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What We Heard

National Marine Conservation
Areas Policy and Regulations

July 2020



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Executive Summary

Executive Summary

The Government of Canada is committed to protecting and conserving Canada's marine environment over the long term, thereby contributing to global conservation targets and helping establish a worldwide network of marine protected areas (MPAs). Three federal departments – Fisheries and Oceans Canada, Environment and Climate Change Canada, and Parks Canada – are responsible for Canada's federal MPAs.

Parks Canada has a mandate to establish a system of national marine conservation areas (NMCAs) that represents the full range of marine ecosystems found in Canada's three oceans and the Great Lakes. The *Canada National Marine Conservation Areas Act (2002)* gives Parks Canada the authority to establish and manage these areas.

Parks Canada's 1994 policy for national marine conservation areas was written to guide how the Agency plans and manages NMCAs. Updates are needed to align the policy with the *Canada National Marine Conservation Areas Act (2002)*. The updates will also reflect the experience Parks Canada has gained through collaborating with others for more than 20 years of establishing and managing NMCAs. Regulations under the Act



also need to be developed to further aid managers of NMCAs to effectively meet management objectives.

Parks Canada consulted with partners, stakeholders and members of the public between May and July 2019 regarding proposed revisions to the policy and the development of regulations. The overall policy objectives were generally supported and there was broad support for the use of zoning as a tool for the effective management of NMCAs. There was support for extra protection measures such as temporary closures, the protection of cultural resources, and the regulation of tourism activities in collaboration with local users and businesses. On the other hand, we heard from industry stakeholders that their operations are already regulated and sustainably managed, and any further restrictions should be limited and based on scientific evidence. Also broadly supported was the management of research activities, both to ensure that they are done in a respectful manner, and to increase awareness, knowledge and capacity inside and outside of NMCAs. Additional feedback focused on climate change, ecological sustainability, fisheries, shipping and collaboration.

The feedback received will help Parks Canada update the 1994 policy for NMCAs and inform the development of regulations under the *Canada National Marine Conservation Areas Act*.

Parks Canada is grateful to everyone who took the time to share their feedback, opinions and concerns. Your input is greatly appreciated and will be invaluable as we move forward.

With respect to Indigenous peoples, the Government of Canada is committed to achieving reconciliation through a renewed, nation-to-nation, government-to-government, and Inuit-Crown relationship

based on recognition of rights, respect, co-operation, and partnership as the foundation for transformative change. As such, Parks Canada has been engaging with select Indigenous partners across the country to discuss the purpose, timing and scope of options related to the policy revision. This will ensure that the distinct cultures, needs and aspirations of First Nations, Inuit and Métis Nation peoples are understood and reflected in the next iteration of the NMCA policy. Please note that discussions with Indigenous partners are ongoing and are therefore not included in this report.



Overview of the Consultations

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A targeted public consultation process was used to seek feedback from individuals and stakeholder groups with an interest in NMCAs. The public was invited to visit Parks Canada's online engagement platform at www.letstalknmcas.ca between May 8 and July 10, 2019 to review and provide feedback on the proposed policy and regulatory direction. Targeted meetings were also held with 20 stakeholder groups across the country, as well as youth engagement sessions with over 100 participants.

The consultation process resulted in more than 3000 submissions, including responses from both national and regional organizations as well as from individuals. Some feedback was submitted collectively on behalf of multiple organizations, and some was shared on behalf of several thousand members from coast to coast to coast. We received input from industry, environmental groups, coastal communities, tourism and recreational users, and interested Canadians.

Further consultations on the scope and content of potential regulations will occur through the regulatory development process.



What We Heard

What We Heard

Participants were asked to provide feedback on seven areas for proposed policy and regulatory changes:

- A. Overall policy objectives for NMCAs
- B. A revised NMCA zoning framework
- C. Enhanced protection of marine biodiversity and ecosystems within NMCAs
- D. Ecologically sustainable land use in NMCAs
- E. Protection of cultural resources in NMCAs
- F. Promotion and management of marine tourism and recreation in NMCAs
- G. Management of research and collection activities in NMCAs

For some of these areas, the changes proposed by Parks Canada may be accomplished by modernizing the 1994 NMCA policy. For the majority of the areas, regulations under the *Canada National Marine Conservation Areas Act* are also needed to support updated policy objectives.

The next section of this report (pages 8-15) describes the feedback we received about the seven areas for change. For each area,

a brief overview of the changes that were proposed is also provided.¹

Participants also provided comments about other topics related to NMCAs. The common themes that emerged from their feedback are detailed in *What We Heard: Other Key Topics* (pages 16-19).

¹ For more detailed information on areas A through G, consult *Protecting Canada's Marine Heritage—Proposed policy and regulations for Canada's national marine conservation areas Discussion Paper*, May 2019 at www.pc.gc.ca/en/amnc-nmca/consultation/document-travail-discussion-paper



A Overall policy objectives for NMCAs

What we proposed

One of the goals of the consultation process was to seek input on updating Parks Canada's 1994 NMCA policy. Parks Canada proposed nine policy objectives to help achieve the purpose of NMCAs:

1. Collaborate and consult on the planning and management of NMCAs;
2. Protect and conserve marine biodiversity and ecosystems within NMCAs;
3. Ensure that marine uses in NMCAs are ecologically sustainable;
4. Conserve cultural heritage of NMCAs;
5. Recognize Indigenous peoples' responsibilities as stewards of NMCAs;
6. Support the social, cultural and economic well-being of Indigenous peoples and coastal communities adjacent to NMCAs;
7. Foster visitor experiences that build strong connections to and enjoyment of NMCAs;
8. Promote awareness, understanding and appreciation of the natural and cultural heritage of NMCAs; and
9. Advance knowledge and understanding of marine environments in NMCAs.

What we heard

Responses to Parks Canada's overall policy objectives for NMCAs were supportive. Feedback collected strongly indicated that objectives should be ranked to avoid conflicting priorities and to align with best practices identified internationally. The protection and conservation of marine biodiversity and ecosystems within NMCAs was the objective most cited as a

top priority. Some stakeholders indicated that there were too many objectives and that they should be simplified to focus on key priorities. Some stakeholders emphasized that the purpose of the Act is to protect and conserve, not to achieve ecological sustainability.



B A revised NMCA zoning framework

What we proposed

The 1994 zoning framework for NMCAs provides for three zones—preservation, natural environment and conservation—that reflect a continuum of protection and use. Parks Canada is proposing a revised zoning framework comprising four zones, each with a specific purpose, and specific activity and use restrictions. Zoning regulations would make zoning boundaries legally enforceable.

What we heard

Most respondents held strong opinions and provided varied suggestions for the proposed zoning framework. Multiple stakeholders supported zoning as part of a regulatory approach and as a key management tool for conserving ecosystems within NMCAs.

Among the most prevalent comments was an emphasis that decisions on zoning, including boundaries for protection zones versus ecologically sustainable use zones, should be based on sound scientific evidence and socioeconomic

Proposed Zoning

Zone 1

(Restricted Access)

will fully protect special features (including cultural resources) and/or sensitive ecosystem elements that are susceptible to or intolerant of disturbance through a prohibition on extractive use and restrictions on access.

Zone 2

(General Protection)

will fully protect special features and/or sensitive ecosystem elements and/or representative characteristics of the marine region. Extractive use is prohibited.

Zone 3

(Multiple Use with Lakebed or Seabed Protection)

will provide protection to lakebed or seabed ecosystems and/or cultural resources located on the lakebed or seabed while allowing for a range of uses of renewable marine resources that are compatible with the protection objectives of the zone.

Zone 4

(Multiple Use)

will sustain the greatest range of uses that do not compromise the ecosystem structure and function.



impacts. Some stakeholders suggested that buffer zones around the boundaries could improve overall protection and compliance. Feedback also indicated that it may be beneficial to provide flexibility in the zoning framework to allow for more zones or sub-zones in certain areas or circumstances.

Many suggested that full protection zones 1 and 2 should comprise the largest percentage of every NMCA. Additionally, many stakeholders expressed that industrial activities should be prohibited from NMCAs altogether, as should industrial-scale aquaculture and fishing.

B A revised NMCA zoning framework (continued)

Suggestions for further restrictions included prohibiting the creation of artificial reefs and the sinking of ships for recreational purposes; a zero-discharge policy for dumping and disposal; and the prohibition of water taking or water transfer, particularly in relation to NMCAs in the Great Lakes.

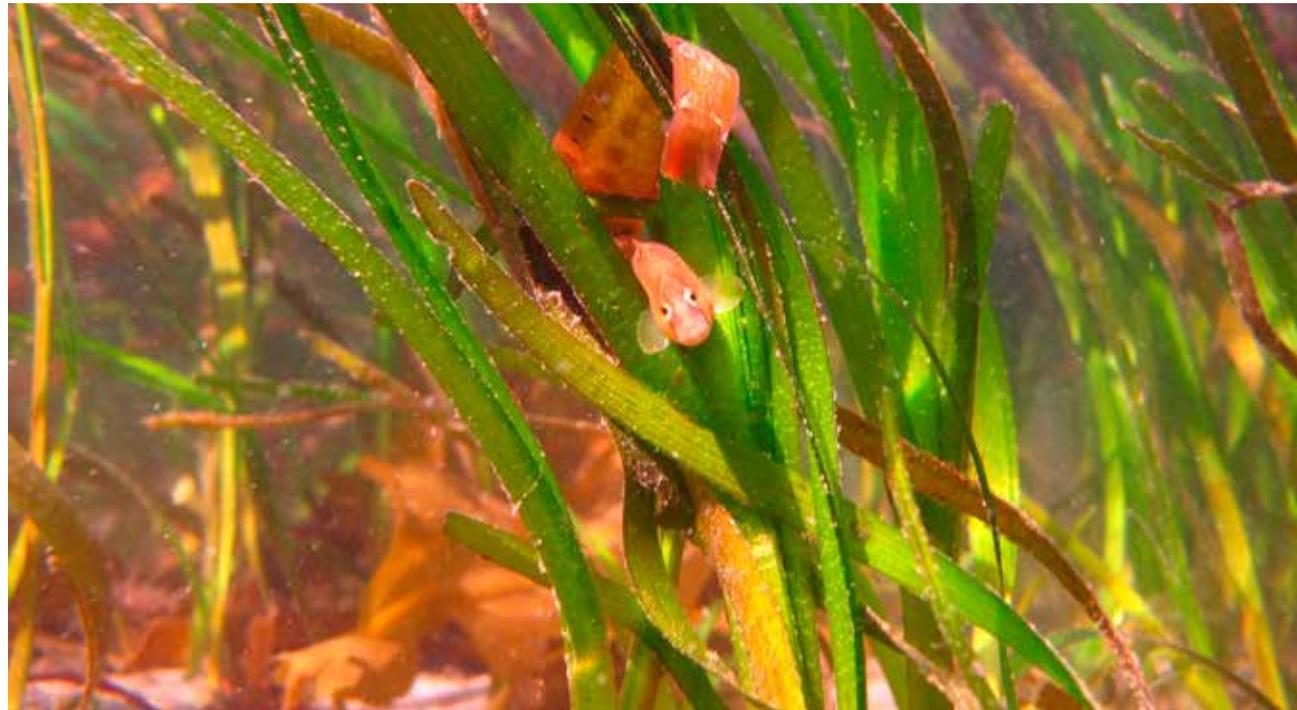
On the other hand, industry stakeholders are of the opinion that many of their activities are already regulated and are considered by various governing bodies to be sustainably managed, and as such, any decisions to restrict activities should be limited and only considered if supported by scientific evidence. Furthermore, industry stakeholders are of the view that zones allowing commercial fisheries should also allow aquaculture operations, as aquaculture is not an extractive use activity and therefore has less of an impact.

Stakeholders emphasized the need to be consulted on the development of the zoning framework. Particular attention should be given to ongoing activities and property owners that may be impacted by a new zoning framework.

Specific concerns were shared in regard to zone 3 which proposes a vertical zoning approach with varying levels of protection for the seabed and the water column. It

was suggested that Parks Canada follow international best practices that advise against vertical zoning in this way.

Finally, stakeholders near NMCAs in the Arctic and the Great Lakes suggested that an “ice zone” be added to the zoning framework, with consideration for appropriate ice-based and ice-related activities and uses.



C Enhanced protection of marine biodiversity and ecosystems within NMCAs

What we proposed

Several issues, such as the management of activities that could disturb or endanger wildlife or wildlife habitat and the introduction of invasive species to islands, are not adequately covered by existing legislation. Parks Canada is proposing regulatory changes to facilitate the protection of ecosystems and specific elements within ecosystems in NMCAs.

What we heard

Stakeholders provided an array of feedback on the potential benefits and impacts of the proposed protection measures within NMCAs. It was suggested that very clear conservation objectives be set.

Concern was shared over the introduction of invasive species to NMCAs, with the suggestion that the control of invasive species remain a priority regardless of zoning. It was suggested that precautionary measures be used against the introduction of invasive species resulting from activities including recreational activities like boating and fishing.

Finally, there was broad general support for temporary closures of areas within NMCAs for specific conservation purposes. Suggestions to efficiently manage closures included a well-defined process that could determine how a closure would be implemented. It was recommended that site management be required to consult

or collaborate with stakeholders including local governments before implementing a closure, unless there is an immediate risk to public safety. Evidence-based decision making was cited many times as a key component to effective conservation.



D

Ecologically sustainable land use in NMCAs

What we proposed

Public lands in an NMCA can be used or occupied only in accordance with permits and regulations under the *Canada National Marine Conservation Areas Act*. Parks Canada is proposing to develop regulations and a permitting system to authorize land use in NMCAs, including submerged lands.

What we heard

When asked about important considerations related to developing the land use permitting system, more clarification was requested as to what constitutes “large renewable energy or aquaculture operations”, and what operations are allowed in zones 2, 3, and 4. Some participants suggested that tidal and wave energy are too new to know their impacts on the marine environment and should be excluded; and that off-shore wind operations should not be allowed due to the requirement of large-scale infrastructure.

The majority shared that aquaculture operations should not be allowed within NMCAs due to negative impacts on ecosystem health. Others expressed the contrasting opinion that aquaculture operations are already highly regulated, and the implementation of restrictions should be based on scientific evidence.

It was suggested that a mechanism be provided for “grandfathering” existing tenures (docks, wharfs, stairwells and retaining walls) to make them exempt from the application of regulations, without requiring additional permits, environmental assessments or authorizations; and that modifications to pre-existing tenures should be allowed.



E Protection of cultural resources in NMCAs

What we proposed

Currently, there is no distinct legal framework to ensure the protection and management of cultural resources in NMCAs. Parks Canada is proposing regulatory changes in this area.

What we heard

Respondents suggested a range of measures for the protection of cultural resources, from developing a legal framework, to protection on a case-by-case basis. Concerns were shared about the potential for restricted access to cultural resources leading to negative socioeconomic impacts on the tourism industry. Additional feedback was received about the importance of balancing potential high levels of visitation with effective monitoring and stewardship. The importance of public education was emphasized to encourage support for conservation measures by local stakeholders. Finally, some stakeholders indicated that commercial and recreational fishing should be considered cultural practices.



F Promotion and management of marine tourism and recreation in NMCAs

What we proposed

Parks Canada needs the ability to manage businesses that provide high-quality visitor experiences in ways that are ecologically sustainable and consistent with the purpose of the NMCA and its management plan, and that protect visitor safety. We are proposing to develop new business regulations, and that businesses and special events within NMCAs require a permit or other authorization.

What we heard

Feedback on the implementation of a permitting process for businesses and special events was largely positive. Key considerations in developing regulations to manage marine tourism and recreation in NMCAs included that the transition to a new regulatory regime should be done slowly and transparently and with consultations with local communities, to best allow for businesses to adapt.

Two main perspectives emerged from the feedback. One centred on increased protection and accountability related to tourism activities. Suggestions included

only allowing the most environmentally-friendly activities; that tourism operators should demonstrate that their operations do not harm marine or cultural features; that tourism activities should support local ecological projects and the objectives of the NMCA; and that tourism activities that involve interactions with animals should be highly regulated. It was also suggested that hunting and angling should be considered tourism activities and assessed accordingly.

The second perspective recommended that not all activities should require a permit, depending on their impact, and suggested that permits should not be required for tourism activities in multi-use zones.

Finally, it was shared that permitting for tourism and recreation businesses should be accessible, efficient and cost-effective, and done at the local level.



G

Management of research and collection activities in NMCAs

What we proposed

Parks Canada is proposing to develop a regulation for scientific research within NMCAs, and use its existing research and collection permit system to manage research and collection activities in NMCAs in the same manner as for national parks.

What we heard

Respondents highlighted the importance of research in NMCAs to support the management objectives of the NMCA. Research should have minimal impacts on the environment, follow responsible research practices and be long-term whenever possible. Broad support was received for the development of regulations for scientific research within NMCAs, and the importance of a permitting system was recognized.

Suggestions were provided as to the information and considerations that should be required through the permitting process. These included the purpose of the activity; the methods and/or techniques for the collection of data; the impacts

of the proposed activity; and mitigation measures. It was suggested that research permits include a component on ethics, and that the permit process take into account potential impacts on Indigenous peoples and coastal communities. It was suggested to only apply a permitting process for research in zones 1 and 2, and that requiring research permits in all zones seems to conflict with the proposed permissible extractive activities in multi-use zones.

The importance of collaboration was highlighted. Suggestions ranged from including community members in research; working with others (academia, students, tourism stakeholders, Indigenous groups, other government departments) both nationally and internationally; recognizing industry (e.g. commercial fisheries) as central members of the research community; and communicating and reporting on research findings with the public.



Climate Change

The topic of climate change was raised in multiple contexts by a large number of stakeholders including Canadian youth, indicating that it was not adequately addressed in the consultation materials and that it should figure more prominently in the objectives for NMCAs. Respondents felt that by incorporating this important factor into the planning, decision making and research and monitoring activities of NMCAs, these sites will contribute to Canada's climate change adaptation and mitigation efforts.

Respondents suggested a number of conservation tools and objectives such as flexible zoning to adapt to spatial shifts of certain species and to address shifting ecosystems over time. Connectivity between conservation areas was also cited as an effective tool to respond to climate induced migrations. NMCAs should consider the cumulative effects of climate change in the assessment of the environmental impacts of proposed activities.



Education, outreach and research within NMCAs were suggested as methods to increase awareness of the impacts of climate change on behalf of Canadians and people around the world.

Ecological sustainability

Ecological sustainability was identified by multiple stakeholders from a broad range of interest groups as a term that must be defined to a greater extent by providing scientifically accepted reference points, ecological indices and metrics that demonstrate how the term will be applied in the management of NMCAs.

It was suggested that metrics be defined and set for each type of marine use so as to be able to categorize ecological sustainability on a case by case basis. It was also recommended that activities in NMCAs should be more stringently managed than those outside NMCAs. Alternatively, industry stakeholders commented that existing standards are adequately stringent and that current operations are being conducted in a sustainable manner.

Fisheries

Many stakeholders provided a wide range of comments on commercial fisheries within NMCAs. Many felt that commercial fishing should be limited to a greater degree than that proposed. It was suggested that the only permissible fishing practices should be those that are low impact, managed to the highest standards and that do not impact the ecological health of an area, species levels or trophic structures.

It was shared that many Canadian commercial fisheries are recognized internationally as examples of global best practices with clear harvest control rules, effective monitoring for bycatch as well as protection for benthic habitat. Industry stakeholders requested increased collaboration and larger roles in informing decision making. There are concerns that the proposed restrictions may prevent innovation in fishing methods that could help achieve conservation goals inside and outside of NMCAs.

Some stakeholders indicated that restrictions should be the same for recreational fishing as for commercial fishing. Others see recreational fishing as differing from commercial practices and as being sufficiently regulated. Respondents shared that properly regulated angling is a traditional, sustainable and popular recreational activity that should be considered an opportunity for high quality visitor experiences. Fishing tourism is a major industry in Canada, and any restrictions should consider not only socioeconomic impacts but should also provide evidence if a practice is non-sustainable or goes against the objectives of NMCAs.

Commercial Shipping

Many stakeholders expressed concern that shipping activities including anchoring may negatively impact visitor experiences and local environments. Some consider commercial shipping to be inconsistent with the goals and objectives of NMCAs due to factors such as noise pollution, or the introduction of invasive species.

Further concerns were shared regarding negative environmental impacts of anchoring within NMCAs. These include the dumping of ballast and bilge water; disruption to the sea floor; disruption to marine life; noise, light and air pollution; and impacts to coastal community privacy.

On the other hand, feedback included the importance of considering impacts to the economic sustainability of marine industry users, as well as implications to economic and international trade that would best be understood through engaging these stakeholder groups.

Compliance and Law Enforcement

Comments highlighted that monitoring, compliance promotion, and law enforcement must play key roles in the effectiveness of protection measures. Feedback was received about the challenge of tracking compliance for extractive uses, with the request for more details on how this will be achieved. Finally, it was suggested that deterrents such as fines and penalties be considered to promote compliance.

Collaboration, Consultation and Governance

Some participants felt that the length and scope of the proposed policy consultations were too narrow. Moving forward, there is a clear interest in ensuring meaningful consultation and collaboration with stakeholders at various stages, including during the establishment of a new NMCA, the operational phases and the development of regulations. To that end, an extended consultation beyond the regular Canada Gazette period was suggested.

It was pointed out that various models of co-management or collaborative decision making will bolster the effectiveness of conservation measures by increasing buy-in for the overall objectives of an NMCA, and by increasing the amount of knowledge available for decision making. Co-management and collaborative decision making can involve Indigenous peoples. Local residents from coastal communities and users that may not necessarily live in coastal communities may also be consulted. Capacity building

in communities adjacent to NMCAs was highlighted as a way to ensure that NMCAs meet their objectives. Many stakeholders mentioned that the benefits associated with an NMCA should extend beyond the adjacent communities to users who may be more transient, as well as to other protected areas. Adopting a more holistic approach and broadening the scope of the objective may ensure increased benefits to coastal communities. It was suggested that the recommendations of *We Rise Together*, the March 2018 report of the Indigenous Circle of Experts be considered insofar as they apply to NMCAs.

The identification of possible socioeconomic impacts of the proposed changes was suggested. Relationships with stakeholder groups were highlighted as important to the development of regulations. Formalizing relationships with tourism operators and the fishing industry could also go a long way to ensure efficiency in establishment, management and monitoring activities.

Education

It was suggested by many stakeholders, particularly youth, that NMCAs become tools to further educate Canadians and the world on the importance of protecting marine biodiversity and ecological services. Youth focused particularly on the use of digital media and how it might enhance outreach initiatives for the next generation of leaders and users. Educational activities should have an impact beyond the boundaries of NMCAs and extend a sense of stewardship to areas outside of NMCAs.

Definitions

It was felt that additional terms require further definition. Various questions about these terms are listed here:

- **Highly developed areas**
 - What metrics will be used to define such an area?
- **Visitors**
 - Is it possible to differentiate between visitors and local users?
- **Biodiversity**
 - How will biodiversity be measured in NMCAs?

- **Dumping/disposal**
 - What is included in restrictions against dumping/disposal?
- **Traditional use**
 - What is considered traditional use?
 - Will there be consultation with communities regarding defining traditional uses before restricting harvesting or access rights?

- **Bottom Contact**
 - What defines a bottom contact fishery?
 - What restrictions will there be on bottom contact gear in recreational fisheries?



Next Steps

Next Steps

We received many comments on topics related to the establishment, management and operations of existing and proposed NMCAs that are outside of the scope of the current policy consultations. Such comments were related to: vessel speed; length of establishment process; commercial shipping and anchoring; protection of special features; current land use planning arrangement; zoning; and localized fishing practices. These comments are being compiled to share with Parks Canada operational staff at the local level and with national leads.

Parks Canada is grateful to everyone who took the time to share their feedback, opinions and concerns. The feedback received as part of the consultation process will help Parks Canada update the 1994 policy for NMCAs and inform next steps regarding the development of regulations under the *Canada National Marine Conservation Areas Act*.

We are continuing to consult with Indigenous organizations; provincial and territorial governments; and other federal departments, with the goal of finalizing the NMCA policy update by 2021.

Further consultations, on the scope and content of potential regulations, will be undertaken through the regulatory development process, starting in 2021.

Parks Canada is committed to marine conservation and has a responsibility to Canada and the world to protect and conserve examples of our nation's marine heritage. A revised policy for

national marine conservation areas and the development of regulations under the *Canada National Marine Conservation Areas Act* will help ensure that representative examples of Canada's marine heritage are protected and conserved today, and for future generations.

