

# Protected Areas in PEI

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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 PEI

- The Province of PEI currently has 145 sites designated as protected areas
- The total protected area of PEI is 17,679 hectares or 3.1% of the Island
- Goal is 7% of the province under protection
- Challenge due to highest % of land in private ownership of any province

# Jurisdiction over Protected Areas

## On Land

### – Provincial:

- Jurisdiction over private lands and provincial crown lands and foreshore (down to low water mark)
- PEI Environmental Protection Act: “Beach” = shoreline land extending seaward 3 miles, and containing water, sand, gravel, rock, etc.
- Dept. of Transportation and Infrastructure Renewal holds title to all provincial lands (*Public Works Act*)

## Jurisdiction over Protected Areas

### On Land (cont'd)

– Federal:

- federal government can legislate certain land-based conservation measures of “Inter-Provincial, National or International Concern”: species at risk, migratory birds, etc. or that relate to an area of federal jurisdiction, e.g. inland fisheries
- Federal Crown Lands: military bases, national parks, airports, etc.

– Aboriginal:

- Reserves and Traditional Territory: rights or title claims trigger duty to consult. Aboriginal peoples should be engaged in the process of creation of protected areas. Possible co-management.

## 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)

## 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 overlap: no one level of government has exclusive jurisdiction over protected areas on the coast

## Provincial Management of Protected Areas

- *Natural Areas Protection Act (NAPA)*
- *Wildlife Conservation Act*
- *Recreational Development Act*
- *Lands Protection Act*
- *Environmental Protection Act*
- *Planning Act*

## Provincial Management of Protected Areas

### *Natural Areas Protection Act (NAPA)*

- Min. of Environment, Energy and Forestry
- 119 sites designated

To be discussed by  
Jackie Waddell, Island Nature Trust

# Provincial Management of Protected Areas - Continued -

# Provincial Management of Protected Areas

## *Wildlife Conservation Act*

- Min. of Environment, Energy and Forestry
- 17 Provincial Wildlife Management Areas designated; 5,431 hectares on public lands
- For the protection, management and conservation of wildlife and wildlife habitat
- Ownership: provincial Crown or privately held with consent
- Each Area with different restrictions on hunting, trapping
- Some also carry designation as a Natural Area under NAPA
- Public recreational uses e.g. angling, hiking, bird-watching

# Provincial Management of Protected Areas

## *Wildlife Conservation Act*

- Public consultation for establishing WMA's and management plans;
- Penalty: Fine of \$200 to \$10,000 per day plus reparation
- Act also Allows for Conservation Easements for
  - protection, enhancement or restoration of natural ecosystems, wildlife habitat or habitat of rare, threatened or endangered plant or animal species;
  - retention of significant botanical, zoological, geological or morphological features of land;
  - conservation of soil, air or water.

# Provincial Management of Protected Areas

## *Recreational Development Act*

- Min. of Tourism and Culture
- Authority to designate areas of land as provincial parks, protected areas, protected beaches, or a combination thereof
- Recreation plus protection to preserve objects of aesthetic, educational, historical or scientific interest
- Not all designated Provincial Parks are protected. Protected Parks also have a NAPA designation
- Ownership: public; designation of private lands treated as expropriation with compensation due (Land Acquisition Review Board)

# Provincial Management of Protected Areas

## *Recreational Development Act*

- Prohibited activities in protected areas:
  - Anything destructive of purpose of protection
  - Regulatory restrictions
- Penalty: Fine up to \$1,000

# Provincial Management of Protected Areas

## *Lands Protection Act*

- Administered largely by the Island Regulatory and Appeals Commission (IRAC)
- To regulate property rights especially amount of land held by 1 person, because of (a) absentee landowners; (b) small land area; (c) fragile ecology
- Application to purchase a parcel of land could be approved on the condition that no use other than agricultural, forestry, fisheries, NAPA conservation, Parks, etc.
- Land to be purchased can be identified for non-development under *Land Identification Regulations* for 10 years + renewal

# Provincial Management of Protected Areas

## *Environmental Protection Act*

### *Watercourse & Wetland Protection Regulations*

- Min. of Environment, Energy and Forestry
- Creates 15 M. Buffer Zones: Tidal areas: measured from the top of the bank / Wetlands, measured from the edge of the wetland vegetation
- Prohibited without a Buffer Zone Business Licence or Activity Permit: altering or disturbing the ground; draining, excavating, removing aggregate, dumping, infilling, constructing, removing structures, cutting down live trees or shrubs, cultivating an agricultural crop, use of pesticides, etc.

# Provincial Management of Protected Areas

## *Planning Act*

### *Subdivision & Development Regulations*

- Min. of Finance & Municipal Affairs
- All province except where official Municipal Plan
- Minimum distances required between the nearest exterior portion of a building or structure and a beach, sand dune, wetland or watercourse
- Conservation Zones, e.g. Morell River: prohibits development within 60 metres of the river over a total distance of 44 kilometres.

# Provincial Management of Protected Areas

## Issues:

- More than one Ministry/Department with possible different focus for each department
- Small % of lands in public ownership
- Effect on private ownership different: public; NGO; private with consent; designation triggers expropriation
- Inconsistent in activities permitted / prohibited
- Tension between recreation and conservation
- Boundaries: low water mark?

# Federal Management of Protected Areas

# Federal Management of Protected Areas

**Ocean:** 3 types of protected area / 2 departments

– DFO:

- *Oceans Act* requires the Min. of Fisheries and Oceans to develop an oceans management strategy with a system of Marine Protected Areas (MPA) to protect and conserve marine ecosystems, endangered marine species, unique features and areas of high biological productivity or biodiversity

– Environment Canada:

- Canadian Wildlife Service: Marine Wildlife Areas (*Canada Wildlife Act*)
- Parks Canada: National Marine Conservation Areas

# Federal Management of Protected Areas

**Land:** 3 types of protected area through Environment Canada

- Parks Canada: National Parks (*National Parks Act*)
- Canadian Wildlife Service
  - National Wildlife Areas (*Canada Wildlife Act*)
  - Migratory Bird Sanctuaries (*Migratory Bird Convention Act*)
  - *Species at Risk Act*

## Federal Protected Areas: Ocean

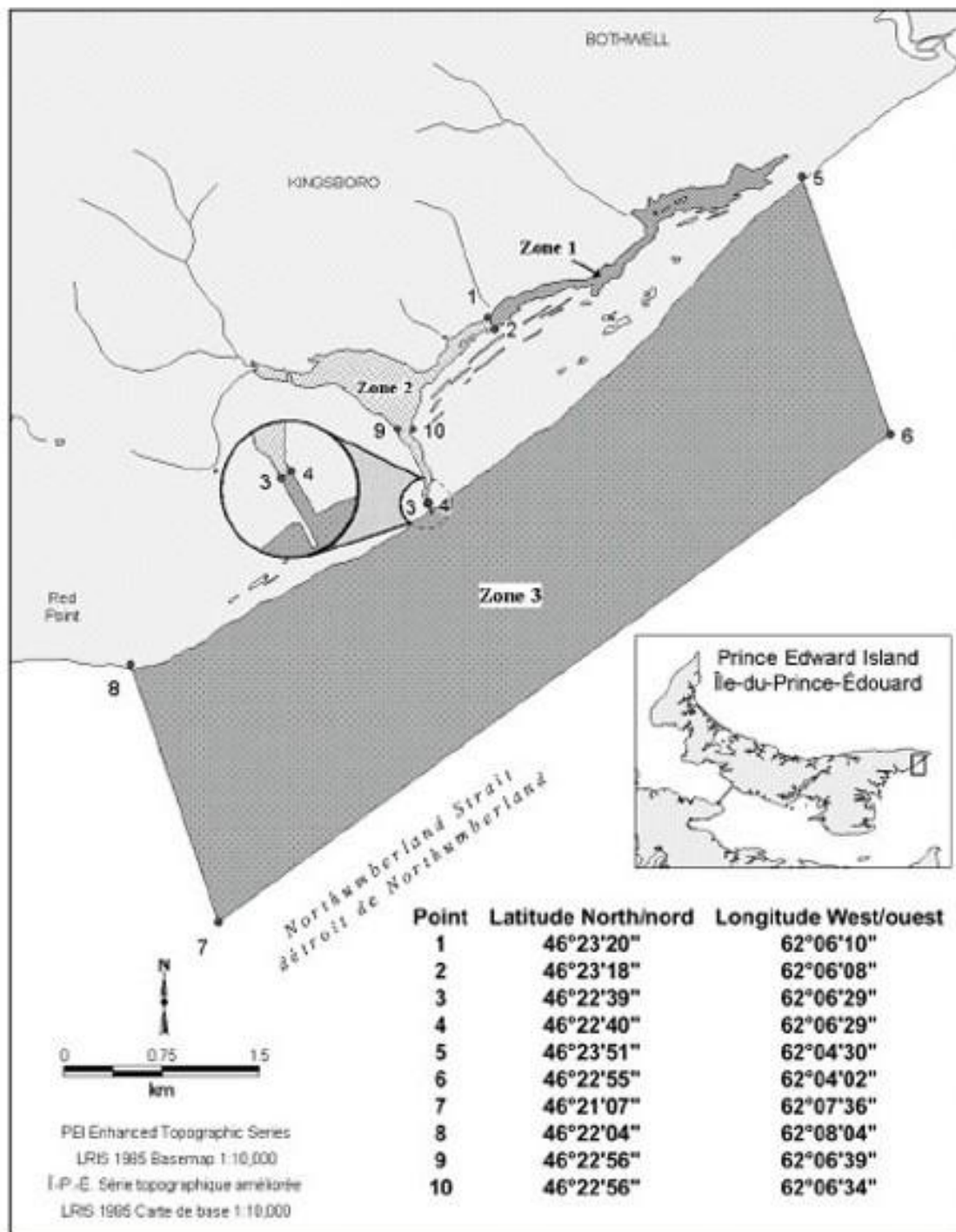
### Marine Protected Areas

- *Oceans Act*: administered by DFO
- Minister will lead development of a national system of MPAs (s. 35)
- Protected for:
  - Conservation of “fishery resources” and marine species
  - Protection of endangered/threatened species, habitats, areas of high biodiversity or biological productivity
  - Regulations can include zoning and prohibitions

## Federal Protected Areas: Ocean

### Basin Head Marine Protected Area

- Established 2005
- Zones 1,2,3, with differences in permitted activity
- Zone 1 protects unique irish moss
- Adjoins dune area designated under PEI Natural Areas Protection Act, NCC ownership (189 hectares)



## Federal Protected Areas: Ocean

### Marine Wildlife Areas

- *Canada Wildlife Act*: administered by CWS, Environment Canada.... companion to National Wildlife Areas on land
- Purpose:
  - to protect and conserve marine areas that are nationally or internationally significant for all wildlife but focusing on migratory marine birds and Species at Risk.
- Cabinet can establish MWAs in Canada's internal waters, territorial sea or EEZ
- Act not detailed; regulations can be
- No MWA's as yet in PEI?: sites under consideration

## Federal Protected Areas: Ocean

### National Marine Conservation Areas

- Administered by Parks Canada
- Companion to National Parks on land
- Purpose: protecting and conserving representative marine areas for benefit, education and enjoyment of people
- Prohibitions:
  - No exploration or exploitation of hydrocarbons, minerals, etc.
  - No disposal of substance in waters except with permit

## Federal Protected Areas: Ocean

### National Marine Conservation Areas (cont'd)

- Regulations can include:
  - Protection of ecosystems
  - Management and control of “renewable resource harvesting”
  - Zoning, including restrictions/prohibitions, permitting, etc.
  - Fishing and aquaculture, marine navigation

## Federal Protected Areas: Land

### National Parks

- *Canada National Parks Act* and Regulations: Parks Canada
- Parks are “dedicated to the people of Canada for their benefit, education and enjoyment” and are to be “unimpaired for the enjoyment of future generations”
- Ecological integrity is the “first priority” not the sole priority or even the determinative factor
- Zoning, with varying degrees of restrictions/protection
- Some general restrictions in regulations, but also a broad permitting authority

## Federal Protected Areas: Land

### National Wildlife Areas

- Administered by CWS: *Canadian Wildlife Act* and Wildlife Area Regulations...companion to Marine Wildlife Areas
- Purpose: conserve essential and unique habitats while managing the nature of human activity
- Prohibitions (regulations), unless authorized, 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
  - Dump substance that would degrade the environment

## Federal Protected Areas: Land

### Migratory Bird Sanctuaries

- Under *Migratory Birds Convention* (with US) and *Act and Regulations*; PEI adopts in *Wildlife Conservation Act*
- Can be on land or ocean: often coastal
- Prohibits any activity that is harmful to migratory birds or the eggs, nests or habitat of migratory birds, except under authority of a permit
- Permit is issued by Minister if federal land, province if provincial

# Federal Management of Protected Areas

## 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; PEI Endangered Species in Wildlife Conservation Act
- Protects all aquatic species and migratory birds

# Federal Management of Protected Areas

## Issues:

- More than one Department with possible different focus for each: DFO, Environment Canada, Parks Canada
- DFO (2005): *Canada's Federal Marine Protected Areas Strategy* which strives for a more systematic & collaborative approach to marine protected areas
- Inconsistent in activities permitted / prohibited
- Tension between recreation and conservation
- Boundaries?

## Protected Areas

### 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

## Protected Areas

### Which Protection Options: :

Consider:

- Level of government: jurisdiction and ownership
- Government department choice:
  - Political will to create, manage and enforce
  - History/reputation in area
- What are we trying to protect/prevent? What protection does the designation provide?
- What are the competing or traditional uses?
- Public or private ownership
- Wishes of local community

## Protected Areas

### Which Protection Options:

Consider (cont'd):

- 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

# Protected Areas in PEI

QUESTIONS?