



Date Issued: October 8, 2025
Docket: LA24018
Type: Planning Act Appeal

INDEXED AS: Dorgan et al. v. Town of Tignish,
2025 PEIRAC 52(CanLII)

Order No: LA25-07

BETWEEN:

Claude Dorgan, Roma Dorgan, Jessica Dorgan Trail,
Stephen Trail, Brandon Perry and Michelle Ellsworth

Appellant

AND:

Town of Tignish

Respondent

Claudette and Edward LeClair

Applicant (Landowner)

Maritime Electric Company, Limited

Added Party Intervener

REASONS FOR DECISION

Panel Members:

Pamela J. Williams, K.C., Chair
Kerri Carpenter, Vice-Chair
Murray MacPherson, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

Commission Clerk
Island Regulatory and Appeals Commission

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Appearances & Witnesses

1. For the Appellants:

Witnesses:

Claude Dorgan

Jessica Dorgan Trail

Brandon Perry

2. For the Respondent, Town of Tignish:

Counsel:

Carla Kelly, Carla Kelly Law Office

Witness:

Chancey Gaudette, CAO, Town of Tignish

Samantha Murphy, RPP, LPP, FCIP, SJ Murphy Planning & Consulting

3. For the Added Party Intervener, Maritime Electric Company, Limited:

Counsel:

Spencer Campbell, K.C., Stewart McKelvey

Witness:

Angus Orford, Vice President of Corporate Planning and Energy Supply,
Maritime Electric Company, Limited

1. INTRODUCTION

1. This is an appeal of the decision of the Town of Tignish, made October 15, 2024, to rezone a portion of PID 562777 (being lot 2022-1), located on Old Western Road in Tignish (the “Subject Property”) from Agriculture and Forestry to Institutional and Public Service. The purpose of the rezoning is to enable the use of the site for a public utility. The Added Party Intervener, Maritime Electric Company, Limited (“MECL”) plans to construct and operate an electrical substation on the Subject Property.
2. The Appellants argue that the rezoning and proposed use of the Subject Property does not meet the long-term vision of the residents in the area and the oppose the construction of an electrical substation so close to their residential properties.

2. BACKGROUND

3. On November 7, 2023, the owner of the Subject Property applied to the Town of Tignish for a rezoning.¹ The application requested a rezoning of the Subject Property from Agriculture and Forestry (A) to Institutional and Public Service (I) and to amend the Town’s Official Plan Future Land Use Map to reflect the zoning change (the “Rezoning Application”). The Rezoning Application stated that the purpose of the rezoning was to permit MECL to construct a substation that will improve its service to the Tignish area. The Application also states that MECL identified the property as being ideally situated for its new substation as it fronts the Old Western Road and the existing transmission line.
4. The Town advertised notice of a public meeting in respect of the Rezoning Application on its social media page on November 30, 2023.² Notice of the public meeting was also published in the West Prince Graphic on December 27, 2023.³ The public meeting had originally been scheduled for January 10, 2024, but due to inclement weather it proceeded on January 11, 2024.⁴ The minutes of the public meeting note that five of the six appellants were in attendance.⁵
5. The Town engaged Samantha Murphy, RPP, LPP, FCIP, to prepare a Planning Report in respect of the Rezoning Application. Her report was submitted to the Town on March 14, 2024.⁶
6. Planning Board recommended Council approve the Rezoning Application.⁷
7. The bylaw to amend the Tignish Zoning and Subdivision Control Bylaw 2009 and permit the rezoning, being Bylaw # ZBA-2024-01 (the “Rezoning Bylaw”), was read for a first time at the September 16, 2024, regular monthly meeting of Council.⁸ The accompanying Official Plan amendment was approved by Council on September 16, 2024.⁹

¹ Appeal Record, Tab 13.

² Appeal Record, Tab 6B.

³ Appeal Record, Tab 6A.

⁴ Appeal Record, Tab 11.

⁵ Appeal Record, Tab 9.

⁶ Appeal Record, Tab 8 and Tab 8A.

⁷ Appeal Record, Tab 6J, pg. 76.

⁸ Appeal Record, Tab 6E.

⁹ Appeal Record, Tab 6D.

8. The Rezoning Bylaw was read for a second time and adopted by Council at their regular Monthly meeting on October 15, 2024.¹⁰ The minutes of that meeting indicate that at least one of the Appellants, Stephen Trail, spoke in opposition to the Application at the Council meeting.¹¹
9. The Appellants filed a Notice of Appeal with the Commission on November 4, 2024.
10. The Commission heard the appeal at a public hearing on July 9, 2025.

3. ISSUES

11. On an appeal pursuant to the *Planning Act*, the Commission is asked to answer two main questions:¹²
 - i. When making the decision under appeal, did the municipal council follow the proper procedure as required by its bylaw, the *Planning Act* and the law in general, including the duty of procedural fairness?
 - ii. Was the decision made by the municipal council in accordance with their official plan and bylaw and based on sound planning principles in the field of land use planning?
12. The Commission does not lightly interfere with decisions made by a municipal council.¹³ The Commission will typically be deferential toward planning decisions by council that are properly made and will generally be reluctant to interfere with a decision on the basis that it is not consistent with sound planning principles where that decision is supported by objective and reliable evidence. This evidence must come from planning professionals confirming that the decision is based on the applicable official plan and bylaw, and sound planning principles.¹⁴

4. DISPOSITION

13. The appeal is denied. The Commission is satisfied that the Town adequately discharged its duty of procedural fairness in processing and considering the Rezoning Application. We are similarly satisfied that the Town's decision to adopt the Rezoning Bylaw and rezone the Subject Property was made in accordance with the Town's Official Plan, the Tignish Zoning and Development Control Bylaw 2009, and was based on sound planning principles.

¹⁰ Appeal Record, Tab 6F; Appeal Record, Tab 6I, pg. 73.

¹¹ Appeal Record, Tab 6I, pg. 71.

¹² See, for example: Order LA23-03, *New Homes Plus v. City of Charlottetown*, at para 34; Order LA22-07, *Landfest Company Ltd. v. Town of Stratford*, at para 32 [*Landfest*]; and Order LA17-02, *APM Construction Services Inc. v. Community of Brackley*, at para 21.

¹³ *Landfest* at para 32.

¹⁴ Order LA18-02, *Queens County Condominium Corporation No. 40 v. City of Charlottetown*, at para 41.

5. EVIDENCE

14. The documentary evidence before the Commission consisted of the Town's Appeal Record, totalling over 260 pages, and including (but not limited to): The Rezoning Application itself, Samantha Murphy's planning report, email correspondence, the minutes of the public meeting in respect of the Rezoning Application, and the minutes of the Council meetings in which this Rezoning Application was discussed and considered. The Appeal Record also included the package of material sent to the Minister of Housing, Land and Communities for approval per the *Planning Act*, and the Town's planning documents, being the Tignish Official Plan 2009 and the Tignish Zoning and Development Control Bylaw 2009 (the "Development Bylaw")
15. At the hearing, three of the Appellants testified: Jessica Dorgan Trail, Brandon Perry, and Claude Dorgan. They each provided evidence with respect to the proximity of their properties to the Subject Property and their reasons for opposing the rezoning.
16. The Town called two witnesses. The first was Chancey Gaudette, the Town's Chief Administrative Officer ("Gaudette"), who spoke to the processing of the Rezoning Application. The Town's second witness was Samantha Murphy who is a planning professional and prepared the planning report for Council ("Murphy"). Murphy was accepted by the Commission as having expertise in the area of land use planning.
17. The Added Party Intervener called one witness, MECL's Vice President of Corporate Planning and Energy Supply, Angus Orford ("Orford"). Orford testified about MECL's need for a new substation in Tignish and why the Subject Property was identified as the ideal location.

6. ANALYSIS

A. Preliminary Issue

18. At the commencement of the hearing, the Commission raised a preliminary issue with the parties. In particular, the Commission noted that the Rezoning Application and various other documents within the Appeal Record referred to a rezoning of only a portion of PID 562777 (being lot 2022-1) (e.g. the public meeting minutes¹⁵ and the planning report¹⁶).¹⁷ However, Council's approved resolutions appeared to refer to the entirety of PID 562777. The Commission asked the Town for clarification about the decision made.
19. In response, the Town and MECL clarified for the Commission that the intention was only to rezone lot 2022-1 of PID 562777. Counsel for MECL submitted that where the resolution adopting the rezoning refers to the entire PID, that was a clerical error. At the hearing, the Town and MECL submitted to the Commission a copy of the "Official Plan Map OP-1 Future Land Use Map" depicting the amendment to PID 562777. The map clearly shows that only lot 2022-1 has been rezoned to Institutional and Public Service.

¹⁵ Appeal Record, Tab 6C, pg. 60.

¹⁶ Appeal Record, Tab 8A, pg. 161.

¹⁷ See also: Appeal Record, Tab 4, Tab 5, and Tab 12.

20. The Commission, therefore, accepts that the intention of the Town was only to rezone lot 2022-1 and that the balance of PID 562777 was not intended to be the subject of the Rezoning Bylaw. Accordingly, the Commission confirms that the balance of PID 562777 will remain zoned as Agriculture and Forestry (A), and we will only be considering the rezoning of lot 2022-1 of PID 562777.

B. Procedural Issues

21. The first question for the Commission to consider is whether the Town followed the proper procedure in processing and approving the Rezoning Application. This particular appeal raised a few procedural issues for us to consider.
22. First, the Appellants raised concerns with the Town's public meeting held January 11, 2024. In particular, the Appellants testified that they understood the public meeting would be for residents to share their thoughts and concerns with Council about the proposed rezoning and substation and they did not expect MECL to be in attendance. In respect of this concern, the Commission notes that it is common for a proponent to make a presentation to both council and residents at a public meeting such as the one held by the Town. Generally speaking, the public meeting gives residents and the municipal council an opportunity to ask the proponent questions and better understand the proposed rezoning or development. Therefore, the Commission finds there was no process issue with the public meeting.
23. The second issue raised by the Appellants was whether Council knew the proper process to follow under the Development Bylaw. In particular, the Appellants pointed to an email thread between Murphy and Gaudette wherein Murphy stated that the zoning change would not be required in order for the project to go ahead because section 4.35.1(ii) of the Development Bylaw already permits public utilities in any zone. In respect of this matter, Counsel for MECL submitted at the hearing that the process followed to request the rezoning added transparency and public input to the process. The Commission is satisfied that it was not an error in process for the Town to consider the rezoning application, even if an electrical substation was permitted in the existing zone.
24. The next issue considers the Town's requirement to give notice of the Rezoning Application pursuant to the Development Bylaw. Section 12.1.8 of the Town's Development Bylaw reads:¹⁸
- 12.1.8 Where the Council has decided to proceed with the application it shall hold a public meeting to solicit input from residents on the proposed amendment or rezoning request in accordance with the procedure prescribed in the Planning Act and, in addition, where the application is to rezone land, notify by ordinary mail not less than 7 clear days before the public meeting the property owners within 200 feet of the subject lot of the application, the relevant details of the application and the date of the public meeting.
25. During the hearing, the Commission heard evidence that notice of the proposed rezoning was given to residents by MECL rather than the Town. Chancey Gaudette testified that MECL had advised her that approximately 900 letters were sent to residents notifying them

¹⁸ Appeal Record, Tab 15L, pg. 258.

of the proposed rezoning. A copy of that letter, dated December 22, 2023, was included in the Town's Appeal Record.¹⁹ The Appeal Record also includes a Consulting Report on the "Proposed Tignish Substation Project" prepared by Stantec and appended to that report are five letters, dated August 22, 2023, from MECL addressed directly to residents. The letters give notice of the proposed substation on the Subject Property. Specifically, we note that one of those letters was addressed to Claude and Roma Dorgan and another is addressed to Stephen and Jessica Trail.²⁰

26. The Appeal Record also includes a notice of the public meeting and proposed rezoning that was published in the West Prince Graphic newspaper (as required by subsection 18(1) of the *Planning Act*) on December 27, 2023.²¹
27. With respect to this issue, to the degree the Town's notification process pursuant to section 12.1.8 of the Development Bylaw may have been flawed (because MECL provided the notice letters rather than the Town), the Commission is satisfied that the Appellants all had actual notice of the proposed rezoning and did not suffer any prejudice as a result of MECL sending notices on behalf of the Town. In particular, the Appeal Record demonstrates that four of the six Appellants were directly notified by MECL on August 22, 2023. Further, the minutes of the public meeting indicate that five of the six appellants (all but Michelle Ellsworth) were present at the public meeting.²² Finally, Jessica Dorgan Trail testified that her husband, Stephen Trail, spoke at the public meeting. Therefore, the Commission is satisfied that *in this case* the Town's public notice process was sufficient.
28. Finally, on the Commission's review of the Appeal Record, we wish to comment on the notice of public meeting published by the Town and whether the notice included sufficient detail. In Order LA20-05, *Brown's Volkswagen et. al. v. City of Charlottetown*, the Commission considered whether the City of Charlottetown gave proper notice of a public meeting to residents in accordance with subsection 18(1) of the *Planning Act*. In that case, the Commission accepted that when determining whether notice was adequate, the Commission must consider whether the average citizen, upon reading the notice, would have been reasonably notified of the purpose (or nature) of the proposal.²³
29. In the present case, the notice published by the Town (both in the newspaper and on social media) stated that an application had been received from the property owners, Edward and Claudette LeClair, to rezone the Subject Property from Agriculture and Forestry to Institutional and Public Service. However, the notice does not indicate that the purpose of the rezoning is for MECL to build an electrical substation. For the same reasons expressed above at paragraph 27, the Commission is satisfied that the Appellants *in this case* all had sufficient notice of the purpose of the proposed rezoning and did not suffer any prejudice as a result of the public notice. However, we caution the Town that such an irregularity in future notices could be found to be insufficient.

¹⁹ Appeal Record, Tab 10.

²⁰ Appeal Record, Tab 7A, pgs. 117 and 120.

²¹ Appeal Record, Tab 6A, pg. 58.

²² Appeal Record, Tab 9.

²³ Order LA20-05, *Brown's Volkswagen et. al. v. City of Charlottetown*, at para 48.

30. In conclusion, the Commission is satisfied that the Town discharged its duty of fairness in processing and considering the Rezoning Application in this case. Therefore, the Commission will show deference to Council's decision to approve the Rezoning Bylaw.

C. Sound Planning Principles

31. The second consideration in the Commission's two-step guideline asks whether the decision made by Council is in accordance with the Town's Official Plan and Development Bylaw and based on sound planning principles in the area of land use planning. In order to uphold a decision of a municipal council on appeal, it is well-settled that the Commission must be satisfied that the final decision made by the council was animated by sound planning principles.
32. The Commission has commented many times in previous decisions on what it expects of municipal decision makers and in a case where we are satisfied that the decision was procedurally sufficient, we are inclined to be deferential towards the reasons of the municipal council.²⁴
33. With respect to the merits of the Town's decision to adopt the Rezoning Bylaw, the Appellants submit that the decision appears to contradict multiple sections of the Town's planning documents. Their submissions and evidence were generally consistent in that they understand the importance of electrical infrastructure in the Town; however, they question why valuable farmland adjacent to residential areas was chosen for this development.
34. In particular, the Appellants submit that electrical substations are industrial in nature and generally incompatible with residential communities in their appearance and purpose; they submit that their appearance and purpose do not align with the character of residential communities.
35. To support their position, the Appellants pointed to the vision, objectives and policies of the Town's Official Plan. For example, the Appellants highlighted sections surrounding the protection of farmland and resource lands, the economic objectives of fostering farming and forestry, beautifying the community, minimizing land use conflicts, and protecting existing neighborhoods from incompatible uses. They say that the rezoning the Subject Property appears to be inconsistent with these policies and the intent of the Official Plan's future land use map.
36. With respect to the Development Bylaw, the Appellants point out that section 4.16.1(g), states that Council shall not issue a development permit if "the proposed development would significantly or permanently injure neighbouring properties by reason of architectural disharmony." The Appellants submit that the industrial architecture of the electrical substation constitutes a clear case of architectural disharmony in their residential area.
37. The Appellants testified to their opinions about the appropriateness of the rezoning and the development of an electrical substation along the Old Western Road. For example, Brandon Perry questioned how the Town could rezone farmland for an industrial purpose. Jessica Dorgan Trail testified that, in her opinion, an electrical substation on the Old

²⁴ *Landfest* at para 32.

Western Road would permanently limit residential growth of the Town. She said that had the property been rezoned to residential, she would have welcomed that as she would rather see the Subject Property used in a way that grows the Town's residents. The sum of Ms. Dorgan Trail's evidence was that she was not opposed to *any* development of the Subject Parcel, but rather that the proposed use of an electrical substation is too close to the existing residential area.

38. The Appellants also submitted that, in their opinion, Council did not understand what they were being asked to approve and it was not until they hired Murphy as a planning consultant that they learned how their own planning documents worked. Ultimately, the Appellants submitted that they believed by attending the public meeting their concerns would be heard by Council. However, they feel their concerns seemed to disappear and were not adequately considered by Murphy because she did not have access to their feedback.
39. In the Town's submission, the proposed rezoning and MECL's proposed use of the Subject Property is consistent with the Town's planning documents, and in particular, the Town's vision for the community and its social and economic objectives. For example, the Town submits that the Official Plan contemplates growth and sustainable development, and that an upgraded electrical system is critical to achieving those goals. The Town further submits that an upgraded electrical system is a key requirement to achieving the Town's objectives of becoming a major service centre in the Tignish area, protecting the farming industry and expanding other commercial developments.
40. At the hearing, Orford testified about MECL's need for a new substation in Tignish and why the Subject Property was identified as the ideal location. His undisputed testimony was generally consistent with the presentation given to the Town at the public meeting.²⁵ For example,
- The substation is needed in Tignish to accommodate electrical load growth in the area.
 - The new substation would improve reliability by dividing customers into multiple circuits, reducing the number of those affected during power outages.
 - As customers transition from fossil fuel to electricity (e.g. heat pumps and electric vehicle charging), existing power lines do not have the capacity to support these additional loads. The new substation will ensure adequate capacity.
 - The existing circuit has reached its capacity for solar net metering, meaning that residents will no longer be able to install rooftop solar panels until the new substation is operational.
41. Orford testified at the hearing that the Subject Property was identified as the ideal location for a few reasons: one, the property is relatively close to one of the load centres (being Tignish); two, the Department of Environment, Energy and Climate Action had no issues with the location; and three, the property owner was willing to sell the land. Further, Orford testified that the most attractive aspect of the Subject Property is that it is at a location that is readily served by a transmission line.

²⁵ Appeal Record, Tab 6C, pg. 61.

42. Prior to considering and adopting the Rezoning Bylaw, the Town obtained independent planning advice from Samantha Murphy, RPP, LPP, FCIP, who is a land use planning professional. Murphy prepared a Planning Report that was provided to the Town in March 2024. This report was included in the Town's Appeal Record.
43. Murphy's report recommended approval of the proposed rezoning. Her Planning Report includes a table of criteria considered by Murphy to assess the application in relation to the Official Plan, bylaws and sound planning principles. The table includes criteria such as the Official Plan vision, objectives and policies, as well as general conformity with bylaw requirements, site suitability and compatibility, for example. Some notable comments from Murphy's Planning Report include:
- The proposed use would support the economic objectives and policies of the Official Plan;
 - Mitigation options [regarding land use conflicts] have been identified and a utility substation is a use that is seen even in residential and urban areas and does not inherently present a conflict; and
 - The site's location, characteristics and nature are suitable and of such a size and scale to facilitate screening.
44. Ultimately, Murphy concluded that the proposed rezoning was consistent with the criteria considered. Her report states that no planning concerns were identified in relation to the rezoning and that it was supported by sound planning principles.
45. Murphy also testified at the hearing. She spoke to her Planning Report and the process she followed in coming to her recommendation. She testified that in light of her review, she found that there would be no land use conflict with the proposed rezoning. When asked, Murphy testified that nothing she heard in evidence from the Appellants would change her opinion.
46. As noted above, the Appellants raised a concern about whether Murphy was aware of the public feedback when she prepared her Planning Report. Murphy testified that she was brought into the process after the public meeting, but that she was aware of the nature of the concerns. The Appeal Record includes an email thread between Murphy and Gaudette where Murphy asks:
- Were the concerns mostly focused on the proposed use itself and not the proposed zone?
- Gaudette replies:
- The concerns: they did not want a substation in the town or in the backyard of residents that lived close.
47. Murphy testified that typically when she considers public feedback she weighs the concerns in terms of how they relate to the policies of the official plan and balances those interests. In this case, Murphy testified that she gave high-level consideration to the public feedback in her report, but highlighted for Council that her review did not extend to the public meeting and reminded them to give consideration to that feedback. She said she felt it was necessary to highlight this fact to Council because she was not present at the public meeting.

48. The minutes of the October 16, 2024, Council meeting summarize comments of Mayor Allan McInnis made after public comments (made by Stephen Trail) and before the Rezoning Bylaw was adopted by Council. The minutes state:²⁶

He emphasized that the recommendation to rezone was based on the town's growth and the need for increased electrical capacity. The mayor noted that council members, who were initially opposed, changed their minds after reviewing all the information presented. He asserted that the decision made by council was in the best interest of the town's future development and reliability of electrical service.

49. In the Commission's opinion, this summary of the Mayor's comments demonstrates to the Commission that Council was alive to the concerns of the residents, but decided to adopt the Rezoning Bylaw on the basis of the Town's growth and need for increase electrical capacity. We are satisfied that these comments are consistent with the vision, objectives and policies of the Official Plan and the recommendations highlighted in Murphy's report.
50. On our review, the Commission is satisfied with respect to the Town's submission that the Rezoning Bylaw, and eventual electrical substation, supports the vision for the community and its social and economic objectives, in particular its continued growth and sustainable development. We accept the Town's position that an upgraded electrical system is a key requirement to achieving the Town's objectives of becoming a major service centre in the Tignish area, protecting the farming industry and expanding other commercial developments. Most importantly, we are satisfied that these considerations of Council in adopting the Rezoning Bylaw are consistent with the Town's Official Plan and sound planning principles.
51. In conclusion, while we appreciate and understand the Appellants' concerns with the development of an electrical substation in their neighborhood, based on a review of the evidence and submissions before us, the Commission is satisfied that Council's adoption of the Rezoning Bylaw was consistent with the Town's Official Plan and Development Bylaw and was based on sound planning principles. Further, the decision was supported by objective and reliable evidence from a land use planning professional. For these reasons, the Commission concludes that the Appellants' appeal must be denied.

7. CONCLUSION

52. The appeal is denied. Lot 2022-1 of PID 562777 is rezoned from Agriculture and Fishery (A) to Industrial and Public Service (I). The Commission confirms that the balance of PID 562777 will remain zoned as Agriculture and Forestry (A).
53. We thank the parties for their submissions in this matter.

²⁶ Appeal Record, Tab 6I, pgs. 71-72.

8. ORDER

54. The appeal is denied.

55. Lot 2022-1 of PID 562777 is rezoned from Agriculture and Fishery (A) to Industrial and Public Service (I). The balance of PID 562777 will remain zoned as Agriculture and Forestry (A).

DATED at Charlottetown, Prince Edward Island, **October 8, 2025**

BY THE COMMISSION:

[sgd. Pamela J. Williams, K.C.]

Pamela J. Williams, K.C., Chair

[sgd. Kerri Carpenter]

Kerri Carpenter, Vice-Chair

[sgd. Murray MacPherson]

Murray MacPherson, Commissioner

NOTICE

Section 12 of the ***Island Regulatory and Appeals Commission Act*** reads as follows:

12. The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it, or rehear any application before deciding it.

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written Request for Review, which clearly states the reasons for the review and the nature of the relief sought.

Sections 13(1) and 13(2) of the ***Act*** provide as follows:

13(1) An appeal lies from a decision or order of the Commission to the Court of Appeal upon a question of law or jurisdiction.

(2) The appeal shall be made by filing a notice of appeal in the Court of Appeal within twenty days after the decision or order appealed from and the rules of court respecting appeals apply with the necessary changes.

NOTE: In accordance with IRAC's *Records Retention and Disposition Schedule*, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.