the zoning boundaries where those boundaries do not follow specific elements like property boundaries, roadways, waterways, and the like. The Commissioner indicated that where individuals were concerned that their properties were bisected by zoning boundaries, the Municipal Plan policies provide Council with discretion to interpret how those zoning boundaries could be applied.

2. What is the status of the right of way to access Ragged Beach properties?
   A cart path, with a width varying between two and three metres, is visible on older aerial photography on file with the Lands Branch, Department of Municipal Affairs. A July 31, 1974 land survey and property description illustrates the cart road having a width of 7.315 metres. A land survey and property description that accompanied a September 19, 2000 Crown lands grant illustrates an access road with a road reservation of 20 metres wide in the same location of the cart road. The Lands Branch of Municipal Affairs is not aware of any designated road reservations in the area of the cart road other than what was identified on the noted land surveys completed by a private land survey company. The Lands Branch is not aware if the land survey company consulted with the Town as to a road right of way and width required at the time. The Lands Branch is currently looking into the surveys on file further to see if additional detail on the area and why reservations are indicated at these widths on the surveys.

3. Is there any conflict between correspondence from former Ministers regarding the reference to road(s) that require upgrading in order to accommodate development at Ragged Beach?
   On June 11, 2013, the then Minister of Municipal Affairs wrote to the Town Council indicating that Gallows Cove Road would require upgrading to appropriate Town Council standards in order to accommodate residential subdivision development at Ragged Beach. On January 23, 2014, the then Minister of Municipal Affairs wrote to the Town Council and acknowledged that the earlier correspondence referenced the incorrect road, and that it was actually Mullowney’s Lane that requires
upgrading to appropriate Town Council standards in order to allow subdivision development at Ragged Beach. There is no conflict in the two pieces of correspondence to the Town Council.

Aside from these questions we had promised to also provide the Town with details of any approvals required under the Municipalities Act in terms of its potential desire to reserve or obtain lands for conservation purposes.

On that front I can advise that Section 201 of the Municipalities Act, 1999 (copied below) requires Minister's approval when real/personal property is being acquired which is not necessary for the municipal operations of council;

“201(1) A council may acquire and hold real and personal property which is not necessary for the operations of the council under this Act.

(2) Notwithstanding subsection (1), a council shall not acquire and hold real and personal property under that subsection without the prior written approval of the minister.”

Please note this only applies where the Town would own the Land, not where the Town might request that the Government freeze or reserve the land such that applications would not be accepted from other parties.

I hope this helps. If you would like further detail please let me know.

Jamie

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From: sebastiend [mailto:sebastiend@mun.ca]
Sent: Thursday, April 28, 2016 12:12 PM
To: Chippett, Jamie
Cc: Joyce, Eddie; Town of Witless Bay; Dena Wiseman
Subject: Re: Crown Lands Follow-Up - Witless Bay

Deputy-Minister Chippett,

Thank you for this information.

In addition to the Lands information, the following information had been promised by the Minister in January and again last week: information on specific right of ways, the commissioner’s report, and the Minister's comments on the road upgrade letters.

In addition, given the Minister's intended direction, I request that all submissions made by stakeholders during the Public Hearing that was held by Municipal Affairs in October 2015 be submitted to Council for our review.

Thank you.
On 21 April 2016 at 11:59, Chippett, Jamie <JamieChippett@gov.nl.ca> wrote:

Mayor Despres,

As per my correspondence yesterday and discussion at the meeting with the Town Council on Tuesday, see below regarding information on establishing Crown land reserves for various purposes within the Town of Witless Bay. In particular, we note the potential instruments for each possible use as well as the timeframe associated with each and the internal process we need to follow. As you can see the size of land to be reserved is a factor and therefore larger pieces require a more substantial process. You should also note that any of these reserves would be referred to all departments and agencies for their comments and to determine if terms and conditions need to apply.

If you require further detail please let me know. If you need assistance with the mapping of the areas you may bring forward in application I would suggest you or staff visit someone at Howley Building in St. John’s. We could set that up if it was desired. I hope this helps. I am still gathering information on whether Witless Bay needs any further approvals for this approach under the Municipalities Act and will advise shortly.

Regards,

Jamie

**Crown lands reserve under the Community Sustainability Plan (CSP).**

- April 29, 2015 the Province announced details of a Community Sustainability Partnership (CSP) with municipalities to enhance economic and social development.

- Under the CSP municipalities were offered the opportunity to apply to reserve Crown lands for economic development for a maximum of 5 years.
Information on the option to reserve Crown lands and the process was sent to municipalities by e-mail or regular mail. The letter is attached.

**Lands Branch policy for short term reserves of Crown lands for municipalities**

- Lands Branch policy provides the opportunity for municipalities to reserve Crown lands for up to 12 months to a maximum of 20 hectares without the approval of the Lieutenant-Governor in Council for the purpose of rezoning the land or to provide for long term planning.

- For this type of reserve to be established the municipality must submit a written request to the Lands Branch, Municipal Affairs, outlining the rationale for the reserve.

- The request will be reviewed by the Lands Branch and if approved it will be identified on the Provincial Land Use Atlas and all applications for Crown lands will be prohibited for the 12 months.

**Reservation of Crown lands for conservation purposes**

- Under section 8(1) of the Lands Act the Minister may set apart Crown lands for a purpose and period set out in the order for Crown lands up to 100 hectares in area. A reserve in excess of 100 hectares requires the approval of the Lieutenant-Governor in Council under section 8(2). An order made under section 8(2) is also required to be published in the Gazette and in 1 or more issues of a newspaper published or circulating in the area of the province in which the lands are located.

- Procedure for establishing reserves:
  
a) A request is submitted to the Director of Land Management stating the purpose, accompanied by supporting rationale and location maps for distribution to the Interdepartmental Land Use Committee (ILUC) for review and comments.

  b) The Director of Land Management will notify the Regional Lands Office to defer the processing of Crown lands applications until a decision on the request is made.

  c) If approved, the reserve may be made subject to conditions as identified during the ILUC review or as prescribed by the department, which may include a time frame.

  d) The reserve is recorded on the Provincial Land Use Atlas.

  e) Crown lands applications may or may not be accepted based on the purpose and conditions as identified in the reserve order.

Regards,
"This email and any attached files are intended for the sole use of the primary and copied addressee(s) and may contain privileged and/or confidential information. Any distribution, use or copying by any means of this information is strictly prohibited. If you received this email in error, please delete it immediately and notify the sender."

"This email and any attached files are intended for the sole use of the primary and copied addressee(s) and may contain privileged and/or confidential information. Any distribution, use or copying by any means of this information is strictly prohibited. If you received this email in error, please delete it immediately and notify the sender."
June 14, 2016

Dear Mr. Harte:

I am writing further to a meeting on April 27, 2016 with Minister Joyce and Executive of the department, concerning a cart path that extends from Mullowney's Lane in the Town of Witless Bay. This matter was referred to the Eastern Regional Lands Office of the Lands Branch for review.

A review of NLS files in the possession of the Association of Newfoundland Land Surveyors and a report completed for your grant in our files does not provide any information as to why a 20 metre road reservation was placed on the surveys by the surveyor. In a letter from the Town which you provided, dated October 22, 2015, the Town references the cart path as an "historical right of way". This long term existence is supported by the review of aerial photography from 1948 to the present and by a field inspection. The department is prepared to acknowledge the existence of the trail, up to a maximum of three (3) metres wide, at this location, as per the attached map.

Maintenance of this path up to a maximum of 3 metres wide would not require approval from the Lands Branch; however, this does not waive the required consent of other branches of the Department of Municipal Affairs; other federal, provincial departments and agencies; and/or the Town of Witless Bay prior to commencement.

If you have any further questions concerning this matter, I may be contacted by telephone: (709) 729-2654 or email: stevebarnable@gov.nl.ca or at the address below.

Sincerely,

Steve Barnable, Manager
Eastern Regional Lands Office

cc: Town of Witless Bay
encl.
NOTE TO USERS

The information on this map was compiled from land surveys registered in the Crown Lands Registry.

Since the Registry does not contain information on all land ownership within the Province, the information depicted cannot be considered complete.

The boundary lines shown are intended to be used as an index to land titles issued by the Crown. The accuracy of the plot is not sufficient for measurement purposes and does not guarantee title.

Users finding any errors or omissions on this map sheet are asked to contact the Crown Titles Mapping Section, Howley Building, Higgin's Line, St. John's, Newfoundland.

Users finding error or omissions can contact the Crown Titles Mapping Section by telephone at 729-2061. Some titles may not be plotted due to Crown Lands volumes missing from the Crown Lands registry or not plotted due to insufficient survey information.

The User hereby indemnifies and saves harmless the Minister, his officers, employees and agents from and against all claims, demands, liabilities, actions or cause of actions alleging any loss, injury, damages and matter (including claims or demands for any violation of copyright or intellectual property) arising out of any missing or incomplete Crown Land titles, and the Minister, his or her officers, employees and agents shall not be liable for any loss of profit or contracts or any other loss of any kind as a result.

For inquiries please contact a Regional Lands Office, Corner Brook - 637-2390, Gander - 256-1400, Clarenville - 466-4074, St. John's - 729-2654, Goose Bay - 896-2488.

Ragged Beach Cart Path
3 metres wide

Ronald E. Hart
Vol. 253 Fol. 53

Crown Lands Division

Scale 1:2,500
Compiled on May 12, 2016
June 28, 2016

Deputy Minister Jamie Chippett
Department of Municipal Affairs
P.O. Box 8700
Confederation Building
St. John’s, NL A1B 4J6

Dear Deputy Minister Chippett:

The Town of Witless Bay wishes to advise you of the following motions passed at the last Public meeting of council on June 12, 2016 regarding a moratorium on Crown Land Grants in the Ragged Beach area of Witless Bay.

2016-116
Be it resolved that, in order to follow recommendation #2 listed in the Report of the Commissioner-Town Of Witless Bay-2013-2023-Municipal Plan and Development Regulations -Public Hearing Oct 20, 2015, prepared by Commissioner Thistle, which states “The Commissioner recommends that with respect to any Crown land in the vicinity of Ragged Beach, no Crown Land grant be made for any development purpose, subdivision, or otherwise” that council placing a moratorium on approving any Municipal Recommendations for Crown Land grant applications in this area, and by requesting that the Department of Crown Lands place a freeze on grant approvals in this area.

2016-118 Amendment
Be it resolved that this motion not impede access to private properties.

The recommendation (#2) as stated in the Commissioners report is as follows:
The Commissioner recommends that with respect to any Crown land in the vicinity of Ragged Beach, no Crown Land grant be made for any purpose, subdivision or otherwise.

For your additional information Commissioner Thistle’s recommendations are attached.
The Town of Witless Bay requests your assistance in this moratorium by placing a freeze on grant approvals in this area. Please let us know if there is any additional information that is required.

Sincerely,

[Signature]

Witless Bay Town Council

cc. Hon. Minister Eddie Joyce, Department of Municipal Affairs

c.c. Darren Moore, Director of Land Management
- Subdivision and in-fill development to meet the commercial, recreational and residential needs of a growing community.

While not making recommendations on all issues presented through oral and written submissions, this Report makes the following Recommendations on the major rights and interests:

18. RECOMMENDATIONS:

1. There are three property owners in the vicinity of Ragged Beach, AnnMarie and Gary Churchill, Bonnie and Wayne Williams and Ron Harte. The Commissioner recommends that with respect to this private property, it be zoned Residential so as to permit a building application which would then be subject to the normal regulatory requirements and approvals.

2. The Commissioner recommends that with respect to any Crown land in the vicinity of Ragged Beach, no Crown grant be made for any development purpose, subdivision or otherwise.

3. The Commissioner recommends support for the request by Council (2014-161) to the Department of Environment & Conservation for the establishment of a Crown Land Reserve (under Section 8 of the Lands Act) for 99 hectares of Crown Land along the southern coastline of Witless Bay. This Crown
Land Reserve should begin at the first section of Crown Land located south of Mullowney's Lane, extend south to the end of the Witless Bay boundary for a width of 450 metres, and encompass an area of 99 hectares. This Recommendation has to take into account a previous Recommendation to zone the private land of the three property owners as Residential.

4. The Commissioner recommends there be no change in the lot size as proposed in the Plan, i.e. 1860 square metres in the Residential Zone and 3038 square metres in the Rural Residential Zone.

5. There are no other recommendations in respect of the proposed Municipal Plan and Development Regulations.

Respectfully submitted as the Report and Recommendations of the Commissioner this 15th day of December, 2015.

[Signature]

Wayne Thistle, Q.C., C. Arb., C. Med.

Commissioner
Ms. Geraldine Caul  
Town Council of Witless Bay  
Witless Bay, NL  
A0A 4K0

Dear Ms. Caul:

I write in response to your letter dated June 28, 2016, regarding a number of resolutions recently passed by the Town Council of Witless Bay concerning the processing of applications for Crown lands and the establishment of a reserve under Section 8 of the *Lands Act* along a section of the coastline in the Town of Witless Bay.

I have instructed officials with the Lands Branch of the Department of Municipal Affairs to review the requests and provide me with an update.

If you have any questions while this review is ongoing please contact Mr. Darren Moore, Director, Land Management Division, P.O. Box 8700, Howley Building, Higgins Line, St. John’s, NL, phone 729-3844 or dmoore@gov.nl.ca.

Sincerely,

JAMIE CHIPPETT  
Deputy Minister

cc: Hon. Eddie Joyce, Minister of Municipal Affairs  
cc: Hon. Perry Trimper, Minister of Environment and Conservation  
cc: Mr. Darren Moore, Director, Land Management Division
October 12, 2016

Minister Eddie Joyce
Department of Municipal Affairs
P.O. Box 8700
Confederation Building
St. John’s, NL A1B 4J6

Dear Minister Joyce

RE: Request for Minister to Establish a 'Reservation of Crown Lands' in Witless Bay, as per Section 8 of the Lands Act

Minister, I am following up on our letter of June 28, 2016 regarding Council's request for you to establish a "Reservation of Crown Lands" in Witless Bay, as per Section 8(2) of the Lands Act.

Please acknowledge receipt of this letter, and this follow-up request. Also, please inform Council, in a timely manner, of the timetable and the specific date for your establishment of the Reserve. As you know, this matter has been in Government’s hands for a long time:

Council’s original written request to Government was dated July 15th, 2014 (as directed by the motion approved by Council at the July 8th, 2014 Public Meeting of Council).

The recommendation of Government-appointed Commissioner Wayne Thistle, in his Report to the Minister, dated December 15, 2015 recommended that the Crown Lands at Ragged Beach be designated by the Minister as a Reserve – as per the prior requests of Council. Note that the Commissioner’s recommendations were adopted by Council at a Public Meeting on June 14, 2016, and the motion was approved and ratified.

There have been frequent follow-ups with Government by the Town over the past years, and with you and your Department since your appointment as Minister in Fall 2015. However, Council has not been informed of the specific action and timetable for the Minister to establish this critically important Reserve bordering the world-famous Witless Bay Ecological Reserve as advocated by Council,
residents, environmentalists, scientists, and the general public on the Avalon (and across Newfoundland and Canada).

Minister, you and your Deputy provided support and overt encouragement for this action during your meeting with Council on April 19th 2016, and encouraged Council to be in contact with you so that this Reserve can be implemented.

Given the above, and the lack of follow-up by Government to the multiple written and verbal requests of the Town’s duly elected Council, we request your urgent attention to establishment of this Reservation of Crown Lands prior to the end of the 2016 calendar year.

We request a timely response. Thank you.

Sincerely,

[Signature]
Witless Bay Town Council

CC: Mr. Jamie Chippett, Deputy Minister
Municipal Affairs
Mayor Sébastien Després and Council
Town of Witless Bay
P.O. Box 130
Witless Bay, NL A0K 4K0

Dear Mayor Després and Council:

RE: Witless Bay Municipal Plan

Further to our meeting on April 19, 2016, I am writing to advise Council that I have approved and registered the May 2013 Witless Bay Municipal Plan and Development Regulations under authority of sections 23, 24 and 26 of the Urban and Rural Planning Act, 2000.

As you are aware, the May 2013 version of the Witless Bay Municipal Plan was chosen by the majority of Town residents that voted in the September 2015 plebiscite on this matter. I also considered submissions to the department and Commissioner Thistle, along with the comments and the five recommendations that Commissioner Thistle provided as a result of his Public Hearing on the matter in October 2015.

In relation to the Commissioner's recommendations, I have determined that recommendations numbered one, four and five are already included in the May 2013 Witless Bay Municipal Plan that was adopted and presented at the Public Hearing and therefore do not require any changes. With respect to recommendations numbered two and three, both require consideration of matters that fall under the authority of the Lands Act. Specifically, recommendation 2 relates to Crown grants and recommendation 3 relates to the reservation of Crown lands. As such, these matters are separate from the process for registering the Municipal Plan and Development Regulations under the Urban and Rural Planning Act, 2000 and must be considered in accordance with the Lands Act and associated policies. As per the discussion at the April 19, 2016 meeting, should Council wish these recommendations to be considered, I refer you to information provided by Jamie Chippett, Deputy Minister, on April 21, 2016, or please contact Darren Moore, Director of Land Management with the Lands Branch, for information regarding the application for grants and reserves.

Based on the above, I have decided to approve the May 2013 Witless Bay Municipal Plan as it was adopted by my predecessor. In order to comply with subsection 35(1) of the Urban and Rural Planning Act, 2000, I have also approved changes to the Development Regulations associated with the May 2013 Witless Bay Municipal Plan by removing instances where those
regulations would allow land uses that are not contemplated in the policies of the Municipal Plan. A listing of the modifications to the Development Regulations is appended to this letter.

Council should also take note that the policies articulated in the May 2013 Municipal Plan may include land uses that are not contemplated in the accompanying Development Regulations. Council has authority, subject to the requirements of the Urban and Rural Planning Act, 2000, to amend the Development Regulations to allow uses that are provided by the May 2013 Witless Bay Municipal Plan. Similarly, Council also has authority, subject to the requirements of the Urban and Rural Planning Act, 2000, to amend the May 2013 Witless Bay Municipal Plan for issues that are not currently captured by the policies of the Municipal Plan.

You should be aware that the May 2013 Witless Bay Municipal Plan will come into legal effect upon publication of a notice in the Newfoundland and Labrador Gazette that the plan has been registered. A similar notice will also be published in The Telegram. The Manager of Land Use Planning will advise the Council of the publication dates when those are confirmed.

As I stated in the meeting on April 19, 2016, this concludes the department's involvement in this exercise of approving and registering the Witless Bay Municipal Plan and Development Regulations. Should Council wish to make amendments to the Plan, I refer you to the process set out in section 25 of the Urban and Rural Planning Act, 2000.

Sincerely,

Eddie Joyce, MHA
District of Humber - Bay of Islands
Minister of Municipal Affairs

cc: Mr. Keith Hutchings, MHA

Attachments
Annex:
Modifications to ‘Schedule C’ of the Development Regulations accompanying the May 2013 Witless Bay Municipal Plan

Residential Land Use Zone
- “Double dwelling” deleted from the list of “Permitted Uses”
- “Medical and” deleted from the list of “Discretionary Uses”

Residential Rural Land Use Zone
- “Recreational open space” deleted from the list of “Permitted Uses”
- “Antenna” deleted from the list of “Discretionary Uses”

Residential Subdivision Area Land Use Zone
- “Forestry” deleted from the list of “Discretionary Uses”

Mixed Development Land Use Zone
- All uses other than “Single Dwelling” deleted from the list of “Permitted Uses”
- “General and” deleted from the list of “Discretionary Uses”

Commercial Local Land Use Zone
- “Group child care,” deleted from the list of “Permitted Uses”
- “Apartment building”, general assembly”, “medical treatment”, and “agriculture” deleted from the list of “Discretionary Uses”

Commercial Highway Land Use Zone
- “Indoor assembly” deleted from the list of “Permitted Uses”
- “General assembly,” deleted from the list of “Discretionary Uses”

Industrial Light Land Use Zone
- “Transportation” deleted from the list of “Permitted Uses”
- “Professional and personal service,” and “recreational open space,” deleted from the list of “Discretionary Uses”

Public Buildings Land Use Zone
- “Medical treatment and special care”, “recreational open space” and “and police station” deleted from the list of “Permitted Uses”
- “Cemetery”, “shop”, and “club and lodge” deleted from the list of “Discretionary Uses”

Watershed Land Use Zone
- “Antenna” deleted from the list of “Discretionary Uses”

Rural Land Use Zone
- “Office”, “light industry” and “transportation” deleted from the list of “Discretionary Uses”
November 2, 2016

Town of Witless Bay
P.O. Box 130
Witless Bay, NL
A0A 4K0

Attn: Mayor Déprés,

Please find attached a copy of a Removal Notice posted on a fence being erected on Crown Lands adjacent to Mr. Derek Belbin’s property off Mullowneys Lane in the Town of Witless Bay. Also attached are maps depicting the subject location.

For further information concerning this matter, please contact the Regional Lands Office as listed below.

Regards,

Steve Barnable, Manager
Eastern Regional Lands Office
November 2, 2016

Mr. Derek Belbin

REMOVAL NOTICE
the Lands Act, SNL 1991 c36

According to the records of the Crown Lands Administration Division of the Department of Municipal Affairs, a Crown title has not been issued to the land on which you have a FENCE ERRECTED, located at or near your property on Mullowneys Lane in the town of Witless Bay in the Province of Newfoundland and Labrador.

You are hereby ordered pursuant to subsection 32(1) of the Act, to remove this FENCE from Crown lands and restore the site to its original condition within sixty (60) days from the date of posting or service of this notice if you cannot provide proof of an issued Crown title to this Department within sixty (60) days from the date of this Notice.

Your failure to do so will result in this Department removing or demolishing the said structure pursuant to the subsection 32(5) and the costs and expenses of removal or demolition may be recovered from you as a debt due to the Crown pursuant to subsection 32(6).

On summary conviction, you will be liable to a fine of not less than $1,000.00 or a term of imprisonment not exceeding three (3) months or to both the fine and imprisonment pursuant to subsection 31(1). As well, you may be liable to a penalty of $25.00 for each day that the structure remains on Crown land after the date of service of this notice pursuant to subsection 32(4).

For further information concerning this Notice or the submission of a Crown land application, please contact the Regional Lands Office as listed below.

cc: Mayor Sébastien Deprés, Town of Witless Bay
Government of Newfoundland & Labrador
Department of Municipal Affairs

Location of fence erected by Derek Bellbin in October, 2016 - shown in red

Survey for Dr. John Hewson in 1997 by Kevin Williams, N.L.S.

Survey for Derek Bellbin Sept/2016 by David Vallis N.L.S.

Survey for Mrs. John Brunkard July/1974 by K.F. Williams N.L.S.

Plotted by using the 1974 survey and the distances shown on the Vallis survey for the R-O-W

Crown Lands Division

NOTE TO USERS
The information on this map was compiled from land surveys registered in the Crown Lands Registry.

Since the Registry does not contain information on all land ownership within the Province, the information depicted cannot be considered complete.

The boundary lines shown are intended to be used as an index to land titles issued by the Crown. The accuracy of the plot is not intended for measurement purposes and does not guarantee title.

Users finding any errors or omissions on the map sheet are asked to contact the Crown Title Mapping Section, Newley Building, Higgin Line, St. John's, Newfoundland.

Users finding errors or omissions can contact the Crown Title Mapping Section by telephon at 772-0992.

Some titles may not be plotted due to Crown Lands involving missing from the Crown Lands registry or not plotted due to insufficient survey information.

The User hereby indemnifies and saves harmless the Minister, his officers, employees and agents from and against all claims, demands, liabilities, actions or cause of action, damages and expense including damages or costs for any violation of copyrights or intellectual property caused by the use of any portion of this map or by the use of the information contained on this map, the Minister, his or her officers, employees and agents shall not be liable for any loss of profit or consequences or any other loss of any kind as a result.

For inquiries please contact a Regional Lands Office;
Corner Brook - 637-2367
Gander - 258-1400
Geese Bay - 898-2488
St. John's - 729-2654
Clarenville - 456-4014

Scale 1:2,692
Approximate distance from Belbin boundary line to end of fence is 2.83 meters (9.3 feet)