


HALIFAX

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Item No. 11.1.1
Halifax Regional Council
August 4, 2015

TO: Mayor Savage and Members of Halifax Regional Council
Original signed by 

SUBMITTED BY: _____
Richard Butts, Chief Administrative Officer

Original Signed by _____
Mike Labrecque, Deputy Chief Administrative Officer

DATE: June 12, 2015

SUBJECT: Historic Properties – Land Lease, Options to Extend – The Armour Group Limited

ORIGIN

This report originates with a request from Armour Group Limited, the current long-term Lessee of Historic Properties, to amend the existing Lease Agreement to include future options to extend.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Section 61 (5) The Municipality may: (c) lease property owned by the Municipality at market value. Halifax Regional Municipality,

RECOMMENDATION

It is recommended that Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into a Conditional Amendment Agreement between the Halifax Regional Municipality and The Armour Group Limited to amend the 1974 Land Lease to include options to extend as per the key terms and conditions outlined in Table 1 of the Confidential Information Report dated June 12, 2015.

BACKGROUND

The Lease between HRM and Armour Group Limited (AGL) is for a term of 75 years and expires in 2048. HRM and CMHC are the underlying beneficial landowners on a 50/50 basis. The Lease contains a Restoration Agreement and there is a Trust Agreement between HRM and CMHC.

The Lease was amended in 2000 to deal with the more efficient management of the Lease and to add additional land to the demised premises. The Lease was further amended in 2011 and the parties consented to an easement and acknowledged the use of a sewer easement in the alleyway between Historic Properties and the Law Courts. In 2011 HRM granted AGL an easement to allow AGL to provide seawater distribution to AGL's Waterside Office building development.

The circa 1800-1875 buildings have been rehabilitated to serve a variety of commercial purposes including offices, shops and restaurants. The heritage designation refers to these two-and-three-story rectangular, warehouse-type buildings and the land they occupy (see Attachment 1).

The property as a whole is improved with a group of stone and wooden warehouses: ten commercial buildings making-up what is commonly referred to as the 'Historic Properties' and 'Privateers' Wharf', and designated as a National Historic Site under the name, 'Historic Waterfront Buildings'.

AGL may construct new buildings and structures in conformity with the general style and character of the restored buildings. AGL is obligated to maintain and keep the demised premises in good repair. AGL is permitted to make improvements to the property, and to sub-lease the premises to retail, restaurant, and office tenants.

With approximately 41 years of its term expired, the property has reached its lease period's mid-term with 34 years remaining. Despite continued investment, AGL believes it is necessary to make a significant private investment in the Historic Properties now in order to prevent future economic decline of the site as a mixed use development and enhance its existing presence for business, residents and visitors.

The AGL has approached HRM proposing an amendment to the existing Lease agreement to permit the inclusion of two options to extend. The purpose of AGL's request is to improve the availability of financing options necessary to reinvest and revitalize the retail, commercial, heritage and public realm aspects of the property.

The proposed capital re-investment is intended for the revenue producing components of the site including restaurants, retail shopping areas and office space. Improvements will range from; improving the technological capabilities in the office space; creating better presence for retail tenants; to improving building systems for environmental and economic benefit.

In addition to investment by AGL in the buildings and revenue producing components, and in exchange for the Option, AGL is committed to investing \$2,500,000, in public realm projects that would enhance the social fabric of the site; highlight its important historical significance; and give residents more reason to make the Historic Properties a destination.

Considered enhancements could include:

1. Performance pavilions on the waterfront that allow the site to be animated by local performers;
2. Seating throughout the site, which will enable people to stay and enjoy the Historic Properties, rather than simply passing through;
3. Engaging detail that gives people the opportunity to learn more about the importance of these buildings to Nova Scotia's historical fabric;
4. Enhanced lighting through the site that ensures the site is welcoming all year long; and,
5. Directional information and signage that help increase pedestrian penetration through the site.

DISCUSSION

Halifax's Historic Properties on Halifax's waterfront is the first restoration project of its kind in Canada featuring three city blocks of Canada's oldest surviving group of waterfront warehouses and some of North America's finest Victorian-Italianate façades dating back to the late 1700s and early 1800s. Its special character is a well-known feature of Halifax among residents and visitors. The site has been tracked as the most visited private tourism site in Nova Scotia.

As with every property; however, reinvestment and recapitalization is a requirement, and AGL advises that retail and commercial indicators suggest reinvestment will be necessary in the short term to maintain and attract new tenants and visitors to the property.

From a financing perspective, the term's 34-year balance is not regarded as 'a long time' in which to finance a capital investment necessary to reposition the property. Beneficial financing options become increasingly more difficult to obtain without the security, or option, of a longer lease term.

Staff is recommending the following requested amendments to the existing lease. The key business terms and conditions are outlined in Table 1 of the Private and Confidential Information Report dated June 12, 2015, however they are summarized as follows:

- The Land Lease is to be amended to add 2 sequential Options to Extend;
- The Land Lease Rental Rate would be set at the time of any term expiration at the (then) market value for land and re-evaluated twice per extension term;
- AGL would, as part of the Amendment, guarantee a level of public realm capital investment in exchange for the conditional Options to extend; AGL would be required to meet all applicable HRM-by-Design, Heritage Building Conservation Standards, other applicable approval processes including the Heritage Property Act, and any Federal requirements such as evaluation by the Federal Heritage Buildings Review Office (FHBRO). There would be no degradation in the public's interest in the property through the contemplated proposal. If AGL's concepts do not meet public scrutiny within the review processes, then modifications would be necessary solely at AGL's expense.

Public Land Ownership and Planning Considerations

In arriving at the recommendation to offer the extension options, staff considered the public policy benefits afforded by continued municipal ownership and the current agreement versus selling the property out-right, including: protection and conservation of built heritage; waterfront access and open space; and municipal planning. When taken together these form the strategic pillars that support continued municipal ownership. Each of these is discussed below.

Protection and Conservation of Built Heritage

The Historic Properties are one of the most substantial municipal heritage holdings in the city. Attachment 2 summarizes key milestones in the property's evolution. The following are excerpts of Statements of Significance (SoS), which explain the designations of the property as a National Historic Site and municipal heritage property:

The Historic Waterfront Buildings are valued for playing an important civic and commercial role since the early beginnings of settlement in Halifax and stand as representative of the great days of sail. The seven, warehouse-type buildings constructed between circa 1800-1875, were built for individual merchants as well as trading and shipping companies.

The Halifax Waterfront Buildings were designated a National Historic Site of Canada because the site is the most significant pre-Confederation complex of maritime commercial buildings in Canada. The heritage value of this site resides in the tight grouping of warehouse-type buildings on the waterfront, in their informal, functionally driven designs, and in their relatively heavy and unadorned

construction materials and techniques. Construction of this group of buildings began in the early 19th century and proceeded through the century in an ad hoc process of construction, alteration and addition as needs dictated. The number of buildings, their considerable size and durable construction materials speak to the mercantile wealth that supported Haligonian society during the 19th century. The rehabilitation of the buildings in 1972-1973 returned their exteriors to an approximation of their appearance, circa 1900, while developing their interiors for new commercial uses and sanitizing their immediate surroundings.¹

Protection of the historic buildings is ensured by: proposed improvements to the buildings being subject to review by the Federal Heritage Buildings Review Office (FHBRO.) and by municipal and CMHC co-ownership and the inherent approvals required to improve and alter the property (see Attachment 2.)

Waterfront Access and Open Space

Although the municipality owns three parks along the waterfront, namely Nathan Green Square, Chebucto Landing, and Sackville Landing, the Historic Properties encompass the most substantial municipal land holding on Halifax's waterfront. The municipality has invested in recapitalizing Nathan Green Square and Sackville Landing, over the past five years. These public open spaces, along with the contiguous boardwalk (i.e., owned by HRM, Waterfront Development Corporation, and other private property owners), contribute to a successful public realm and waterfront that generates economic activity in the form of tourism, office leases, commercial leases, retail leases, and restaurant services.

Municipal Planning

Although popularly perceived as a "heritage area", the Historic Properties (i.e., those between Granville Street and the harbor) are not officially designated as a heritage conservation area or a heritage conservation district. It also has no area-specific designation under the Municipal Planning Strategy. However, all of the properties within the area (except for 1870 Upper Water) are individually registered heritage properties.

Under the Nova Scotia Heritage Property Act, municipalities have authority to register "buildings, streetscapes, areas and districts", the term "building" is defined as including "the land and structures appurtenant thereto."

When Historic Properties was registered in 1981 (process completed by 1985 – see Attachment 2), the complex of buildings consisted of seven historic structures: Simons Warehouse, Collins Bank, Privateers Warehouse, the Sail Loft, the Red Store, the Carpenter Shop, and Pickford & Black, which had been restored by Historic Properties Ltd. under a Restoration Agreement with CHMC and Parks Canada, signed in 1973. There were also three newer structures: the Clipper Cay Restaurant (now Salty's), Pontac House, and Anchorage House, which had been constructed by Historic Properties Ltd. in 1975 as part of the revitalization project.

The applicable secondary municipal planning strategy is the Downtown Halifax Plan, within which a vision for District 7: Historic Properties is broadly articulated, but primarily as it relates to the broader area up to and including Granville Mall, and how it will relate to the transformation of the Cogswell Interchange to the immediate north. Small scale, sensitive adaptive re-use, reinforcing its historic character is the predominant theme for the area. No other specific mention is made of the "Historic Properties" as is referred to in this report, and as leased by AGL.

The property is zoned DH-1 (Downtown Halifax-1) under the Downtown Halifax Land Use By-Law, which permits the following uses: Commercial, excluding adult entertainment; Cultural; Institutional; Marine-related; Open Space; Residential; Transportation; and Uses accessory to the foregoing.

¹ Sources: http://www.pc.gc.ca/apps/dfhd/page_nhs_eng.aspx?id=783 and Historic Sites and Monuments Board of Canada, Minute1962.

FINANCIAL IMPLICATIONS

See Confidential Information Report, "Historic Properties – Land Lease, Option to Extend – The Armour Group Limited", dated June 12, 2015.

COMMUNITY ENGAGEMENT

This is an administrative matter and no community engagement has occurred nor is it required under the Charter.

ENVIRONMENTAL IMPLICATIONS

See Confidential Information Report, "Historic Properties – Land Lease, Option to Extend – The Armour Group Limited", dated June 12, 2015.

ALTERNATIVES

See Confidential Information Report, "Historic Properties – Land Lease, Option to Extend – The Armour Group Limited", dated June 12, 2015.

ATTACHMENTS

Attachment 1 – Site Plan
Attachment 2 – Milestones

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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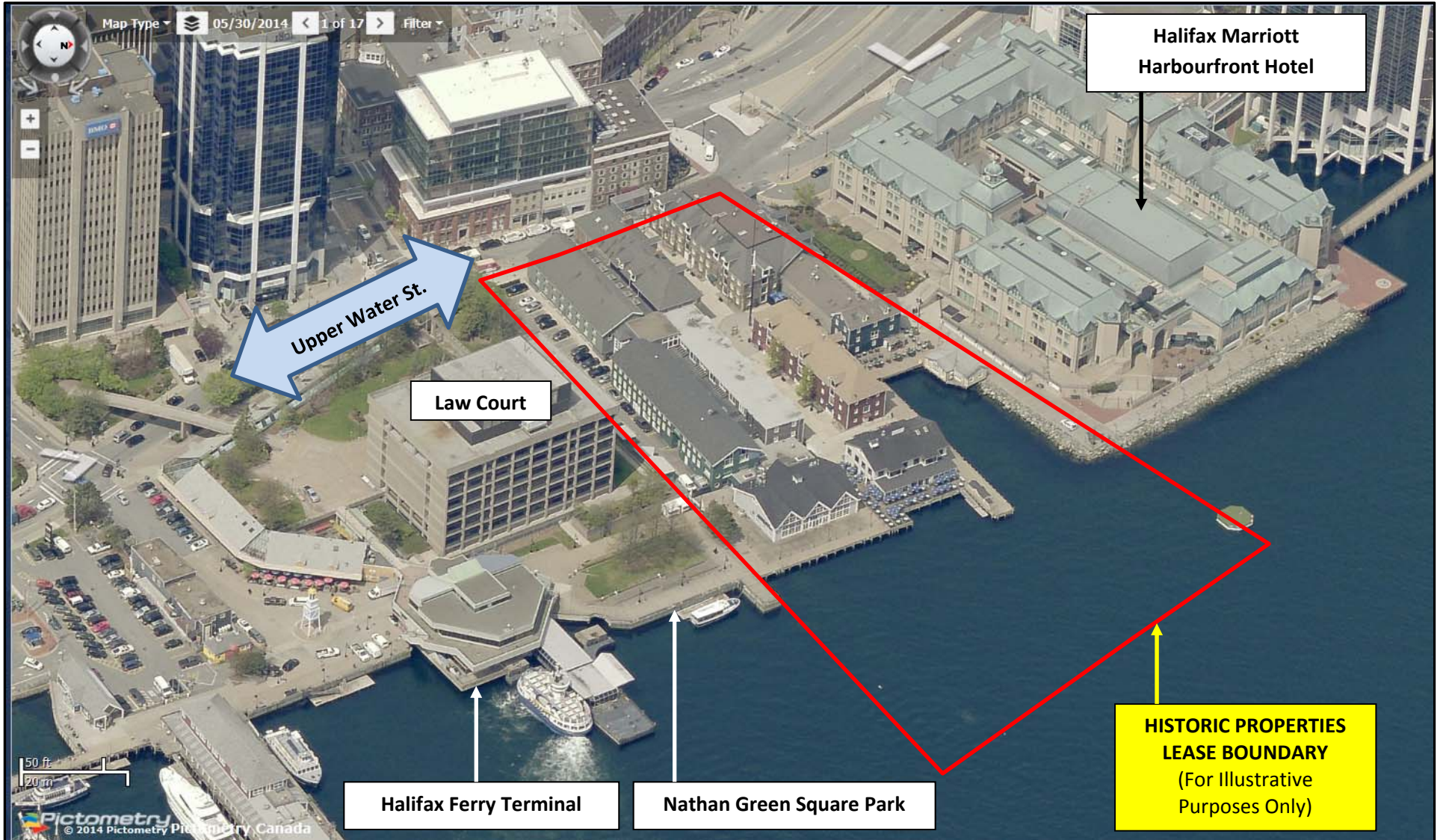
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Original Signed

Attachment 1 – Site Plan

REGIONAL COUNCIL REGULAR REPORT - Historic Properties Land Lease, Option to Extend



Attachment 2 – Milestones

REGIONAL COUNCIL REGULAR REPORT - Historic Properties – Land Lease, Option to Extend

The “historic properties area” is a term that is sometimes used to describe the broader area located between the waterfront and Granville Street, which is further bounded by Duke Street and former Buckingham Street to the north (i.e., where Scotia Square stands today). “Historic Properties” (i.e., Privateers’ Wharf) in this report; however, is used to describe the city-owned group of historic waterfront buildings between Upper Water Street and Halifax Harbour (see Attachment 1). All other properties west of Lower Water Street are privately owned. The subject property depicted in Attachment 1 (i.e., not the broader area) is leased to Armour Group Limited (AGL), who succeeded the original lessee, Historic Properties Limited. The following points summarize the evolution of the property:

- 1963 The “Historic Waterfront Buildings” (see Attachment 1) are designated as a National Historic Site.
- 1971 August 12: The City of Halifax approved the Halifax Landmarks Commission document: *Landmarks of the City of Halifax*. In it, a priority listing of important Halifax landmarks and historic sites is named, including the Historic Properties, which was a reaction to the loss of several landmark buildings during the 1950s and 1960s.
- 1973 Historic Properties Limited (HPL) entered into an agreement with the City of Halifax, the Federal Government, and the Canada Mortgage and Housing Corporation (CMHC), to restore the Historic Waterfront Buildings.
- 1973 HPL, Durham Leaseholds, Nova Scotia College of Art and Design (NSCAD), and the City of Halifax entered into an agreement in December 1973, to facilitate redevelopment of buildings on the west side of Granville Street for what became the Delta Barrington. The Durham agreement also referred to a motion by City Council on March 29, 1973, the minutes of which indicate that the area be developed without cost implications to the City; that developers take into consideration the wishes of Council, that the area in question be preserved in its entirety and its original form as much as possible.
- 1978 July: The City of Halifax adopted the *Evaluation and Protection System for Heritage Resources in Halifax*. This document provided an inventory of buildings, streetscapes and conservation areas recommended for designation as heritage resources. The “Historic Properties” area was one of the recommended conservation areas. However there was no legislation in place at the time to designate or protect the area.
- 1978 August: the City of Halifax Municipal Development Plan came into effect, including City-Wide Policy 6.1.1 referring to the adopted criteria set out in the *Evaluation and Protection System for Heritage Resources in Halifax*, and Policy 6.1.2 stating that the City should designate properties that meet the adopted criteria.
- 1980 The *Heritage Property Act* (adopted June 5, 1980), enabled municipalities to establish, by bylaw, municipal registries of heritage properties, heritage advisory committees, to designate municipal heritage properties (i.e., buildings, streetscapes, and areas) for inclusion in respective registries (subject to owner notification), to require public hearings, and to file notices in the Registry of Deeds.
- 1981 June 12: City Council adopted Ordinance 174 (the Heritage Property Ordinance). This was changed to the “Heritage Property Bylaw”, upon amalgamation in 1996. The bylaw established the municipal heritage registry, the heritage advisory committee, and the Forms of Notification (these were sent to owners of properties recommended for registration.)
- 1981 October 27: The City registered the “Historic Waterfront Buildings” as a municipal heritage property. The Forms of Notification (see previous bullet) indicated that the reason for registration was: “On August 12, 1971, City Council deemed the property to be a Landmark”, and that, “The Evaluation and Protection System for Heritage Resources in Halifax recommended that all previously designated Landmarks be designated as Heritage Buildings.”
- 1985 Beginning in October 1981, the City of Halifax adopted Ordinance Number 174: *The Establishment of a Heritage Advisory Committee and A Civic Registry of Heritage Property* (later HRM Heritage Property Bylaw), the City began the process of sending out notifications to property owners regarding the buildings recommended for heritage designation in the 1978 Evaluation and Protection System document. In the Historic Properties area, all properties were individually registered by 1985. While these designations protected the individual buildings they did not create the conservation area per se.
- 1990 The Heritage Property Act was amended in 1989 and Heritage Conservation District Regulations were created. These amendments were predicated on the understanding that the Act did not previously enable the designation of

heritage districts, and that the word “area”, in the 1980 Act, had a more limited meaning (e.g. cemeteries, parks, and other areas of historical value with no buildings.)

- 1990 Early in the ‘90s, Armour Group Ltd. (successor to Historic Properties Ltd.) embarked on a further rejuvenation plan for the city-owned site, including construction of a new building (the Food Pavilion). This triggered a series of discussions and negotiations regarding the extent of heritage registration and applicability of the heritage-related development controls to the new buildings.
- 1992 The National Historic Sites and Monuments Board wrote to Historic Properties Ltd. stating that the National Historic Site designation, applied only to the original seven historic buildings. This position was modified in 2004 to include reference to the entire site (see below).
- 1993 The City of Halifax clarified in writing that, while the municipal heritage registration applied to the entire site, the regulatory requirements of the Heritage Property Act would be applied only where there was potential impact on the historic buildings. To achieve this, the City would regulate development on the site through a “hierarchy of approvals”, whereby:
- *Exterior replacement, addition or demolition to the restored buildings, due to their sensitive historical nature, would require approval by the City and Parks Canada;*
 - *Interior renovations would require a building permit from the City and approval from Parks Canada if the work involved structural changes to original building materials and the restored buildings;*
 - *New permanent buildings would require approval by the City consistent with the original lease which, through clause 5.14, also required approval from Parks Canada;*
 - *New temporary buildings, surface improvements, and wharf maintenance would require building permits only;*
 - *Signs would require approval within the framework of an overall concept for the site; and,*
 - *Site furnishings and non-permanent landscaping would not require any approvals.*
- 1994 CMHC clarified, in writing, that the seven historic buildings had been designated under the Federal Heritage Buildings Policy, and, as such, came under the jurisdiction of the Federal Heritage Buildings Review Office (FHBRO). CMHC also indicated that they, along with Parks Canada, were considering divesting of the Federal interest in the buildings to the City of Halifax and that, should this occur, the oversight by FHBRO regarding development of the buildings would cease. To date, however, the Federal interest has not been divested, and CMHC, Parks Canada, and FHBRO continue to be involved in monitoring development of the historic buildings.
- 2000 The original 1974 lease from the City of Halifax was amended by HRM with the insertion of a new clause 5.2.1. This clarified that new buildings may be built as long as they are in keeping with the general style and character of the restored historic buildings, and that the new buildings constructed subsequent to the Restoration Agreement (i.e., Salty’s Restaurant, Pontac House, Anchorage House, and the Food Pavilion) are not heritage properties.
- 2004 The National Historic Sites and Monuments Board approved a report, which clarified, both, the “commemorative intent” of the National Historic Site designation, and the boundaries of the “designated place”, which up to that time had not been clearly articulated. With regard to the latter, the report clarified that the designated place was the complex of historic buildings and the property on which it stood at the time of designation, described as follows:
- A single legally defined property known as the Halifax Waterfront Buildings or Historic Properties. It is a single polygon, approximately rectangular, between Upper Water Street, Halifax, and Halifax Harbour, as shown in Figure 2, Submission Report 2004-54. On the east, the designated place includes the wharves on which the warehouses sit, as shown in Figure 2 and illustrated in Figure 6, Submission Report 2004-54.*
- This was consistent with the position of the former City of Halifax (now HRM) that the municipal registered heritage property consists of the entire Historic Properties site. Within that site are seven historic buildings (the focus and original reason for heritage designation), and a number of newer buildings, having been approved through various agreements and permitting processes, and which have contributed to the economic revitalization of the entire site.
- 2008 The historic properties area has not been officially designated as a Heritage Conservation District (HCD), but is identified as *potential* HCD under the proposed Downtown Halifax Secondary Planning Strategy (i.e., HRM-by-Design).