

Protected Areas

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“Who Owns the Coast?”

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Overview

- Introduction
- Jurisdiction over Protected Areas
- Provincial Management
- Federal Management
- Which Protection Option?

What is a Protected Area?

“A protected area is a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature with associated ecosystem services and cultural values.”

(International Union for the Conservation of Nature)

Protected Areas in Nova Scotia

- Protected Areas in Nova Scotia currently make up approximately 8.7% of our land mass
- 23 of 80 natural landscapes are protected (NS Public Lands Coalition, 2003)
- The goal in Nova Scotia, under *EGSPA*, is to have 12% of the land mass legally protected by 2015.
- In 1992, promised complete network of protected areas by 2000.

Jurisdiction over Protected Areas

- Land:
 - Provincial: private lands and provincial crown lands and foreshore (down to low water mark)
 - Federal:
 - Federal Crown Lands: military bases, national parks, airports, etc.: only about 2.5% of land base
 - “Lands Reserved for Indians”
 - Areas of “Inter-Provincial, National or International Concern”: species at risk, migratory birds, etc.

Jurisdiction over Protected Areas

- Land (cont'd)
 - Aboriginal:
 - Reserves
 - Traditional Territory: where there are credible rights or title claims, will trigger duty to consult: Aboriginal peoples should be engaged in the process of creation of protected areas

Jurisdiction over Protected Areas

- Ocean:
 - Federal:
 - territorial sea, contiguous zone and EEZ (anything not provincial waters out to boundary of EEZ)
 - Provincial
 - Provincial Waters (harbours, bays, estuaries, etc.; “between the jaws of land” and anything explicitly included in boundaries of province): much of our coastline

Jurisdiction over Protected Areas

- Ocean (cont'd):
 - Aboriginal:
 - may have rights and title in seabed and foreshore
 - Again, Aboriginal peoples should be engaged in process of development of marine protected areas.
- The “Gap”: no one level of government has exclusive jurisdiction over protected areas on the coast

Provincial Management

- Minister of Environment:
 - Wilderness Areas
 - Ecological Sites/Nature Reserves (*Special Places Protection Act*)
- Minister of Natural Resources:
 - Beaches
 - Wildlife Management Areas (*Wildlife Act*)
 - Game Sanctuaries and Wildlife Parks (*Wildlife Act*)
 - Conservation Easements
 - Provincial Parks

Wilderness Areas

- 37 designated wilderness areas
- *Wilderness Areas Protection Act*:
 - Primary objectives are protection and restoration of nature, ecosystems, and biodiversity (s. 2)
 - Secondary objectives include research, stewardship, and public access for fishing and hunting (s. 2)
 - Provincial crown land; no private land without consent of owner (s. 11): but encourage voluntary planning of adjacent land (s. 16)
 - Minister must prepare a management plan, with public consultation (s. 15)



Birch Cove Lakes Wilderness Area
Credit: Irwin Barrett

Wilderness Areas

- Prohibited Activities (s. 17(1))
- Prohibited Unless otherwise permitted in Act (s. 17(2))
- Permitted Activities:
 - Recreational Activities (s. 23)
 - Tenting, camping, fires in designated site or with license
 - Minister can designate trails or routes for hiking, cross-country skiing, canoeing/kayaking, snowmobiling, vehicles and can license boats
 - Sport fishing, hunting and trapping (s. 24)

Nature Reserves

- *Special Places Protection Act:*
 - Purpose: protection of archaeological and ecological sites (s. 2)
 - Currently 21 ecological sites: “nature reserves”
 - Crown land, or private land with consent of owner; incl. land covered by water (s. 14):
 - Minister may make management plan (s. 14)
 - Cabinet may make regulations (s. 20)

Beaches Act

- Purpose: protection as environmental and recreational resources (s. 2(2))
- Beaches: foreshore, plus additional area of land designated by Cabinet: may include private land
 - 90 “designated beaches”
- Prohibited Activities:
 - Removing Sand (s. 6(1))
 - Destruction of property or natural resources
 - Other activities prohibited by regulation

Wildlife Act

- Purpose:
 - maintaining diversity of species and habitat protection, regulation of hunting and fishing;
 - recognize hunting & trapping heritage
 - recreational and economic use of “resource”
- Three types of designation:
 - Wildlife Park: exhibition, research, breeding, etc.
 - Wildlife/Game Sanctuary: protect wildlife and habitat
 - Wildlife Management Area: Control and management of wildlife



Chignecto Game Sanc
Credit: Irwin Barrett

Conservation Easements Act

- Allows private landowner to enter into agreement to protect, restore or enhance certain types of land
- Agreement is with “eligible body”:
 - federal, provincial, municipal government
 - Designated conservation organizations
- Can be for stated period or perpetuity
- “Runs with land”: must be registered

Provincial Parks Act

- Purpose:
 - Recreational Opportunities
 - Preserve natural environmental and historic resources
- 128 Parks, 0.28% of land base
- No large provincial parks: current focus on recreation, not conservation

Federal Management

- Ocean
 - DFO: Marine Protected Areas (*Oceans Act*)
 - Environment Canada:
 - Canadian Wildlife Service: Marine Wildlife Areas (*Canada Wildlife Act*)
 - Parks Canada: National Marine Conservation Areas
- Land
 - Parks Canada: Canada National Parks Act
 - Canadian Wildlife Service
 - National Wildlife Areas (*Canada Wildlife Act*)
 - Migratory Bird Sanctuaries: (*Migratory Bird Convention Act*)
 - *Species at Risk Act*

Marine Protected Areas

- Oceans Act: Minister (DFO) will lead development of a national system of MPAs (s. 35)
- Protected for:
 - Conservation of “fishery resources”
 - Protection of endangered/threatened species, habitats, areas of high biodiversity or biological productivity
 - Regulations can include zoning and prohibitions
- The Gully MPA:
 - Zone 1: highly restricted deep-water core
 - Zone 2 and 3 allow more uses, including fishing

Marine Wildlife Areas

- Canada Wildlife Act: administered by CWS
- Cabinet can establish marine areas in Canada's internal waters, territorial sea or EEZ (s. 4.1)
- Act not detailed; regulations can be
- No MWA's as yet: sites under consideration

National Marine Conservation Areas

- NMCA Act: Administered by Parks Canada
- Purpose: protecting/conserving representative marine areas for benefit, education and enjoyment of people (s. 4(1))
- Zoning (s. 4(4))
- Prohibitions:
 - Exploration/exploitation of hydrocarbons, minerals, etc.
 - Cannot dispose of substance except with permit
- Can make regulations



Credit: Scott Leslie

National Parks

- Canada National Parks Act and Regulations
- 2 in Nova Scotia: almost 2.5% of land base
- Parks are “dedicated to the people of Canada for their benefit, education and enjoyment”
- Ecological integrity is the “first priority”
 - does not mean it is the sole priority or determinative
- Zoning, with varying degrees of restrictions
- general restrictions, but broad permitting authority
- Generally land-based, but some coastal

National Wildlife Areas

- Canadian Wildlife Act and Wildlife Area Regs
- 6 in NS: mainly coastal areas: varying sizes
- Purpose: conserve essential and unique habitats while managing human activity
- Prohibitions (regulations) include:
 - Hunting and fishing
 - destroy or remove a plant, or animal, nest, egg, soil etc.
 - Agricultural, commercial or industrial activity
 - Recreational activities and operating a conveyance
- Minister can allow prohibited activities

Migratory Bird Sanctuaries

- Under Migratory Birds Convention (with US) and Act and Regulations
- Can be on land or Ocean: often coastal
- 8 in Nova Scotia, mainly in coastal areas: vary in size (100 hectares to 2,350 hectares (Sable Island))
- carry on any activity that is harmful to migratory birds or the eggs, nests or habitat of migratory birds, except under authority of a permit (s. 8)
- permit is issued by Minister if federal land, province if provincial

Species At Risk

- *SARA*: does not create protected areas in and of itself, but enhances protection
- Cannot do the following to listed species:
 - destruction of critical habitat
 - killing, harming, harassing, capturing or taking
 - damaging or destroying the residence or critical habitat
- Applies on federal lands; Minister can extend to non-federal lands if not adequately protected by province
- Protects aquatic species and migratory birds even on non-federal lands

Enforcement Options

- Most of the Acts have offence provisions:
 - may be able to trigger investigation/prosecution by contacting department responsible
 - Public prosecution?
- If federal jurisdiction, can petition Commissioner on Environment and Sustainable Development

Which Protection Option?

- Some Considerations:
 - Level of government: jurisdiction and ownership
 - Government department:
 - Political will to create, manage and enforce
 - History/reputation in area
 - What are we trying to protect/prevent?
 - What protection does that designation provide?
 - What are the Competing or Traditional uses?
 - Wishes of local community

Which Protection Option?

- Will often involve more than one level of government
- May require or desire multiple or overlapping tools
- Designation can be a lengthy process: can be helpful to work with groups with experience in this area

Conclusion

- Any questions?