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A Review of Crown Legislation for Protected and Conserved Areas: A Guide for Indigenous Leadership

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About This Guide

This guide was created to support the advancement of Indigenous Protected and Conserved Areas (IPCAs) by informing Indigenous leadership about the current state of legislation related to protected and conserved areas across Canada.

It provides an overview of federal, provincial and territorial laws for the creation of protected areas and parks. For each region, this guide identifies the following:

- Different kinds of protected area designations that are available;
- The kind of protection each designation provides; and
- The extent to which each designation satisfies the [Indigenous Circle of Experts' \(ICE\)](#) three guiding principles for IPCAs.

It is important to note that many aspects of Canadian law restrict sharing power and decision-making authority with Indigenous communities. This document should be understood as only a guide, and not a final determination of what is possible.

Canada's authority over Indigenous territories is on shaky legal ground and continues to be challenged through the leadership and advocacy of Indigenous Peoples. Despite colonial laws, Indigenous communities maintain and strengthen their relationships with their ancestral lands.

Indigenous Peoples maintain their rights to govern, manage, and steward lands and waters throughout their territories. These facts are increasingly affirmed by Canada's own court systems. In addition, IPCAs are emerging as a modern mechanism to support Indigenous rights and title.

This guide includes an overview and fourteen sections: one for federal laws, and one for each province and territory in what is now Canada. The sections following federal law (Canada) are in alphabetical order.

Each section begins with a chart that identifies the key protected area designations in each region and evaluates them according to ICE's three guiding principles for IPCAs. Following this initial assessment, further charts in each section describe the limitations and benefits of each protected area designation, as well as the process for creating them.

Some protected areas must be created by an [Order in Council](#), while others require a new or amended regulation, and still others may require a consultation process. Some protected areas permit hunting and fishing, while others do not. In areas with the strictest protections, hunting may be forbidden.

These charts draw out the relevant differences between designations in each region. Indigenous governments can compare them and make informed decisions about what approach to pursue with regards to IPCAs.

It is important to note that this document reflects the current state of land management laws and practices in Canada at the time of publication.

The charts and references within this guide do not represent all possibilities, futures, or ways of visualizing and understanding Indigenous rights, responsibilities, and relationships to their territories. They do also not fully capture the possibilities for effective agreements between Indigenous and settler governments.

This guide draws from legal expertise within the Conservation through Reconciliation Partnership to highlight aspects of Canadian laws which may act as barriers or as enablers to the creation of IPCAs.

How To Use This Guide

The charts within this guide can be used to answer specific questions about protected area designations in federal and provincial law. For example, imagine that an Indigenous community in Nova Scotia is interested in creating an IPCA and wants to add protections through provincial law.

The community consults the overview chart in the [Nova Scotia section](#) to assess the benefits and drawbacks of the different protected area designations in the province.

They learn that none of the protected area designations in Nova Scotia grant the Minister of Natural Resources the explicit authority to delegate all management powers to a First Nation. However, most designations allow for the Minister to enter into agreements with other organizations, including First Nations, to support co-management.

The community then consults the in-depth charts. While provincial parks offer can offer strong protections from unwelcome activities, they typically focus on recreation. On the other hand, natural heritage reserves offer very strong protections but are focused on protecting natural heritage for “scientific and educational purposes.” Both of these designations must be created by an [Order in Council](#) drafted by [Cabinet](#).

The community notices that Wilderness Areas meet many of their needs. These areas can be created and changed using a [ministerial order](#), which is typically easier and faster than an Order in Council. Wilderness Areas do not allow development, resource extraction, or motor vehicles, but they do allow traditional hunting, trapping, and certain recreational activities.

These factors inform the community’s position as they approach the provincial government to enter into negotiations regarding the creation of an IPCA.

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Introduction

Indigenous Protected and Conserved Areas (IPCAs) are “lands and waters where Indigenous governments have the primary role in protecting and conserving ecosystems through Indigenous laws, governance and knowledge systems.”¹ While IPCAs differ in their ecology, governance structures, and management goals, the Indigenous Circle of Experts (ICE) highlights three shared characteristics of IPCAs²:

- (1) IPCAs are Indigenous-led.
- (2) IPCAs represent a long-term commitment to conservation.
- (3) IPCAs elevate Indigenous rights and responsibilities.³

Indigenous governments can and have created IPCAs using their own laws and authority, without the formal recognition of Crown law.⁴ However, under the current Canadian legal system, IPCAs that are not officially recognized by Crown law do not have legal protection. This leaves many IPCAs vulnerable to unwelcomed activities and development.⁵

Indigenous governments may wish to work with settler governments to achieve a protected area designation, such as a provincial park or a wilderness area.

Protected areas under current Canadian laws can differ greatly in strength of protections, method of establishment, management structures, and permitted activities. Indigenous communities can create meaningful partnerships and establish IPCAs that meet the criteria outlined by ICE, but there are challenges.

One potential approach is to use a “dual-designation system,” where both Indigenous and Crown laws work in parallel to create and manage the protected area.⁶ As summarized by ICE, “[t]here is no one-size-fits-all approach [to creating an IPCA], but rather than presenting a challenge, this [can allow] creativity and flexibility that is essential for Indigenous conservation initiatives.”⁷

¹ Indigenous Circle of Experts, “[We Rise Together: Achieving Pathway to Canada Target 1 through the creation of Indigenous Protected and Conserved Areas in the spirit and practice of reconciliation](#)” (March 2018) at 5, online (pdf): *Government of Canada Publications*.

² *Ibid*, at 4-5

³ *Ibid*, at 5

⁴ See e.g. Philip Akins and Michael Bissonnette, “[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)” (September 2020) at 18-19, online (pdf): *Coastal First Nations*, citing John Borrows, *Recovering Canada: The Resurgence of Indigenous Law*, 1st ed (Toronto: University of Toronto Press, 2002); Val Napoleon, “Thinking About Indigenous Legal Orders” in René Provost and Colleen Sheppard, eds, *Dialogues on Human Rights and Legal Pluralism* (Dordrecht, NL: Springer Netherlands, 2013) 229.

⁵ See e.g. Megan Youdelis et al, “[Establishing Indigenous Protected Areas for Future Generations in the Face of Extractive Capitalism](#)” (14 July 2021), online: *Conservation Through Reconciliation Partnership*.

⁶ See e.g. “Gwaii Haanas National Park Reserve, National Marine Conservation Area Reserve, and Haida Heritage Site Management Plan 2018: [Gwaii Haanas Gina 'Waadluxan KilGuhIga Land-Sea-People Management Plan 2018](#)” (2018), online: *Parks Canada*; “[Edézhíe Protected Area](#)” (last modified 9 December 2020), online: *Environment and Climate Change Canada*.

⁷ Pathway to Canada Target I National Steering Committee Indigenous Protected and Conserved Areas Working Group, “[Indigenous Protected and Conserved Areas – Supporting Conditions for Success: Lessons and Experiences](#)”

In addition, working within the Canadian legal system means that a protected area will be informed, at least in part, by Western or Eurocentric values.⁸ These values often see nature as separate from humans. This thinking is counter to Indigenous laws and knowledge systems where “continued human presence on the land and water is seen as positive and essential, with humans being considered an integral part of nature.”⁹ Within Western knowledge systems, there is a risk that the values of Indigenous knowledge systems, laws, and governance models will be overshadowed or ignored.¹⁰

While IPCAs present opportunities to bridge Indigenous and Canadian legal systems, past initiatives have often been forced to work entirely within, or entirely outside of, Canadian law.¹¹ As researcher Anastasia Papadopoulos notes:

“Aligning IPCAs with Canadian or provincially established legislation...limits the ability of [Indigenous Peoples] to push for institutional changes needed for breaking down colonial operating systems that continue to maintain the status quo in terms of decision-making roles.”¹²

Not all Indigenous governments and communities choose to pursue an approach that weaves Indigenous and Crown laws. This guide presents possible pathways to begin discussions regarding IPCAs within the Canadian legal system.

[from Jurisdictions Across Canada](#)” (last visited 12 May 2022) at 18, online (pdf): *Conservation Through Reconciliation Partnership*.

⁸ See e.g. William Cronon, “The trouble with wilderness: Or, getting back to the wrong nature” (1996) 1:1 *Environmental History* 7; Roderick P Neumann, “Nature-state-territory: toward a critical theorization of conservation enclosures” in Richard Peet and Michael Watts, eds, [Liberation Ecologies: Environment, Development, Social Movements](#), 2nd ed (London: Routledge, 2004) 179.

⁹ Indigenous Circle of Experts, “[We Rise Together: Achieving Pathway to Canada Target 1 through the creation of Indigenous Protected and Conserved Areas in the spirit and practice of reconciliation](#)” (March 2018) at 43, online (pdf): *Government of Canada Publications*.

¹⁰ Anastasia Papadopoulos, [Exploring Governance Mechanisms and Mi’kmaq Values and Aspirations for Indigenous Protected and Conserved Areas \(IPCAs\) in Nova Scotia](#) (MES Thesis, Dalhousie University, 2021) at 90 [unpublished].

¹¹ See e.g. “[Decision to Establish Kitaskino Nuwenéné Wildland Provincial Park](#)” (30 March 2022), online: *Alberta Parks*; Megan Youdelis et al, “[Establishing Indigenous Protected Areas for Future Generations in the Face of Extractive Capitalism](#)” (14 July 2021), online: *Conservation Through Reconciliation Partnership*; Kerrie Blaise, “[Briefing Note: Legal Landscape of Indigenous Protected and Conserved Areas \(IPCAs\) in Ontario](#)” (16 June 2020) at 1, online (pdf).

¹² Anastasia Papadopoulos, [Exploring Governance Mechanisms and Mi’kmaq Values and Aspirations for Indigenous Protected and Conserved Areas \(IPCAs\) in Nova Scotia](#) (MES Thesis, Dalhousie University, 2021) at 95 [unpublished], citing Derek Armitage et al, “[Governing principles for community-centered conservation in the post-2020 global biodiversity framework](#)” (2020) 2:2 *Conservation Science and Practice* 160; Lynda M Collins and Meghan Murtha, “[Indigenous Environment Rights in Canada: The Right to Conservation Implicit in Treaty and Aboriginal Rights to Hunt, Fish, and Trap](#)” (2010) 47:4 *Alta L Rev* 959.

Key Takeaways

As it currently stands, no region in Canada has legislation that recognizes IPCAs as they are defined by ICE.

Characteristic 1: IPCAs are Indigenous-led

No regions have legislation that allows for the recognition of protected areas that are solely Indigenous-led. While there are many examples of co-management, the Crown is always involved in management to *some* degree.

Québec recently amended the *Natural Heritage Conservation Act* to support the creation of Aboriginal-led Protected Areas; however, none have been created to date.

Characteristic 2: IPCAs represent a long-term commitment to conservation

All protected areas discussed in this guide represent a long-term commitment to conservation. Some laws focus on the permanent protection of ecosystems.

Characteristic 3: IPCAs elevate Indigenous rights and responsibilities

Most regions in Canada include references to Indigenous rights and responsibilities in their protected areas legislation to *some* degree.

Promising Legislative Approaches

The following examples offer promising legal approaches to protected and conserved areas from across the country:

British Columbia – Conservancies

The most promising protected area designation under British Columbia (B.C.) law is the Conservancy. Conservancies can be protected for four purposes:

- (1) The protection and maintenance of biodiversity and the natural environment;
- (2) “The preservation and maintenance of social, ceremonial, and cultural values of First Nations;”
- (3) The protection of recreational values; and
- (4) The sustainable development of natural resources, consistent with the above three purposes.¹³

¹³ [Park Act, RSBC 1996, c 344](#), s 5(3.1).

Conservancies use a co-governance model where decision-making authority is shared between First Nations and the provincial government.¹⁴ Two examples of this co-management arrangement are the [Kitasoo Spirit Bear Conservancy](#), managed by the [Kitasoo/Xai'xais First Nation](#), and the [Hakai Lúxvbálís Conservancy](#), managed by the [Heiltsuk Nation](#).¹⁵ While decision-making in Conservancies is shared, the Crown has ultimate decision-making authority.¹⁶

Conservancies were introduced in 2006 when [Coastal First Nations](#) negotiated a change to the [Park Act](#). They wanted to protect land but were concerned that B.C. Parks would not support traditional Indigenous land uses.¹⁷ This landmark negotiation ensures priority is given to First Nations' interests.

Conservancies can be created to preserve ceremonial and cultural values, so they are more flexible than provincial parks in the activities that they allow. Conservancies also allow First Nations to pursue small-scale, low-impact economic activities such as aquaculture and guided hiking.¹⁸

The following activities are prohibited in Conservancies:

- Commercial logging;
- Mining;
- Non-local hydroelectric power generation; and
- Activities which do not support the purposes of the Conservancy.¹⁹

Activities can be further controlled using the Conservancy's management plan.²⁰

¹⁴ Katherine L Turner and Christopher PH Bitonti, "[Conservancies in British Columbia, Canada: Bringing Together Protected Areas and First Nations' Interests](#)" (2011) 2:2 International Indigenous Policy J 1; Jessica Stronghill, Murray B Rutherford and Wolfgang Haider, "[Conservancies in Coastal British Columbia: A New Approach to Protected Areas in the Traditional Territories of First Nations](#)" (2015) 13:1 Conservation and Society 39; see also Anastasia Papadopoulos, [Exploring Governance Mechanisms and Mi'kmaw Values and Aspirations for Indigenous Protected and Conserved Areas \(IPCAs\) in Nova Scotia](#) (MES Thesis, Dalhousie University, 2021) at 96 [unpublished].

¹⁵ Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 9, online (pdf): *Coastal First Nations*; "[Kitasoo Spirit Bear Conservancy](#)" (last visited 12 May 2022), online: *BC Parks*; "[Hakai Lúxvbálís Conservancy](#)" (last visited 12 May 2022), online: *BC Parks*.

¹⁶ Justine Townsend, personal communication, 3 May 2022.

¹⁷ Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 25, online (pdf): *Coastal First Nations*.

¹⁸ [Park Act, RSBC 1996, c 344](#), s 5(3.1); Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 25, online (pdf): *Coastal First Nations*; Jessica Stronghill, Murray B Rutherford and Wolfgang Haider, "[Conservancies in Coastal British Columbia: A New Approach to Protected Areas in the Traditional Territories of First Nations](#)" (2015) 13:1 Conservation and Society 39; see also Anastasia Papadopoulos, [Exploring Governance Mechanisms and Mi'kmaw Values and Aspirations for Indigenous Protected and Conserved Areas \(IPCAs\) in Nova Scotia](#) (MES Thesis, Dalhousie University, 2021) at 25 [unpublished].

¹⁹ [Park Act, RSBC 1996, c 344](#), ss 5(3.1), 9(10).

²⁰ Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 25, online (pdf): *Coastal First Nations*.

The main issue with Conservancies is that ultimate decision-making authority remains with the provincial government. Researchers Turner and Bitonti set out the following additional strengths and challenges of this designation:

Strengths:

- Respect Aboriginal rights.
- Support ecological integrity.²¹
- Established on a partnership basis.
- Support local job creation.
- Provide First Nations with a provincial tool to protect key and valued areas.
- Supported the rapid expansion of protected areas in British Columbia.
- Supports a variety of approaches to conservation.²²

Challenges:

- Balancing protections with local economic development options.
- Securing long-term funding.
- Lack public awareness.
- No guarantee of long-term employment for First Nations.
- Some undesirable activities are still permitted within Conservancies.
- Lack capacity for long-term monitoring and enforcement.²³

Manitoba – Indigenous Traditional Use Parks

Indigenous Traditional Use Parks can be established to protect land that is traditionally used by and significant to Indigenous Peoples.²⁴ Very little has been written about these parks.

Currently, only one Indigenous Traditional Use Park has been established in Manitoba: Chitek Lake Anishinaabe Provincial Park.

²¹ Ecological integrity is defined as “a condition that is determined to be characteristic of its natural region and likely to persist, including abiotic components and the composition and abundance of native species and biological communities, rates of change and supporting processes.” [Canada National Parks Act, SC 2000, c 32](#), ss 2(1), 8.

²² Katherine L Turner and Christopher PH Bitonti, “[Conservancies in British Columbia, Canada: Bringing Together Protected Areas and First Nations’ Interests](#)” (2011) 2:2 International Indigenous Policy Journal 1 at 7.

²³ *Ibid.*

²⁴ [Provincial Parks Designation Regulation, Man Reg 37/97](#), s 2.1; see also [Provincial Parks Designation Regulation, Man Reg 37/97](#), s 3.1.

Chitek Lake Anishinaabe Provincial Park was established as an Indigenous Traditional Use Park in 2014 based on a proposal from [Skownan First Nation](#).²⁵

The park protects wildlife habitat, including a rare herd of wood bison, and is used by community members for hunting, fishing and small-scale logging. Skownan First Nation calls the park “a place of peace and freedom for our people and the bison.”²⁶

Chitek Lake is currently a non-operational park, meaning it is legally protected but has no budget for management or operations. In 2016, Manitoba signed a Memorandum of Understanding with Skownan First Nation to work cooperatively towards developing a land management plan, explore models for cooperative management, and explore options for boundary expansions to consider other lands that Skownan First Nation views as important for conservation.²⁷

Northwest Territories – *Protected Areas Act*

The [Protected Areas Act](#) was created in collaboration with Indigenous governments and organizations, regulatory boards, stakeholders, and the public.²⁸ This “partnership approach” was developed in collaboration with the [Intergovernmental Council of Indigenous Governments and Organizations](#).²⁹

The Act provides a legal framework to protect, conserve, and maintain the diversity of plants and animals, natural environments, and cultural heritage. It does this by creating a system of permanent protected areas that reflect the distinct types of ecosystems and cultural landscapes found in the area.³⁰

The *Protected Areas Act* requires collaborative management agreements between territorial and Indigenous governments. These agreements determine how the park will be managed, how disagreements are to be resolved, how to preserve Aboriginal and Treaty rights, and what activities will be allowed. The Act guarantees that Indigenous governments have a say in management decisions so that they can ensure protected areas suit their needs

Québec – Aboriginal-led Protected Areas

Québec is the only region, to date, which has included IPCAs in legislation in the form of Aboriginal-led Protected Areas (APAs). However, no APAs have yet been created and so there are no examples at the time of publication.

²⁵ Pathway to Canada Target I National Steering Committee Indigenous Protected and Conserved Areas Working Group, “[Indigenous Protected and Conserved Areas – Supporting Conditions for Success: Lessons and Experiences from Jurisdictions Across Canada](#)” (last visited 12 May 2022) at 25, online (pdf): *Conservation through Reconciliation Partnership*.

²⁶ Skownan First Nation, “[Our Vision, Our Community](#)” (last visited 13 Oct 2022), online: Skownan First Nation.

²⁷ Pathway to Canada Target I National Steering Committee Indigenous Protected and Conserved Areas Working Group, “[Indigenous Protected and Conserved Areas – Supporting Conditions for Success: Lessons and Experiences from Jurisdictions Across Canada](#)” (last visited 12 May 2022) at 25, online (pdf): *Conservation Through Reconciliation Partnership*.

²⁸ “[Protected Areas Act](#)” (last visited 12 May 2022), online: *Government of Northwest Territories*.

²⁹ *Ibid.*

³⁰ *Ibid.*

Canada



Overview

Canadian federal law offers seven different types of protected area designation: National Park, National Park Reserve, National Historic Site, Marine Conservation Area, Marine Conservation Area Reserve, Marine Protected Area, and National Wildlife Area.

The first three charts in this section evaluate each of the seven designations based on the three characteristics of Indigenous Protected and Conserved Areas (IPCAs) as outlined by the Indigenous Circle of Experts (ICE). These charts also identify some overall advantages and disadvantages of each designation for the creation of IPCAs.

While none of the federal protected area designations grant sole Indigenous leadership in land management, most of them allow for Indigenous co-management agreements, and some require Indigenous participation in management.

Following this survey, this section delves into detail on each of the seven protected areas. The charts in this section present information on permitted activities in each area. The charts also outline the process for creating each protected area designation.

It is important to note that federal protected areas on provincial Crown land cannot be created or expanded without the province's agreement. Property, land use, and natural resources all fall within provincial authority. Crown land located within provinces is owned by the provinces, so a park cannot be created on this land without provincial consent.

On the other hand, the federal government has authority over federal Crown lands (including much of Nunavut), coastal waters, and the ocean. Protected areas could be created in these places without provincial consent.

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of the Canada National Parks Act

	National Park	National Park Reserve	National Historic Site
Legislation	<i>Canada National Parks Act</i>	<i>Canada National Parks Act</i>	<i>Canada National Parks Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Included in legislation – requires legislative amendment to remove protections	Included in legislation – requires legislative amendment to remove protections	Created by order/regulation – can be overturned more easily than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister can enter into agreements with Indigenous governments to support management Minister must provide opportunities for Indigenous participation in management	Minister can enter into agreements with Indigenous governments to support management Minister must provide opportunities for Indigenous participation in management	Minister can enter into agreements with Indigenous governments to support management Minister must provide opportunities for Indigenous participation in management
Advantages	Strong baseline protections Support traditional renewable resource harvesting	Strong baseline protections Support traditional renewable resource harvesting Support Aboriginal rights and title claims	Strong baseline protections Support traditional renewable resource harvesting
Disadvantages	Certain areas can be zoned as wilderness, discouraging human involvement with the natural environment	Certain areas can be zoned as wilderness, discouraging human involvement with the natural environment	Baseline level of development involved to support interpretative and educational services

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of the National Marine Conservation Areas Act and the Oceans Act

	Marine Conservation Area	Marine Conservation Area Reserve	Marine Protected Area
Legislation	<i>Canada National Marine Conservation Areas Act</i>	<i>Canada National Marine Conservation Areas Act</i>	<i>Oceans Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Included in legislation – requires legislative amendment to remove protections	Included in legislation – requires legislative amendment to remove protections	Created by order/regulation – can be overturned more easily than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister can enter into agreements with Indigenous governments and organizations to support management Support for co-management	Minister can enter into agreements with Indigenous governments and organizations to support management Support for co-management	Support co-management with Indigenous governments
Advantages	Strong baseline protections	Strong baseline protections Support Aboriginal rights and title claims	Faster to establish than Marine Conservation Area Temporary protections available
Disadvantages	Takes longer to establish than Marine Protected Area	Takes longer to establish than Marine Protected Area	Easier to overturn protections (when compared to Marine Conservation Area)

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of the Canada Wildlife Act

	National Wildlife Area
Legislation	<i>Canada Wildlife Act</i>
IPCA Characteristic #1: Indigenous-led	No
IPCA Characteristic #2: Long-term commitment to conservation	Created by regulation – can be overturned more easily than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Support co-management with Indigenous governments and organizations Minister can appoint advisory committee to support management
Advantages	Flexible protections Indigenous governments and organizations can submit proposals for areas for protection
Disadvantages	Discretionary protections

In-Depth: Parks Canada Agency Act

The [Parks Canada Agency Act](#) created the Parks Canada Agency to ensure “that Canada’s national parks, national historic sites and related heritage areas are protected and presented for [present] and future generations.”³¹ The *Parks Canada Agency Act* also recognizes that it is in the national interest to:

- (a) “Protect the nationally significant examples of Canada’s natural and cultural heritage in national parks, national historic sites, national marine conservation areas and related heritage areas [...];
- (b) Present that heritage through interpretive and educational programs for public understanding, appreciation and enjoyment [...];
- (c) Carry out Canada’s international obligations and agreements to protect, conserve and present that heritage and to contribute towards the protection and presentation of the global heritage and biodiversity;
- (d) Include representative examples of Canada’s land and marine natural regions in the systems of national parks and national marine conservation areas;
- (e) Commemorate places, people and events of national historic significance, including Canada’s rich and ongoing aboriginal traditions;
- (f) Ensure the commemorative integrity of national historic sites;
- (g) Maintain or restore the ecological integrity of national parks; and

³¹ [Parks Canada Agency Act, SC 1998, c 31](#).

(h) Ensure the ecologically sustainable use of national marine conservation areas [...]”³²

The Minister responsible for Parks Canada Agency is responsible for National Parks, National Historic Sites, and National Marine Conservation Areas.³³ The Parks Canada Agency is responsible for recommending new National Parks, National Historic Sites, and National Marine Conservation Areas for protection.³⁴

In-Depth: Canada National Parks Act

	National Park	National Park Reserve³⁵	National Historic Site
Legislation	<i>Canada National Parks Act</i>	<i>Canada National Parks Act</i>	<i>Canada National Parks Act</i>
Responsible Government Department ³⁶	Parks Canada Agency	Parks Canada Agency	Parks Canada Agency
Overall Goals and Values	Protect parks for benefit, education, and enjoyment of present and future generations (s. 4(1))	Protect areas proposed for National Park where subject to claim regarding Aboriginal rights (s. 4(2))	Protect historic landmarks and objects of national importance (s. 42(1))
Establishment	Order in Council (s. 5(1))	Order in Council (s. 6(1))	Order in Council (s. 42(1)) ³⁷
Strength of Protection ³⁸	II National Park	II National Park	III Natural Monument or Feature V Protected Landscape
Decision-Making Authority	Minister/Superintendent responsible for management (s. 8(1)) Minister can enter into agreements with Indigenous governments to support (s. 10(1)) Minister must provide opportunities for Indigenous participation in management (s. 12(1))	Minister/Superintendent responsible for management (s. 8(1)) Minister can enter into agreements with Indigenous governments to support (s. 10(1)) Minister must provide opportunities for Indigenous participation in management (s. 12(1))	Minister/Superintendent responsible for management (s. 8(1)) Minister can enter into agreements with Indigenous governments to support (s. 10(1)) Minister must provide opportunities for Indigenous participation in management (s. 12(1))

³² [Parks Canada Agency Act, SC 1998, c 31](#).

³³ *Ibid*, ss 4(1), 6(1).

³⁴ *Ibid*, s 6(3).

³⁵ The *Canada National Parks Act* applies to National Park Reserves as if they were National Parks.

[Canada National Parks Act, SC 2000, c 32](#), s 39.

³⁶ *Ibid*, s 2(1).

³⁷ See also [Parks Canada Agency Act, SC 1998](#), s 2(2).

³⁸ Based on [IUCN Protected Area Categories](#) (see Appendix II).

In-Depth: Canada National Parks Act (Continued)

	National Park	National Park Reserve ³⁹	National Historic Site
Hunting*	Prohibited (with exceptions) ⁴⁰	Permitted (with exceptions) ⁴¹	Prohibited ⁴²
Fishing*	With permit (with exceptions) ⁴³	With permit (with exceptions) ⁴⁴	With permit (with exceptions) ⁴⁵
Trapping*	Prohibited (with exceptions) ⁴⁶	Permitted (with exceptions) ⁴⁷	Prohibited ⁴⁸
Development	Can develop telecommunications and scientific monitoring stations (s. 15)	Can develop telecommunications and scientific monitoring stations (s. 15)	Development consistent with protection of historical resources ⁴⁹ Can develop telecommunications and scientific monitoring stations (s. 15)
Natural Resource Extraction	Traditional renewable resource harvesting allowed in certain parks by special regulation (s. 17(1))	Traditional renewable resource harvesting is always allowed (ss. 17(1), 40)	Traditional renewable resource harvesting allowed in certain parks (ss. 17(1), 40)
Access	Motor vehicle and off-highway vehicle access in certain areas (with permit) ⁵⁰	Motor vehicle and off-highway vehicle access in certain areas (with permit) ⁵¹	Motor vehicle and off-highway vehicle

³⁹ The *Canada National Parks Act* applies to National Park Reserves as if they were National Parks. [Canada National Parks Act, SC 2000, c 32](#), s 39.

* Indigenous hunting, fishing, and trapping (and all other traditional and cultural practices) are permitted in National Parks and some National Historic Sites in accordance with park establishment agreements or land claim agreements (e.g., all National Parks and National Historic Sites in Nunavut and Northwest Territories).

⁴⁰ See generally [National Parks Wildlife Regulations, SOR/81-401](#).

⁴¹ *Ibid.* See also [Canada National Parks Act, SC 2000, c 32](#) s 40.

⁴² [National Historic Parks Wildlife and Domestic Animals Regulations, SOR/81-613](#), s 4.

⁴³ See generally [National Parks of Canada Fishing Regulations, CRC, c 1120](#).

⁴⁴ *Ibid.* See also [Canada National Parks Act, SC 2000, c 32](#) s 40.

⁴⁵ *Ibid.*

⁴⁶ See generally [National Parks Wildlife Regulations, SOR/81-401](#); see also e.g. [Gros Morne National Park of Canada Snowshoe Hare Regulations, SOR/2005-205](#).

⁴⁷ *Ibid.* See also [Canada National Parks Act, SC 2000, c 32](#) s 40.

⁴⁸ [National Historic Parks Wildlife and Domestic Animals Regulations, SOR/81-613](#), s 4.

⁴⁹ [National Historic Parks General Regulations, SOR/82-263](#), s 36(1)(d).

⁵⁰ [National Parks Highway Traffic Regulations, CRC, c 1126](#).

⁵¹ *Ibid.*

			access in certain areas (with permit) ⁵²
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In-Depth: Canada National Parks Act (Continued)

	National Park	National Park Reserve⁵³	National Historic Site
Activities Allowed	Outdoor recreational activities ⁵⁴	Outdoor recreational activities ⁵⁵	Outdoor and interpretative recreational activities ⁵⁶
Activities Prohibited	Damaging or destroying plants or natural objects (unless permitted) ⁵⁷ Polluting or diverting water (unless permitted) ⁵⁸	Damaging or destroying plants or natural objects (unless permitted) ⁵⁹ Polluting or diverting water (unless permitted) ⁶⁰	Damaging or destroying historical resources, plants, or natural objects (unless permitted) ⁶¹ Polluting or diverting water (unless permitted) ⁶² Camping (unless permitted) ⁶³

National Parks

National Parks are created for the “benefit, education and enjoyment” of present and future generations and must remain “unimpaired” for this purpose.⁶⁴ Cabinet can create or increase the area of a National Park by means of an Order in Council.⁶⁵

In practice, Cabinet will typically amend the Canada National Parks Act by taking an amendment through Parliament. Once a National Park has been created, Cabinet cannot reduce its area using an order– this would require a full legislative amendment.⁶⁶

⁵² *Ibid.*

⁵³ The *Canada National Parks Act* applies to National Park Reserves as if they were National Parks. [Canada National Parks Act, SC 2000, c 32](#), s 39.

⁵⁴ “[Activities and experiences](#)” (last modified 9 November 2021), online: *Parks Canada*.

⁵⁵ *Ibid.*

⁵⁶ See e.g. “[Cool things to do at national historic sites](#)” (last modified 7 May 2021), online: *Parks Canada*.

⁵⁷ [National Parks General Regulations, SOR/78-213](#), ss 10-12.

⁵⁸ *Ibid.*, ss 16-18.

⁵⁹ *Ibid.*, ss 10-12.

⁶⁰ *Ibid.*, ss 16-18.

⁶¹ [National Historic Parks General Regulations, SOR/82-263](#), ss 3-4.

⁶² *Ibid.*, ss 7-8.

⁶³ *Ibid.*, ss 15-16.

⁶⁴ [Canada National Parks Act, SC 2000, c 32](#), s 4(1).

⁶⁵ *Ibid.*, s 5(1).

⁶⁶ *Ibid.*, s 5(3).

The Minister who oversees Parks Canada (currently the Minister of Environment and Climate Change) is responsible for managing National Parks.

When exercising this responsibility, the Minister's priority must be maintaining or restoring ecological integrity.⁶⁷ Park management decisions made by the Minister that do not meet these criteria could be subject to a legal challenge.

The Minister appoints a superintendent for each park, who must develop a management plan for each National Park.⁶⁸ These plans must be approved by the House of Commons and the Senate and must be reviewed at least once every ten years.⁶⁹ The planning process must provide opportunities for Indigenous participation and collaboration as well as public consultation "where applicable."⁷⁰

National Park Reserves

National Park Reserves are created where land proposed for a National Park is subject to a claim regarding Aboriginal rights and this claim has been accepted for negotiation by the federal government.⁷¹ Traditional renewable resource harvesting activities, such as hunting and trapping, can be continued in National Park Reserves. These distinctions separate National Park Reserves from National Parks.⁷²

In addition, the establishment of a National Park Reserve is like that of a National Park: it may occur through an Order in Council or more commonly through a legislative amendment. Once a National Park Reserve has been created, Cabinet cannot reduce its area using an order. Reducing the area require a full legislative amendment.⁷³

If, down the road, the claim regarding Aboriginal rights is settled, the Governor in Council can make one of the following orders, depending on the settlement:

- (a) Remove the land from the national parks system;
- (b) Change the size of the National Park Reserve; or
- (c) Transform the National Park Reserve into a National Park.⁷⁴

The Minister is responsible for managing National Park Reserves. When exercising this responsibility, the Minister's priority must be to maintain or restore ecological integrity.⁷⁵

⁶⁷ Ecological integrity is defined as "with respect to a park, a condition that is determined to be characteristic of its natural region and likely to persist, including abiotic components and the composition and abundance of native species and biological communities, rates of change and supporting processes." [Canada National Parks Act, SC 2000, c 32](#), ss 2(1), 8.

⁶⁸ *Ibid*, ss 2(1), 11.

⁶⁹ *Ibid*, s 11.

⁷⁰ *Ibid*, s 12(1); see also "[Mapping Change: Fostering a Culture of Reconciliation within Parks Canada](#)"

⁷¹ [Canada National Parks Act, SC 2000, c 32](#), s 4(2).

⁷² *Ibid*, ss 39-40.

⁷³ *Ibid*, s 6(4).

⁷⁴ *Ibid*, s 6(2).

⁷⁵ *Ibid*, s 8 (2)

Park management decisions made by the Minister that do not meet this priority could be subject to a legal challenge.

One example of a National Park Reserve is the [Gwaii Haanas National Park Reserve](#). When the National Park Reserve was created, the [Canada National Parks Act](#) was amended to confirm the Minister's powers to enter into an agreement with the Council of the Haida Nation (see Agreements section below). It also details the Minister's powers if there is a resolution of the Haida Nation's claims regarding Aboriginal rights and title in the Gwaii Haanas Archipelago.⁷⁶

National Historic Sites

Cabinet can create a National Historic Site by an Order in Council or by legislative amendment.⁷⁷ National Historic Sites are created to commemorate national historic events, or to protect landmarks and historical resources⁷⁸ of national importance.⁷⁹

Once a National Historic Site is created, the Superintendent can prohibit any activities that threaten to harm the Site.⁸⁰

National Historic Sites can be governed by the [National Historic Park General Regulations](#) and the [National Historic Parks Wildlife and Domestic Animals Regulations](#). National Historic Sites can also be located within the boundaries of National Parks or National Marine Conservation Areas and can be managed under those legal arrangements.

Agreements

Section 10 of the *Canada National Parks Act* allows the Minister to enter into agreements with Indigenous governments, Indigenous organizations, and bodies established under Land Claim Agreements, to support the management of National Parks, National Park Reserves, and National Historic Sites.⁸¹

⁷⁶ [Canada National Parks Act, SC 2000, c 32](#), s 41.

⁷⁷ *Ibid*, s 42; see also generally [Historic Sites and Monuments Act, RSC 1985](#), c H-4.

⁷⁸ A historical resource is defined as "any work of nature or of man that is primarily of interest for its palaeontological, prehistorical, historical, cultural, natural, scientific or aesthetic value including, but not limited to, a palaeontological, prehistorical, historical or natural site..." [National Historic Parks General Regulations, SOR/82-263](#), s 2.

⁷⁹ [Canada National Parks Act, SC 2000, c 32](#), s 42.

⁸⁰ [National Historic Parks General Regulations, SOR/82-263](#), s 12.

⁸¹ [Canada National Parks Act, SC 2000, c 32](#), s 10(1).

In-Depth: Canada National Marine Conservation Areas Act

	Marine Conservation Area	Marine Conservation Area Reserve ⁸²
Legislation	<i>Canada National Marine Conservation Areas Act</i>	<i>Canada National Marine Conservation Areas Act</i>
Responsible Government Department	Parks Canada Agency (s. 2(1))	Parks Canada Agency (s. 2(1))
Overall Goals and Values	Protect and conserve marine areas for public benefits, education, and enjoyment (s. 4(1))	Protect area proposed for Marine Conservation Area where subject to claim regarding Aboriginal rights (s. 4(2))
Establishment	Order in Council/Legislation (s. 5(1))	Order in Council/Legislation (s. 5(1))
Strength of Protection ⁸³	Ib Wilderness Area V Protected Seascape	Ib Wilderness Area V Protected Seascape
Decision-Making Authority	Minister responsible for management – can enter into agreements with Indigenous governments and organizations to support (s. 8) Minister must create an advisory committee to support management (s. 11)	Minister responsible for management – can enter into agreements with Indigenous governments and organizations to support (s. 8) Minister must create an advisory committee to support management (s. 11)
Hunting	N/A	N/A
Fishing	With licence (s. 15)	With licence (s. 15)
Trapping	N/A	N/A
Development	N/A	N/A
Natural Resource Extraction	No exploration for or production of hydrocarbons, minerals, aggregates, or other inorganic materials (s. 13)	No exploration for or production of hydrocarbons, minerals, aggregates, or other inorganic materials (s. 13)
Access	Public access (with exceptions) ⁸⁴	Public access (with exceptions) ⁸⁵
Activities Allowed	Activities consistent with management plan (with permit) (s. 15(1)) Outdoor recreational activities ⁸⁶	Activities consistent with management plan (with permit) (s. 15(1)) Outdoor recreational activities ⁸⁷

⁸² The [Canada National Marine Conservation Areas Act](#) applies to a Marine Conservation Area Reserve as if it were a Marine Conservation Area.

[Canada National Marine Conservation Areas Act, SC 2002, c 18](#), s 2(4).

⁸³ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁸⁴ See e.g. "[National Marine Conservation Areas](#)" (last modified 25 March 2021), online: *Parks Canada*.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

Activities Prohibited	Dependent on zone (s. 4(4))	Dependent on zone (s. 4(4))
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In-Depth: Canada National Marine Conservation Areas Act

The [Canada National Marine Conservation Areas Act](#) recognizes the importance of protecting marine ecosystems to preserve biodiversity.

It also reflects instructions from Parliament to:

- “[C]onsider traditional ecological knowledge in the planning and management of marine conservation areas, and
- [I]nvolve...Aboriginal organizations, Aboriginal governments, bodies established under land claims agreements, and other appropriate persons and bodies in the effort to establish and maintain the representative system of marine conservation areas...”⁸⁸

Marine Conservation Areas must be managed sustainably to ensure that ecosystems are protected, and the needs of present and future generations are met.⁸⁹ Marine Conservation Areas can include submerged lands, internal waters, waters in the territorial sea, and/or waters in Canada’s exclusive economic zone, as well as any coastal lands or islands within Canada.⁹⁰

Marine Conservation Area

Government can create or increase the area of a Marine Conservation Area by an Order in Council or through legislative amendment⁹¹. Once a Marine Conservation Area is created, its size cannot be decreased by use of an Order in Council.⁹²

Each Marine Conservation Area must be divided into zones, including at least one zone that “fosters and encourages ecologically sustainable use of marine resources” and at least one zone that “fully protects special features or sensitive elements of ecosystems.”⁹³

The Minister of Environment and Climate Change is responsible for managing Marine Conservation Areas.⁹⁴

Within five years of creating a Marine Conservation Area, the Minister must work collaboratively with Indigenous organizations and governments, bodies established under Land Claims Agreements, and other organizations to prepare a management plan for the Area.⁹⁵

⁸⁸ [Canada National Marine Conservation Areas Act, SC 2002, c 18.](#)

⁸⁹ *Ibid*, s 4(3).

⁹⁰ *Ibid*, s 5(1); see also generally [Oceans Act, SC 1996, c 31.](#)

⁹¹ [Canada National Marine Conservation Areas Act, SC 2002, c 18, s 7.](#)

⁹² *Ibid*, s 5(1).

⁹³ *Ibid*, s 4(4).

⁹⁴ *Ibid*, s 8.

⁹⁵ *Ibid*, s 9(1).

These management plans must be reviewed at least once every ten years.⁹⁶ Management plans must be informed by principles of ecosystem management and the precautionary principle.⁹⁷ For each Marine Conservation Area, the Minister must create a management advisory committee to provide advice on creating, reviewing, and implementing the management plan.⁹⁸

Marine Conservation Area Reserve

The Federal government can create or increase the area of a Marine Conservation Area Reserve through the use of an Order in Council or by legislative amendment.⁹⁹ If a proposed Marine Conservation Area is under negotiation by the federal government due to an accepted Aboriginal rights claim, a Marine Conservation Area Reserve will be created.¹⁰⁰

Once a Marine Conservation Area Reserve is created, the [Canada National Marine Conservation Areas Act](#) cannot be amended to decrease the size of the Area.¹⁰¹ If the claim regarding Aboriginal rights is settled, the Cabinet can make one of the following orders, depending on the result:

- (a) Remove the land from the marine conservation system; or
- (b) Transform the Marine Conservation Area Reserve into a Marine Conservation Area.¹⁰²

The Minister is responsible for managing Marine Conservation Area Reserves.¹⁰³ Within five years of creating a Marine Conservation Area Reserve, the Minister must work collaboratively with Indigenous organizations and governments, bodies established under Land Claims Agreements, and other organizations to prepare a management plan for the Reserve.¹⁰⁴

These management plans must be reviewed at least once every ten years.¹⁰⁵ Management plans must be informed by principles of ecosystem management and the precautionary principle.¹⁰⁶

For each Marine Conservation Area Reserve, the Minister must create a management advisory committee to provide advice on creating, reviewing, and implementing the management plan.¹⁰⁷

⁹⁶ *Ibid*, s 9(2).

⁹⁷ *Ibid*, s 9(3).

⁹⁸ *Ibid*, s 11.

⁹⁹ [Canada National Marine Conservation Areas Act, SC 2002, c 18](#), s 6(1).

¹⁰⁰ *Ibid*, s 4(2).

¹⁰¹ *Ibid*, ss 6(4).

¹⁰² *Ibid*, ss 6(2).

¹⁰³ *Ibid*, s 8.

¹⁰⁴ *Ibid*, s 9(1).

¹⁰⁵ *Ibid*, s 9(2).

¹⁰⁶ *Ibid*, s 9(3).

¹⁰⁷ *Ibid*, s 11.

Agreements

To support the management of Marine Conservation Areas, the Minister can enter into agreements with Indigenous governments, Indigenous organizations, bodies established under Land Claims Agreements, and other persons and organizations.¹⁰⁸

In-Depth: Oceans Act

	Marine Protected Area
Legislation	<i>Oceans Act</i>
Government Department	Department of Fisheries and Oceans (s. 2)
Overall Goals and Values	Conservation and protection of marine species, resources, and habitats (s. 35(1))
Establishment	Regulation (s. 35(3)) or Ministerial Order (s. 35.1(2))
Strength of Protection ¹⁰⁹	Ib Wilderness Area V Protected Seascape
Decision-Making Authority	Minister responsible for management (s. 35(2)) – can create advisory or management bodies to support (s. 32(c))
Hunting	N/A
Fishing	With licence ¹¹⁰
Trapping	N/A
Development	N/A
Natural Resource Extraction	No oil and gas exploration or development, mining, or bottom trawling ¹¹¹
Access	Dependent on regulation
Activities Allowed	Dependent on regulation
Activities Prohibited	Dumping ¹¹²

Marine Protected Area

The Minister of Fisheries and Oceans (“the Minister”) by ministerial order, or Cabinet by regulation, can create a Marine Protected Area (MPA) for one or more of the following purposes:¹¹³

¹⁰⁸ *Ibid*, ss 8(4), 10(1).

¹⁰⁹ Based on IUCN Protected Area Categories ([see Appendix II](#)).

¹¹⁰ See e.g. [“Protection Standards to better conserve our oceans”](#) (last modified 25 April 2019), online: *Department of Fisheries and Oceans*; see also generally [Fisheries Act, RSC 1985, c F-14](#).

¹¹¹ [“Protection Standards to better conserve our oceans”](#) (last modified 25 April 2019), online: *Department of Fisheries and Oceans*.

¹¹² *Ibid*.

¹¹³ [Oceans Act, SC 1996, c 31](#), s 35(1), 35(3), 35.1(2).

- (a) Protecting commercial and non-commercial fishery resources and their habitats;
- (b) Conserving endangered or threatened marine species and their habitats;
- (c) Protecting unique marine habitats;
- (d) Conserving marine areas with high biodiversity;
- (e) Protecting marine resources and habitats; and
- (f) Conserving and protecting marine areas to maintain ecological integrity.¹¹⁴

The Minister is responsible for managing Marine Protected Areas (MPAs) and ensuring that the network of MPAs covers important and diverse habitats.¹¹⁵ If the Minister creates an MPA by order, the MPA must be created by regulation within five years, or the order must be cancelled.¹¹⁶

Emergency Marine Protected Area

By Order in Council, Cabinet can create an Emergency Marine Protected Area if the Minister believes that a marine resource or habitat is at risk.¹¹⁷ This order expires in 90 days and is intended for temporary protection while long-term management options are determined.¹¹⁸

In-Depth: Canada Wildlife Act

	National Wildlife Area
Legislation	<i>Canada Wildlife Act</i>
Responsible Government Department	Environment and Climate Change Canada (s. 2(1))
Overall Goals and Values	Conserve wildlife and habitat while supporting research and interpretation ¹¹⁹
Establishment	Regulation ¹²⁰
Strength of Protection ¹²¹	IV Habitat/Species Management Area
Decision-Making Authority	Minister responsible for management – can appoint advisory committees to support (s. 3)
Hunting	Prohibited (unless permitted) ¹²²

¹¹⁴ The *Oceans Act* defines ecological integrity as “a condition in which (a) the structure, composition and function of ecosystems are undisturbed by any human activity; (b) natural ecological processes are intact and self-sustaining; (c) ecosystems evolve naturally; and (d) an ecosystem’s capacity for self-renewal and its biodiversity are maintained.”

[Oceans Act, SC 1996, c 31](#), s 35(1.1).

¹¹⁵ *Ibid*, ss 35(2), 35(2.1).

¹¹⁶ *Ibid*, s 35.3(1).

¹¹⁷ *Ibid*, s 36(1).

¹¹⁸ *Ibid*, s 36(3).

¹¹⁹ “[Current national wildlife areas](#)” (last modified 30 April 2021), online: *Environment and Climate Change Canada*.

¹²⁰ [Wildlife Area Regulations, CRC, c 1609](#), s 2; see also “[Current national wildlife areas](#)” (last modified 30 April 2021), online: *Environment and Climate Change Canada*.

¹²¹ Based on IUCN Protected Area Categories ([see Appendix II](#)).

¹²² [Wildlife Area Regulations, CRC, c 1609](#), s 3(1)(b).

Fishing	Prohibited (unless permitted) ¹²³
Trapping	Prohibited (unless permitted) ¹²⁴
Development	No industrial activity (unless permitted) ¹²⁵
Natural Resource Extraction	No aggregate or other natural material extraction ¹²⁶

In-Depth: Canada Wildlife Act Continued

Access	No vehicle access (unless permitted) ¹²⁷
Activities Allowed	Site-specific – must be conducted in a way that minimises negative impacts on wildlife and wildlife habitat ¹²⁸
Activities Prohibited	Agricultural or grazing activities (unless permitted) ¹²⁹ Recreational activities (unless permitted) ¹³⁰

National Wildlife Areas

The Minister of Environment and Climate Change (“the Minister”) is responsible for creating and managing National Wildlife Areas.¹³¹ National Wildlife Areas are created to protect wildlife and wildlife habitats.¹³²

By regulation, the Minister can create a National Wildlife Area.¹³³ The Canadian Wildlife Service prepares a management plan for each National Wildlife Area, which identifies permitted activities.¹³⁴

With Cabinet’s permission, the Minister can purchase or acquire lands to support the conservation of wildlife, including by creating a National Wildlife Area.¹³⁵

While staff from the Canadian Wildlife Service usually nominate sites for National Wildlife Areas, Indigenous governments have previously submitted proposals which have been successfully adopted for protection.¹³⁶

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*, s 3(1)(q).

¹²⁶ *Ibid.*, s 3(1)(r), 3(1)(t).

¹²⁷ [Wildlife Area Regulations, CRC, c 1609](#), s 3(1)(l).

¹²⁸ *Ibid.*, s 3.1.

¹²⁹ *Ibid.*, s 3(1)(f).

¹³⁰ *Ibid.*, s 3(1)(j).

¹³¹ [Canada Wildlife Act, RSC 1985, c W-9](#), s 3.

¹³² “[Current national wildlife areas](#)” (last modified 30 April 2021), online: *Environment and Climate Change Canada*.

¹³³ [Canada Wildlife Act, RSC 1985, c W-9](#), s 3.

¹³⁴ “[Environment Canada’s Protected Areas Network](#)” (last visited 12 May 2022), online: *Hinterland Who’s Who*.

¹³⁵ [Canada Wildlife Act, RSC 1985, c W-9](#), s 9(1).

¹³⁶ “[Environment Canada’s Protected Areas Network](#)” (last visited 12 May 2022), online: *Hinterland Who’s Who*; see also “[Edézhzié Protected Area](#)” (last modified 9 December 2020), online: *Environment and Climate Change Canada*.

Migratory Bird Sanctuaries

The Minister of Environment and Climate Change can, by regulation, establish and manage Migratory Bird Sanctuaries¹³⁷. This is part of implementing the 1916 [Migratory Birds Convention](#) with the United States. This convention focusses on protecting migratory birds (both individuals and populations), their eggs and nests, and habitats (on federal lands), from disturbance and hunting.¹³⁸ This also may indirectly conserve other animal and plant habitats.

Migratory Bird Sanctuaries are typically established on unceded/Crown lands but also may be established on private lands, all with the consent of the owner (federal or provincial department, Indigenous, or private)¹³⁹. The Canadian Wildlife Service can manage activities on sanctuaries, such as enhancing habitat, monitoring, research, conducting inspections, and enforcing regulations.¹⁴⁰

While Migratory Bird Sanctuaries are largely a federal program, some arrangements with Indigenous communities may be made where they own, use, or co-manage these areas, potentially as IPCAs.

Updates to the international Convention acknowledge the value of Indigenous knowledge, practices, and institutions.¹⁴¹ The rules regarding closed seasons and harvesting restrictions are determined by the regulations outlined in treaties, land claims agreements, self-government agreements, and co-management agreements made with Indigenous Peoples.¹⁴²

Under the [Migratory Birds Convention Act](#) the Minister can change or suspend the application of the regulations for conservation purposes.¹⁴³ In addition, permits can be issued for Indigenous applications.¹⁴⁴ In northern Canada, Indigenous Peoples have the right to carry firearms in Migratory Bird Sanctuaries for traditional hunting and trapping purposes.¹⁴⁵

Anyone, including Indigenous Peoples or individuals, can be appointed as game officers, and the Minister's permitting and enforcement powers can be delegated to any government or person in Canada.¹⁴⁶

¹³⁷ [Migratory Birds Convention Act, 1994](#), S.C. 1994, c.22 [MBCA], s.12(1)(i).

¹³⁸ *Ibid.*, S.C. 1994, c.22, s.4

¹³⁹ Gray, P.A., D. Paleczny, T.J. Beechey, B. King, M. Wester, R.J. Davidson, S. Janetos, S.B. Feilders, and R.G. Davis. 2009. *Ontario's Natural Heritage Areas: Their Description and Relationship to the IUCN Protected Areas Classification System (A Provisional Assessment)*. Queen's Printer for Ontario, Peterborough, Ontario, pp.132-133.

¹⁴⁰ <https://www.ca/en/issues-and-topics/environment-canadas.html> (last visited May 11, 2023).

¹⁴¹ MBCA, Schedule, amending Protocol, Article II principles, means and s.4, among others.

¹⁴² *Ibid.*

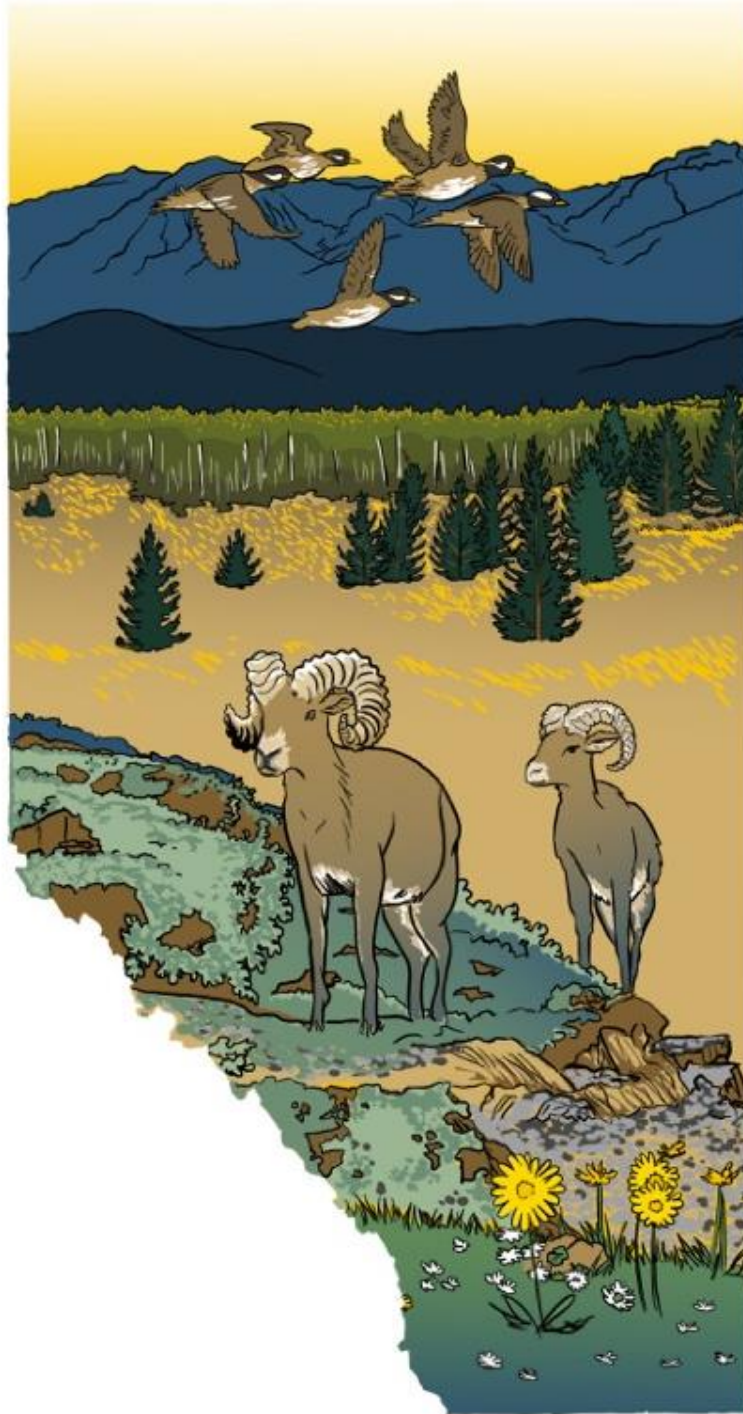
¹⁴³ MBCA, s.12(1)(k).

¹⁴⁴ [Migratory Bird Sanctuary Regulations](#), C.R.C., c. 1036, ss.9-10+.

¹⁴⁵ <https://www.ca/en/issues-and-topics/environment-canadas.html> (last visited May 11, 2023).

¹⁴⁶ MBCA, ss. 6(1) and 11.1; [Migratory Bird Sanctuary Regulations](#), C.R.C., c. 1036, ss.9-10.

Alberta



Overview

Alberta legislation includes nine different types of protected area designation:

1. Provincial Parks,
2. Wildland Provincial Parks,
3. Provincial Recreation Areas,
4. Section 7 Designations,
5. Wilderness Areas,
6. Ecological Reserves,
7. Natural Areas,
8. Heritage Rangelands, and
9. Heritage Sites.

The first three charts in this section evaluate each of these seven designations based on the Indigenous Circle of Experts' (ICE) three characteristics of Indigenous Protected and Conserved Areas (IPCAs). These charts also identify some overall advantages and disadvantages of each designation for creating IPCAs.

None of the Alberta protected area designations grant opportunities for Indigenous leadership in land management. For many protected area designations in Alberta law, the potential for Indigenous co-management is not clear. Despite this, Mikisew Cree First Nation is currently in negotiations with the provincial government to create and jointly manage [Kitaskino Nuwenëné Wildland Provincial Park](#).

Following this survey, this section offers detail on each of the nine protected areas. The charts in this section present information on permitted and prohibited activities in each area. The charts also outline the process for creating each protected area designation.

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of Alberta Provincial Parks Act

	Provincial Park	Wildland Provincial Park	Provincial Recreation Area	Section 7 Designation
Legislation	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by order – less permanent than in an Act or regulation	Established by order – less permanent than in an Act or regulation	Established by order – less permanent than in an Act or regulation	Established by regulation – less permanent than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Unclear authority regarding joint or co-management	Potential for joint management	Unclear authority regarding joint or co-management	Potential for joint management
Advantages	Strong baseline protections	Strong baseline protections	Supports human engagement with the environment	Flexible protections
Disadvantages	Supports some industrial resource extraction	Focus on protection to the exclusion of humans	Supports some industrial resource extraction Focused on recreation	Temporary protection

Overview Continued:

	Wilderness Areas	Ecological Reserve	Natural Area	Heritage Rangeland
Legislation	<i>Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act</i>	<i>Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act</i>	<i>Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act</i>	<i>Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Included in legislation – requires legislative amendment to remove protections	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister can allow “other persons” to carry out management programs	Minister can allow “other persons” to carry out management programs	Minister can allow “other persons” to carry out management programs	Minister can allow “other persons” to carry out management programs
Advantages	Strict protections	Strict protections	Protect largely undeveloped areas	Focused on ecosystem preservation
Disadvantages	Authority to create no longer exists	Focused on protection to the exclusion of humans	Focused on recreation Protect relatively small areas	Largely privately-owned and focused on grazing

Overview Continued:

	Heritage Site
Legislation	<i>Historical Resources Act</i>
IPCA Characteristic #1: Indigenous-led	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by order – less permanent than regulation or in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Can appoint committee or cooperate with organizations to support management
Advantages	Flexible and strong protections
Disadvantages	Must meet historical criteria Development to support interpretation and education supported

In-Depth: Provincial Parks Act

	Provincial Park	Wildland Provincial Park	Provincial Recreation Area	Section 7 Designation ¹⁴⁷
Legislation	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>
Responsible Government Department ¹⁴⁸	Environment and Parks	Environment and Parks	Environment and Parks	Environment and Parks
Overall Goals and Values	Preserve natural and cultural heritage for present and future generations (s. 3)	Preserve natural heritage and provide opportunities for compatible backcountry recreation ¹⁴⁹	Maintain areas for recreational use and enjoyment by present and future generations (s. 4)	Dependent on terms of Designation (s. 7)
Establishment	Order in Council (s. 6(1))	Order in Council ¹⁵⁰	Order in Council	Regulation ¹⁵¹
Strength of Protection ¹⁵²	II National Park	Ib Wilderness Area	Protected area with recreational focus	Dependent on terms of Designation (s. 7)
Decision-Making Authority	Minister responsible for management and protection (s. 4.1)	Minister responsible for management and protection (s. 4.1) Potential for partnerships ¹⁵³	Minister responsible for management and protection (s. 4.1)	Minister responsible for management and protection (ss. 4.1, 7)

¹⁴⁷ See generally [Provincial Parks Act, RSA 2000, c P-35](#), s 7; [Provincial Parks \(Section 7 Declaration\) Regulation, Alta Reg 166/2011](#).

¹⁴⁸ “[Ministry of Environment and Parks](#)” (last visited 11 Can 2022), online: *Government of Alberta*.

¹⁴⁹ “[Parks System](#)” (1 November 2018), online: *Alberta Parks*.

¹⁵⁰ [Provincial Parks \(General\) Regulation, Alta Reg 102/1985](#), s 1(n).

¹⁵¹ [Provincial Parks Act, RSA 2000, c P-35](#), s 7; [Provincial Parks \(Section 7 Declaration\) Regulation, Alta Reg 166/2011](#).

¹⁵² Based on IUCN Categories of Protected Areas (see [Appendix II](#)).

¹⁵³ See e.g. “Decision to Establish Kitaskino Nuwenënë Wildland Provincial Park” (30 March 2022), online: *Alberta Parks* <albertaparks.ca/albertaparksca/about-us/public-engagement/archives/kitaskino-nuwen%C3%ABn%C3%A9-wildland-provincial-park/>.

In-Depth: Provincial Parks Act (Continued)

	Provincial Park	Wildland Provincial Park	Provincial Recreation Area	Section 7 Designation
Hunting	Generally prohibited (with some exceptions) ¹⁵⁴	With licence ¹⁵⁵	Generally prohibited (with some exceptions) ¹⁵⁶	Dependent on terms of designation (s. 7)
Fishing ¹⁵⁷	With licence (in most water bodies and watercourses)	With licence (in most water bodies and watercourses)	With licence (in most water bodies and watercourses)	With licence (in most water bodies and watercourses)
Trapping ¹⁵⁸	With permit	With permit	With permit	Dependent on terms of designation (s. 7)
Development	Construction with permit (s. 9.1(1)) ¹⁵⁹	Construction with permit (s. 9.1(1)) ¹⁶⁰	Construction with permit (s. 9.1(1)) ¹⁶¹ Can be intensively developed for recreational use ¹⁶²	Dependent on terms of designation (s. 7)
Natural Resource Extraction	No removal of natural materials unless permitted (s. 10.1) ¹⁶³ Mining and sand and gravel extraction with permit ¹⁶⁴	No removal of natural materials unless permitted (s. 10.1)	No removal of natural materials unless permitted s. 10.1) ¹⁶⁵ Mining and sand and gravel extraction with permit ¹⁶⁶	Dependent on terms of designation (s. 7)

¹⁵⁴ “[Hunting](#)” (17 August 2020), online: *Alberta Parks*.

¹⁵⁵ Alberta Parks notes that “[e]xisting rights of Indigenous peoples are respected in all Wildland Provincials Parks, which remain open to hunting, trapping, fishing and other traditional use activities.”

“[Decision to Establish Kitaskino Nuwenêné Wildland Provincial Park](#)” (30 March 2022), online: *Alberta Parks*.

¹⁵⁶ “[Hunting](#)” (17 August 2020), online: *Alberta Parks*.

¹⁵⁷ “[Activities](#)” (18 February 2021), online: *Alberta Parks*.

¹⁵⁸ “[Natural Resources](#)” (1 November 2018), online: *Alberta Parks*; “[Program Policy for Managing Fur Trapping in Alberta’s Parks and Protected Areas](#)” (10 September 2003), online (pdf): *Government of Alberta*.

¹⁵⁹ See also [Provincial Parks \(Dispositions\) Regulation, Alta Reg 241/1977](#), s 2.1(1).

¹⁶⁰ *Ibid*, s 2.1(1).

¹⁶¹ *Ibid*, s 2.1(1).

¹⁶² “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

¹⁶³ See also [Provincial Parks \(General\) Regulation, Alta Reg 102/1985](#), ss 14, 14.1.

¹⁶⁴ [Provincial Parks \(Dispositions\) Regulation, Alta Reg 241/1977](#), ss 28, 58, 61.

¹⁶⁵ See also [Provincial Parks \(General\) Regulation, Alta Reg 102/1985](#), ss 14, 14.1.

¹⁶⁶ [Provincial Parks \(Dispositions\) Regulation, Alta Reg 241/1977](#), ss 28, 58, 61.

In-Depth: Provincial Parks Act (Continued)

	Provincial Park	Wildland Provincial Park	Provincial Recreation Area	Section 7 Designation
Access	Motor and off-highway vehicle access with permit ¹⁶⁷	Motor and off-highway vehicle access with permit ¹⁶⁸	Motor and off-highway vehicle access with permit ¹⁶⁹	Dependent on terms of designation (s. 7)
Activities Allowed	Compatible outdoor recreation, heritage tourism, and natural heritage appreciation activities ¹⁷⁰ Cultivation, haying, grazing, constructing and operating pipeline or utilities with permit ¹⁷¹	Backcountry recreation, ecotourism, and adventure activities ¹⁷² Scientific research (with exceptions) ¹⁷³	Compatible outdoor recreation, heritage tourism, and natural heritage appreciation activities ¹⁷⁴ Cultivation, haying, grazing, constructing and operating pipeline or utilities with permit ¹⁷⁵ Scientific research (with exceptions) ¹⁷⁶	Dependent on terms of designation (s. 7)
Activities Prohibited	Interfering with plant or animal life (unless permitted) ¹⁷⁷ Destroying or damaging land (s. 10)	Interfering with plant or animal life (unless permitted) ¹⁷⁸ Destroying or damaging land (s. 10) Granting dispositions ¹⁷⁹	Interfering with plant or animal life (unless permitted) ¹⁸⁰ Destroying or damaging land (s. 10)	Dependent on terms of designation (s. 7)

¹⁶⁷ [Provincial Parks \(General\) Regulation, Alta Reg 102/1985](#), ss 26-27.

¹⁶⁸ *Ibid*, ss 26-27.

¹⁶⁹ *Ibid*, ss 26-27.

¹⁷⁰ “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

¹⁷¹ [Provincial Parks \(Dispositions\) Regulation, Alta Reg 241/1977](#), ss 29-33, 35, 38, 47, 54, 74, 78, 80.

¹⁷² “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

¹⁷³ [Provincial Parks \(General\) Regulation, Alta Reg 102/1985](#), s 45(1).

¹⁷⁴ “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

¹⁷⁵ [Provincial Parks \(Dispositions\) Regulation, Alta Reg 241/1977](#), ss 29-33, 35, 38, 47, 54, 74, 78, 80.

¹⁷⁶ [Provincial Parks \(General\) Regulation, Alta Reg 102/1985](#), s 45(1).

¹⁷⁷ [Provincial Parks Act, RSA 2000, c P-35](#), s 9.2; [Provincial Parks \(General\) Regulation](#), s 45(1).

¹⁷⁸ *Ibid*

¹⁷⁹ In a Wildland Provincial Park, the Minister may not allow the following activities: mineral exploration, mining, agriculture, haying, grazing, constructing summer cabins, constructing or operating pipelines, sand or gravel extraction, and constructing or operating utilities. [Provincial Parks \(Dispositions\) Regulation, Alta Reg 241/1977](#), s 2.1(1).

¹⁸⁰ [Provincial Parks Act, RSA 2000, c P-35](#), s 9.2; [Provincial Parks \(General\) Regulation](#), s 45(1).

Provincial Parks

The Minister of Environment and Parks (“the Minister”) is responsible for managing Provincial Parks for five purposes:¹⁸¹

- (1) To preserve Alberta’s natural heritage;¹⁸²
- (2) To conserve and manage plants and wildlife;
- (3) To protect landscapes and natural objects of interest or importance;
- (4) To support outdoor recreation, education, and nature appreciation; and
- (5) To ensure Provincial Parks are protected for present and future generations.¹⁸³

Cabinet can create a Provincial Park, and increase or decrease a park’s area, by Order in Council.¹⁸⁴

The Minister can purchase or acquire land to create or increase the size of a Provincial Park, with Cabinet’s approval.¹⁸⁵

A Provincial Park can additionally be classified as a Wildland Provincial Park.¹⁸⁶ Alberta Parks clarifies that Provincial Parks have a “greater range of facilities” and greater road access than Wildland Provincial Parks.¹⁸⁷

Recreation Areas

By Order in Council, Cabinet can create a Recreation Area to support outdoor recreation opportunities for present and future generations.¹⁸⁸ The Minister is responsible for managing Recreation Areas.¹⁸⁹ Cabinet can increase or decrease the size of a Recreation Area by order.¹⁹⁰ With Cabinet’s permission, the Minister can purchase or acquire land to create or increase a Recreation Area’s size.¹⁹¹

Section 7 Designations

By regulation, the Minister can protect an area under section 7 of the [Provincial Parks Act](#), which allows the government to protect lands while deciding whether the lands will be used to create or expand a Provincial Park or Recreation Area.¹⁹²

¹⁸¹ [Provincial Parks Act, RSA 2000, c P-35](#), s 4.1(a).

¹⁸² The Act defines natural heritage as “natural landscapes and features and the ecosystems, ecological processes and biological diversity and the related cultural attributes that those landscapes and features include.” [Provincial Parks Act, RSA 2000, c P-35](#), s 1(1)(i).

¹⁸³ *Ibid*, s 3.

¹⁸⁴ *Ibid*, s 6(1)(a).

¹⁸⁵ *Ibid*, s 5(1).

¹⁸⁶ [Provincial Parks \(General\) Regulation, Alta Reg 102/1985](#), s 1(n).

¹⁸⁷ “Legislation and Regulations” (28 October 2020), online: *Alberta Parks*.

¹⁸⁸ [Provincial Parks Act, RSA 2000, c P-35](#), ss 4, 6(1)(a).

¹⁸⁹ *Ibid*, s 4.1(a).

¹⁹⁰ *Ibid*, s 6(1)(b).

¹⁹¹ *Ibid*, s 5(1).

¹⁹² *Ibid*, s 7.

In this instance, the land is temporarily protected so that it is not negatively impacted or harmed while long-term decisions are being made.

Agreements

While the *Provincial Parks Act* does not expressly support shared management or decision-making authority, the Government of Alberta collaborated with Indigenous communities to establish Kitaskino Nuwenëné Wildland Provincial Park.

Originally proposed by the Mikisew Cree First Nation, the Park supports traditional uses and cultural wellbeing and protects cultural keystone species, including the Ronald Lake bison herd.¹⁹³ A cooperative management approach has yet to be developed, but Alberta Parks and interested Indigenous communities and organizations are currently engaged in a collaborative planning process (at the time of publication).

Alberta Parks notes that objectives of this approach could include:

- Maintaining and supporting traditional use activities;
- Protecting and preserving traditional use sites, cultural areas, and historic resources;
- Exploring economic and employment opportunities; and
- Potential Indigenous Guardian Program opportunities.¹⁹⁴

¹⁹³ [“Decision to Establish Kitaskino Nuwenëné Wildland Provincial Park”](#) (30 March 2022), online: *Alberta Parks*.

¹⁹⁴ *Ibid.*

In-Depth: Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act

	Wilderness Area	Ecological Reserve	Natural Area	Heritage Rangeland ¹⁹⁵
Legislation	<i>Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act</i>	<i>Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act</i>	<i>Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act</i>	<i>Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act</i>
Responsible Government Department ¹⁹⁶	Environment and Parks	Environment and Parks	Environment and Parks	Environment and Parks
Overall Goals and Values	Protect natural heritage while supporting sustainable outdoor recreation ¹⁹⁷	Protect unique and significant ecosystems while supporting scientific research and education (s. 4(1))	Protect sensitive or scenic ecosystems while supporting low intensity outdoor recreation and education (s. 4.01(1))	Preserve rangeland using grazing to maintain grassland ecology (s. 4.1)
Establishment	N/A ¹⁹⁸	Order in Council (s. 4(1))	Order in Council (s. 4.01(1))	Order in Council (s. 4.1)
Strength of Protection ¹⁹⁹	Ib Wilderness Area	Ia Strict Nature Reserve	Ib Wilderness Area	Vi Protected area with sustainable use of natural resources

¹⁹⁵ Heritage Rangelands may be created on private lands. In these cases, recreational access is permitted only with permission from the landowner.

See "[Legislation and Regulations](#)" (28 October 2020), online: *Alberta Parks*.

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

¹⁹⁸ The [Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act](#) simply states that "[t]he areas of land described in the Schedule are established as wilderness areas." The authority to create a new Wilderness Area does not currently exist.

See [Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act, RSA 2000, c W-9](#), s 3; "[Parks and Protected Areas](#)" (last visited 12 May 2022), online: *Canadian Parks and Wilderness Society Northern Alberta Chapter*.

¹⁹⁹ Based on IUCN Protected Area Categories (see [Appendix II](#)).

In-Depth: Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act (Continued)

	Wilderness Area	Ecological Reserve	Natural Area	Heritage Rangeland
Decision-Making Authority	Minister responsible for management – can allow other persons to carry out management programs (s. 5)	Minister responsible for management – can allow other persons to carry out management programs (s. 5)	Minister responsible for management – can allow other persons to carry out management programs (s. 5)	Minister responsible for management – can allow other persons to carry out management programs (s. 5)
Hunting	Prohibited (s. 8(1)(b))	Prohibited (s. 8(1)(b))	With licence (with exceptions) ²⁰⁰	Dependent on access ²⁰¹
Fishing	Prohibited (s. 8(1)(c))	Prohibited (s. 8(1)(c))	With licence ²⁰²	Dependent on access ²⁰³
Trapping	Prohibited (s. 8(1)(b))	Prohibited (s. 8(1)(b))	With permit ²⁰⁴	Dependent on access ²⁰⁵
Development	No development allowed (s. 7(3))	No development allowed (s. 7(3))	Largely undeveloped ²⁰⁶	Construction with permit (s. 8(1)(k))
Natural Resource Extraction	No timber harvesting, petroleum or natural gas extraction, or mining (s. 7(1)(a))	No timber harvesting, petroleum or natural gas extraction, or mining (with exceptions) (ss. 6(3), 7)	Timber harvesting (with permit) (s. 7.1)	Mining (with permit) (s. 7.2(2))

²⁰⁰ “[Hunting](#)” (17 August 2020), online: *Alberta Parks*.

²⁰¹ “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*; see also “[Alberta’s Guide to Outdoor Recreation on Provincial Crown Land](#)” (2020) at 14, online (pdf): *Government of Alberta*.

²⁰² “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

²⁰³ *Ibid*; see also “[Alberta’s Guide to Outdoor Recreation on Provincial Crown Land](#)” (2020) at 14, online (pdf): *Government of Alberta*.

²⁰⁴ “[2021-2022 Alberta Guide to Trapping Regulations](#)” (2021) at 13, online (pdf): *Government of Alberta*.

²⁰⁵ “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*; see also “[Alberta’s Guide to Outdoor Recreation on Provincial Crown Land](#)” (2020) at 14, online (pdf): *Government of Alberta*.

²⁰⁶ “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

In-Depth: Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act (Continued)

	Wilderness Area	Ecological Reserve	Natural Area	Heritage Rangeland
Access	Foot access only (s. 8(1)(a))	No motor vehicle access (s. 8(1)(g.1))	Motor vehicle and off-highway vehicle access in certain areas ²⁰⁷	Limited access ²⁰⁸
Activities Allowed	Scientific research (with permit) (s. 4(1))	Low-impact outdoor recreation (with exceptions) Scientific research and educational activities ²⁰⁹	Low-intensity outdoor recreation (s. 4.01)	Livestock grazing (s. 7.2)
Activities Prohibited	Removing or destroying plants, animals, or natural objects (unless permitted) (s. 8(1)(f)) Destroying or damaging land, water, plants, or animals (unless permitted) (s. 10)	Removing or destroying plants, animals, or natural objects (unless permitted) (s. 8(1)(f)) Destroying or damaging land, water, plants, or animals (unless permitted) (s. 10) Camping (s. 8(1)(i))	Destroying or damaging land, water, plants, or animals (unless permitted) (s. 10)	Removing or destroying plants, animals, or natural objects (unless permitted) (s. 8(1)(f)) Destroying or damaging land, water, plants, or animals (unless permitted) (s. 10)

The [Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act](#) (referred to below as ‘the Act’) recognizes that protecting the natural environment for the benefit and enjoyment of future generations is in the public interest.²¹⁰ To achieve this goal, the Act creates four types of protected areas:

- (1) Wilderness Areas
- (2) Ecological Reserves

²⁰⁷ “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

²⁰⁸ *Ibid*; see also “[Alberta’s Guide to Outdoor Recreation on Provincial Crown Land](#)” (2020) at 14, online (pdf): *Government of Alberta*.

²⁰⁹ “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

²¹⁰ [Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act, RSA 2000](#), c W-9.

- (3) Natural Areas
- (4) Heritage Rangelands

The Minister of Environment and Parks (referred to below as ‘the Minister’) can carry out programs or measures to support the protection and management of the four types of protected areas.²¹¹

Wilderness Areas

The legislative authority to create new Wilderness Areas no longer exists. However, Wilderness Areas have been created to protect natural ecosystems while “providing opportunities for non-consumptive, nature-based outdoor recreation.”²¹² Alberta Parks notes that Alberta’s three Wilderness areas “are among the most strictly protected areas in Canada.”²¹³

Ecological Reserves

By Order in Council, Cabinet can create an Ecological Reserve on any land that is:

- (a) “...suitable for scientific research associated with the studies of natural ecosystems;”
- (b) Representative of Alberta’s natural ecosystems;
- (c) “...an example of an ecosystem that has been modified by humans and that offers an opportunity to study the recovery of the ecosystem from that modification;”
- (d) Home to rare or endangered native species; or
- (e) Home to unique or rare biological or physical features.²¹⁴

Ecological Reserves are created to strictly preserve and maintain natural ecosystems.²¹⁵

Natural Areas

By Order in Council, Cabinet can create a Natural Area to:

- (a) Protect sensitive or scenic ecosystems; and
- (b) Protect ecosystems in their natural state for public use and benefit, including nature appreciation, low-intensity outdoor recreation, and education.²¹⁶

Natural Areas usually protect small areas of land and have few public facilities.²¹⁷

Heritage Rangelands

By order, Cabinet can create a Heritage Rangeland to protect and maintain grasslands through sustainable grazing practices.²¹⁸

²¹¹ [Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act, RSA 2000](#), c W-9, s 5.

²¹² “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

²¹³ *Ibid.*

²¹⁴ [Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act, RSA 2000, c W-9](#), s 4(1).

²¹⁵ “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

²¹⁶ [Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act, RSA 2000, c W-9](#), s 4.01(1).

²¹⁷ “[Legislation and Regulations](#)” (28 October 2020), online: *Alberta Parks*.

²¹⁸ [Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act, RSA 2000, c W-9](#), s 4.1.

Agreements

The *Act* does not directly state that shared decision-making or authority is supported, but the Minister can allow “other persons” to carry out programs or measures to support the protection and management of Wilderness Areas, Ecological Reserves, Natural Areas, and Heritage Rangelands. Allowing “other persons” to support the management of these areas creates a potential space for Indigenous leadership.²¹⁹

In-Depth: Historical Resources Act

	Historic Site
Legislation	<i>Historical Resources Act</i>
Responsible Government Department ²²⁰	Culture and Status of Women
Overall Goals and Values	Preserve historical resources while supporting their study, interpretation, and appreciation (s. 2)
Establishment	Ministerial Order (s. 20(1))
Strength of Protection ²²¹	III Natural Monument or Feature V Protected Landscape
Decision-Making Authority	Minister responsible for management – can appoint committee (s. 8(1)) or cooperate with organizations (s. 16(h)) to support
Hunting	Site-specific ²²²
Fishing	Site-specific (s. 22(d)(ii))
Trapping	Site-specific ²²³
Development	Site-specific (s. 22(d)(ii))
Natural Resource Extraction	Site-specific (s. 22(d)(ii))
Access	Site-specific (s. 22(d)(ii))
Activities Allowed	Site-specific (s. 22(d)(ii))
Activities Prohibited	Altering, disturbing, or destroying the site (unless permitted) (s. 20(9)(a))

The [Historical Resources Act](#) defines a Historic Resource as “any work of nature or of humans that is primarily of value for its palaeontological, archaeological, prehistoric, historic, cultural, natural, scientific or esthetic structure including...a palaeontological, prehistoric, historic or natural site, structure or object.”²²⁴

²¹⁹ [Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act, RSA 2000](#), c W-9, s 5.

²²⁰ “[Ministry of Culture and Status of Women](#)” (last visited 12 May 2022), online: *Government of Alberta*.

²²¹ Based on IUCN Protected Area Categories (see [Appendix II](#)).

²²² [Historical Resources Act, RSA 2000, c H-9](#), s 22(d)(ii); see also generally [Wildlife Act, RSA 2000, c W-10](#).

²²³ *Ibid.*

²²⁴ [Historical Resources Act, RSA 2000, c H-9](#), s 1(e).

A Historic Site is “any site that includes or consists of an [Historic Resource]...and includes a prehistoric, historic or natural site....”²²⁵

By ministerial order, the Minister of Culture and Status of Women (“the Minister”) can create a Historic Site in the public interest²²⁶ and purchase or acquire a site to support its protection.²²⁷

Agreements

The Minister can appoint a committee to support in exercising their responsibilities under the *Historical Resources Act*,²²⁸ and can cooperate with “other agencies, societies or persons” to carry out a program that is “likely to promote or enhance the preservation [or] protection of” Historic Sites.²²⁹

²²⁵ [Historical Resources Act, RSA 2000, c H-9](#), s 1(f).

²²⁶ *Ibid*, ss 16(a), 20(1).

²²⁷ *Ibid*, s 5.

²²⁸ *Ibid*, s 8(1).

²²⁹ *Ibid*, s 16(h).

British Columbia



Overview

British Columbia (B.C.) legislation includes four different types of protected area designation: provincial parks, conservancies, recreation areas, and ecological reserves. Provincial parks are further divided into several classes and categories, based on their purpose, level of protection, and permitted activities.

The first chart in this section evaluates each of these four designations based on the Indigenous Circle of Experts' (ICE) three characteristics of Indigenous Protected and Conserved Areas (IPCAs). It also identifies some overall advantages and disadvantages of each designation for IPCA creation.

None of the designations allow for Indigenous leadership in managing IPCAs. However, conservancies are specifically created to address Indigenous interests in conservation and include opportunities for co-management agreements.

Conservancies were introduced in 2006 when [Coastal First Nations](#) negotiated a change to the provincial Parks Act. This landmark negotiation ensures priority is given to First Nations' interests. Areas where parks overlapped with traditional territories of First Nations became conservancies. Conservancies protect cultural heritage and safeguard traditional knowledge and practices.

The B.C. government recently passed the [Declaration of the Rights of Indigenous Peoples Act \(DRIPA\)](#) into law (2019). This section considers the implications of DRIPA for IPCAs. This section also delves into each of the four protected area designations in more detail. The charts in this section present information on what activities are permitted and prohibited in each area. The charts also outline the process for creating each protected area designation. Additional designations, such as heritage sites and wildland areas, are briefly described.

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of British Columbia Park Act and Ecological Reserve Act

	Provincial Park	Conservancy	Recreation Area	Ecological Reserve
Legislation	<i>Park Act</i>	<i>Park Act</i>	<i>Park Act</i>	<i>Ecological Reserve Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by order – less permanent regulation or in an Act Can only be decreased by legislation	Established by order – less permanent than regulation or in an Act Can only be decreased by legislation	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act Can only be decreased or cancelled by legislation
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister can enter into limited agreements with First Nations to access Authority to enter into further agreements unclear	Co-managed with First Nations	Minister can enter into limited agreements with First Nations to access Authority to enter into further agreements unclear	Minister can appoint advisers to support management
Advantages	Different classes and categories offer different levels of protection Relatively strong baseline protections	Strong baseline protections Flexible management	Relatively strong prohibitions against industrial natural resource extraction	Strict protections – all extractive and consumptive uses prohibited
Disadvantages	Different classes and categories offer different levels of protection	Minister retains ultimate decision-making authority	Focused on recreation	Focused on protection to the exclusion of humans

In-Depth: Declaration on the Rights of Indigenous Peoples Act

Opportunities for the establishment and management of IPCAs in British Columbia could be enhanced by the recent provincial [Declaration on the Rights of Indigenous Peoples Act](#) (*DRIPA*). *DRIPA* has three main purposes:

- (1) To confirm that the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP) applies to the laws of British Columbia;
- (2) To support the implementation of UNDRIP in British Columbia; and
- (3) To recognize, support, and develop relationships with Indigenous governing bodies.²³⁰

Overall, *DRIPA* requires the province to work with Indigenous Peoples to ensure that the laws of B.C. are consistent with UNDRIP.²³¹ This means that B.C.'s laws must align with the sections in UNDRIP that support the creation and management of IPCAs (see [Appendix III](#)). It is important to note that *DRIPA* did not make all UNDRIP enforceable law in the province. Instead, it committed the government to bring existing laws into line with UNDRIP. This process is ongoing.

DRIPA also allows government officials to negotiate and enter into agreements with Indigenous governing bodies. The agreements can offer joint decision-making powers under provincial law or require consent from Indigenous Peoples on provincial land-use decisions.²³² This could allow Indigenous governing bodies to negotiate with the province to collaboratively manage IPCAs that are inclusive of Indigenous authority.

[West Coast Environmental Law](#) offers the following recommendations for the provincial government to support Nations that are seeking to create IPCAs within the context of *DRIPA*:

- (1) Negotiate agreements to recognize, support, and implement IPCAs.
- (2) Negotiate joint or co-governance agreements to recognize and support proposed IPCAs.
- (3) Provide opportunities, support, and capacity development for Nations to move towards full Indigenous governance in the long term.
- (4) Provide opportunities to create or amend agreements, land use plans, and management plans for conservancies, parks, and other protected areas to align with ICE's definition of IPCAs.²³³

²³⁰ [Declaration on the Rights of Indigenous Peoples Act](#), SBC 2019, c 44, s 2.

²³¹ *Ibid*, s 3.

²³² *Ibid*, s 7.

²³³ Estella White – hiñačachišt, “[Good for the Land Good for the People Good for the Economy: A Call to Action to Recognize, Support and Implement Indigenous Protected and Conserved Areas and Indigenous Guardians in British Columbia](#)” (January 2022) at 22, online (pdf): *West Coast Environmental Law*

British Columbia also released an action plan that includes a commitment to co-develop policies, programs, and initiatives to advance collaborative stewardship of the land and resources that respects Indigenous knowledge systems.

This will be achieved through collaborative stewardship forums, Guardian programs, land use planning initiatives, and other innovative and evolving partnerships that support land and resource management.²³⁴

In-Depth: Park Act

	Provincial Park	Conservancy	Recreation Area
Legislation	<i>Park Act</i>	<i>Park Act</i>	<i>Park Act</i>
Responsible Government Department ²³⁵	Environment and Climate Change Strategy	Environment and Climate Change Strategy	Environment and Climate Change Strategy
Overall Goals and Values	Preservation of natural environment for public inspiration, use, and enjoyment Also, dependent on class and category (see below) ²³⁶	Protect and maintain the natural environment, Indigenous values, and recreational values while sustainably developing natural resources (s. 5(3.1))	Public recreational use (s. 1)
Establishment ²³⁷	Order in Council	Order in Council	Order in Council
Strength of Protection ²³⁸	II National Park	VI Protected area with sustainable use of natural resources	Protected area with recreational focus
Decision-Making Authority	Minister responsible for management but can enter into limited agreements with First Nations	Co-managed with First Nations	Minister responsible for management but can enter into limited agreements with First Nations

²³⁴ “[Declaration on the Rights of Indigenous Peoples Act Action Plan \(2022-2027\)](#)” (2022) at 15, online (pdf): *Government of British Columbia*.

²³⁵ “[Legislation, Acts and Regulations](#)” (last visited 12 Can 2022), online: *BC Parks*; “[Ministry of Environment and Climate Change Strategy](#)” (last visited 12 Can 2022), online: *Government of British Columbia*.

²³⁶ *Park Act, RSBC 1996, c 344*, ss 5, 9.3(1), 12.

²³⁷ *Ibid*, ss 5(1), 7.2.

²³⁸ Based on IUCN Protected Area Categories (see [Appendix II](#)).

In-Depth: Park Act (Continued)

	Provincial Park	Conservancy	Recreation Area
Hunting ²³⁹	With licence (dependent on area) ²⁴⁰	With licence (dependent on management plan) ²⁴¹	With licence (dependent on area) ²⁴²
Fishing ²⁴³	With licence	With licence (dependent on management plan)	With licence
Trapping ²⁴⁴	With permit	With permit (dependent on management plan)	With permit
Development	Tourism development (with permit) (s. 9.1) Construction with permit (ss. 13, 31) Dependent on class and category (see below) (s. 12)	Dependent on management plan Construction with permit (s. 13) Road construction with permit (s. 20.1)	Construction with permit (s. 13)
Natural Resource Extraction	Timber harvesting (s. 15) Petroleum or natural gas exploration or development (with permit) (s. 33)	Dependent on management plan No commercial logging, mining, or hydroelectric power generation (s. 9(10)) Petroleum or natural gas exploration or development (with permit) (s. 33)	Timber harvesting (s. 15) Petroleum or natural gas exploration or development (with permit) (s. 33)

²³⁹ [Park Act, RSBC 1996, c 344](#), ss 5, 9.3(1), 12.

See also "[Hunting in BC Parks](#)" (last visited 12 May 2022), online: *Government of British Columbia*; "[2020-2022 Hunting and Trapping Regulations Synopsis](#)" (2020), online (pdf): *Government of British Columbia*.

²⁴⁰ Hunting is prohibited in Class C Parks. [Class C Parks Regulations, BC Reg 227/67](#), s 38(1).

²⁴¹ "[2020-2022 Hunting and Trapping Regulations Synopsis](#)" (2020), online (pdf): *Government of British Columbia*.

²⁴² *Ibid.*

²⁴³ "[Fishing and Hunting](#)" (last visited 12 May 2022), online: *BC Parks*.

²⁴⁴ [Park, Conservancy and Recreation Area Regulation, BC Reg 180/90](#), s 5; see also "[2020-2022 Hunting and Trapping Regulations Synopsis](#)" (2020) at 92, online (pdf): *Government of British Columbia*.

In-Depth: Park Act (Continued)

	Provincial Park	Conservancy	Recreation Area
Access ²⁴⁵	Motor vehicle and snowmobile access (with permit)	Motor vehicle and snowmobile access (with permit)	Motor vehicle and snowmobile access (with permit)
Activities Allowed ²⁴⁶	Scientific research (with exceptions) (s. 9.3) Grazing or haying (with exceptions) (s. 30) Outdoor recreation activities ²⁴⁷	Dependent on management plan Scientific research (with exceptions) (s. 9.3)	Scientific research (with exceptions) (s. 9.3) Outdoor recreation activities ²⁴⁸
Activities Prohibited ²⁴⁹	Damaging or removing natural resources (exceptions dependent on Class) (s. 9)	Dependent on management plan Damaging or removing natural resources (unless permitted) (s. 9(6.1))	Damaging or removing natural resources (unless permitted) (s. 9(6))

The Minister of Environment and Climate Change Strategy (“the Minister”) is responsible for managing three types of protected areas. These include provincial parks, conservancies, and recreation areas.

The Minister has the authority to purchase or acquire land to create or increase the area of a Provincial Park, Conservancy, or Recreation Area.²⁵⁰

Parks

By Order in Council, Cabinet can create one of three classes of Provincial Park:²⁵¹

- **Class A Park:**
 - Class A Parks are “dedicated to the preservation of their natural environments for the inspiration, use, and enjoyment of the public.”²⁵²
 - The Minister can allow the use of land and natural resources, but only if they believe that this use “is necessary to preserve or maintain the recreational values of the park.”²⁵³

²⁴⁵ [Park, Conservancy and Recreation Area Regulation, BC Reg 180/90](#), s 24.

²⁴⁶ See also [Park, Conservancy and Recreation Area Regulation, BC Reg 180/90](#), s 32.

²⁴⁷ “[Visiting Parks – Things to Do and See](#)” (last visited 12 May 2022), online: [BC Parks](#).

²⁴⁸ *Ibid.*

²⁴⁹ See also [Park, Conservancy and Recreation Area Regulation, BC Reg 180/90](#), s 32.

²⁵⁰ [Park Act, RSBC 1996, c 344](#), s 11.

²⁵¹ [Park Act, RSBC 1996, c 344](#), ss 5(1), 7.2.

²⁵² *Ibid.*, s 5(3).

²⁵³ *Ibid.*, ss 8-9; see also “[Summary of Protected Area Designations and Allowable Activities](#)” (last visited 12 May 2022), online (pdf): [BC Parks](#).

- Class A Parks can also be created using the [Protected Areas of British Columbia Act](#), providing them with stronger protection.²⁵⁴
- **Class B Park**
 - Class B Parks support a greater number of recreational activities compared to Class A Parks; the Minister can allow activities that are consistent with the park's recreational value.²⁵⁵
- **Class C Park**
 - Class C Parks are like Class A Parks; however, they must be managed by a local board. The Minister appoints members of the board.²⁵⁶
 - The board must make rules to protect the park. The board can make rules regarding the activities allowed in the park.²⁵⁷

The Minister can also assign each Provincial Park to a category that governs permissible activities in the park. Any activities that are inconsistent with the category's purpose are prohibited. The categories include:

- **Category 1**
 - Purpose: To preserve the Park's atmosphere, environment, or ecology.
- **Category 2**
 - Purpose: To preserve natural features of scientific, historic, or scenic interest and present them to the public.
- **Category 3**
 - Purpose: To provide the travelling public with enjoyment, convenience, and comfort.
- **Category 4**
 - Purpose: To provide public recreational opportunities.

²⁵⁴ [Park Act, RSBC 1996, c 344](#), ss 1, 5(3); see also "[Summary of Protected Area Designations and Allowable Activities](#)" (last visited 12 May 2022), online (pdf): *BC Parks*; [Protected Areas of British Columbia Act, SBC 2000, c 17](#).

²⁵⁵ [Park Act, RSBC 1996, c 344](#), ss -9; see also Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 5, online (pdf): *Coastal First Nations*.

²⁵⁶ [Park Act, RSBC 1996, c 344](#), s 10; see also Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 25, online (pdf): *Coastal First Nations*.

²⁵⁷ [Class C Parks Regulations, BC Reg 227/67](#), ss 23-24.

- **Category 5**
 - Purpose: To support public participation in specific recreational opportunities.
- **Category 6**
 - Purpose: The Park has two or more of the above purposes.²⁵⁸

The Minister or Cabinet must enact or amend legislation to decrease the size of a park.²⁵⁹

Conservancies

By Order in Council, the Cabinet can create a Conservancy.²⁶⁰ Like Class A Parks, Conservancies can be created using the *Protected Areas of British Columbia Act*.²⁶¹

Conservancies can be protected for four purposes:

- (1) The protection and maintenance of biodiversity and the natural environment;
- (2) “The preservation and maintenance of social, ceremonial, and cultural values of First Nations;”
- (3) The protection of recreational values; and
- (4) The sustainable development of natural resources.²⁶²

Conservancies were included in the *Park Act* at the request of and in collaboration with First Nations. Conservancies use a co-governance model, where decision-making authority is shared between First Nations and the provincial government.²⁶³

Two examples of this co-management arrangement are the [Kitasoo Spirit Bear Conservancy](#), managed by the [Kitasoo/ Xai'xais Nation](#), and the [Hakai Lúxvbálís Conservancy](#), managed by the [Heiltsuk Nation](#).²⁶⁴

Decision-making in Conservancies is shared. Yet, a clause gives the Minister ultimate decision-making power.²⁶⁵

²⁵⁸ [Park Act, RSBC 1996, c 344](#), s 12.

²⁵⁹ *Ibid*, ss 5-7.

²⁶⁰ *Ibid*, ss 5(1), 7.2.

²⁶¹ *Ibid*, s 5(7), (8); see also “[Summary of Protected Area Designations and Allowable Activities](#)” (last visited 12 May 2022), online (pdf): *BC Parks*; [Protected Areas of British Columbia Act, SBC 2000](#), c 17.

²⁶² [Park Act, RSBC 1996, c 344](#), s 5(3.1).

²⁶³ Katherine L Turner and Christopher PH Bitonti, “[Conservancies in British Columbia, Canada: Bringing Together Protected Areas and First Nations’ Interests](#)” (2011) 2:2 *International Indigenous Policy* J 1; Jessica Stronghill, Murray B Rutherford and Wolfgang Haider, “[Conservancies in Coastal British Columbia: A New Approach to Protected Areas in the Traditional Territories of First Nations](#)” (2015) 13:1 *Conservation and Society* 39; see also Anastasia Papadopoulou, [Exploring Governance Mechanisms and Mi'kmaw Values and Aspirations for Indigenous Protected and Conserved Areas \(IPCAs\) in Nova Scotia](#) (MES Thesis, Dalhousie University, 2021) at 96 [unpublished].

²⁶⁴ Philip Akins and Michael Bissonnette, “[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)” (September 2020) at 9, online (pdf): *Coastal First Nations*; “[Kitasoo Spirit Bear Conservancy](#)” (last visited 12 May 2022), online: *BC Parks*; “[Hakai Lúxvbálís Conservancy](#)” (last visited 12 May 2022), online: *BC Parks*.

²⁶⁵ Justine Townsend, personal communication, 3 May 2022.

Conservancies were initially proposed as a mechanism to enable Indigenous land uses to continue in protected areas.²⁶⁶ Conservancies were designed to allow for more flexible activities compared to Provincial Parks, including some ceremonial and cultural practices.²⁶⁷

The following activities are prohibited in Conservancies:

- Commercial logging;
- Mining;
- Non-local hydroelectric power generation; and
- Activities which do not support the purposes of the Conservancy.²⁶⁸

Activities can be further controlled using the Conservancy's management plan.²⁶⁹

The Minister or Cabinet must enact or amend legislation to decrease the size of a Conservancy.²⁷⁰

Recreation Areas

By Order in Council, Cabinet can create a Recreation Area.²⁷¹ While Recreation Areas are considered protected areas, their emphasis on recreation means that they support a greater variety of activities and uses than Provincial Parks or Conservancies.²⁷²

Designated Wildland Areas

By Order in Council, Cabinet can create a Designated Wildland Area within a Provincial Park, Conservancy, or Recreation Area.²⁷³ A Designated Wildland Area is a roadless location within a protected area that is protected in its "natural condition for the preservation of its...environment and scenic features."²⁷⁴ In these areas, no development is allowed and natural resources, excluding fish and wildlife, are protected.²⁷⁵

²⁶⁶ Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 25, online (pdf): *Coastal First Nations*.

²⁶⁷ [Park Act, RSBC 1996, c 344](#), s 5(3.1); Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 25, online (pdf): *Coastal First Nations*; Jessica Stronghill, Murray B Rutherford and Wolfgang Haider, "[Conservancies in Coastal British Columbia: A New Approach to Protected Areas in the Traditional Territories of First Nations](#)" (2015) 13:1 *Conservation and Society* 39; see also Anastasia Papadopoulou, "[Exploring Governance Mechanisms and Mi'kmaw Values and Aspirations for Indigenous Protected and Conserved Areas \(IPCAs\) in Nova Scotia](#)" (MES Thesis, Dalhousie University, 2021) at 25 [unpublished].

²⁶⁸ [Park Act, RSBC 1996, c 344](#), ss 5(3.1), 9(10).

²⁶⁹ Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 25, online (pdf): *Coastal First Nations*.

²⁷⁰ [Park Act, RSBC 1996, c 344](#), ss 5, 7.

²⁷¹ *Ibid*, ss 5(1), 7.2.

²⁷² See e.g. Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 25, online (pdf): *Coastal First Nations*.

²⁷³ [Park Act, RSBC 1996, c 344](#), s 5(1).

²⁷⁴ *Ibid*, s 1.

²⁷⁵ *Ibid*, s 9(3); see also Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 25, online (pdf): *Coastal First Nations*.

Designated Wildland Areas can also be classified as Ecological Reserves (see below), which provide even stricter protection measures.²⁷⁶

Other Protected Areas

Cabinet can provide the Minister with authority over other protected areas through an Order in Council. This means that the *Park Act* could also apply to any of the following areas:

- Crown Land under the [Environment and Land Use Act](#);
- Greenbelt Land under the [Greenbelt Act](#);
- Heritage Sites under the [Heritage Conservation Act](#); and/or
- Ecological Reserves under the [Ecological Reserve Act](#) and the [Protected Areas of British Columbia Act](#)²⁷⁷

Agreements and Delegation

The Minister can enter into an agreement with a First Nation to ensure that the First Nation can exercise their Aboriginal rights and have access to protected areas for social, ceremonial, and cultural purposes.²⁷⁸

The Minister can also enter into an agreement with a First Nation to address “other topics relating to the management” of “all matters concerning” protected areas.²⁷⁹ While this could, in theory, include land management and resource protection, it is unclear how far the Minister’s authority extends.²⁸⁰

The Minister can also appoint a government employee as a Director to assist with the performance of duties and the exercise of powers under the *Park Act*.²⁸¹

²⁷⁶ [Ecological Reserve Act, RSBC 1996, c 103](#), s 6.

²⁷⁷ [Park Act, RSBC 1996, c 344](#), s 6.

²⁷⁸ [Park Act, RSBC 1996, c 344](#), s 4.2(1).

²⁷⁹ *Ibid*, s 4.2(1).

²⁸⁰ [Park Act, RSBC 1996, c 344](#), ss 3, 4.2(1), 6.

²⁸¹ *Ibid*, s 4(1); [Public Service Act, RSBC 1996, c 385](#).

In-Depth: Ecological Reserve Act

	Ecological Reserve ²⁸²
Legislation	<i>Ecological Reserve Act</i>
Responsible Government Department	Environment and Climate Change Strategy ²⁸³
Overall Goals and Values	Protect land for ecological purposes, including providing habitat and opportunities for research and educational activities (s. 2)
Establishment	Order in Council (s. 3)
Strength of Protection ²⁸⁴	Ia Strict Nature Reserve
Decision-Making Authority	Minister responsible for management (s. 8) Minister can appoint advisers to provide advice on management (s. 9)
Hunting	Can be permitted ²⁸⁵
Fishing	Can be permitted ²⁸⁶
Trapping	Prohibited ²⁸⁷
Development	No construction permitted ²⁸⁸
Natural Resource Extraction	No natural resource extraction allowed ²⁸⁹
Access	No motor vehicle access ²⁹⁰
Activities Allowed	Scientific research and educational activities (with permit) ²⁹¹ Low-impact recreational activities e.g. nature appreciation, wildlife viewing, bird watching, and photography ²⁹²
Activities Prohibited	Damaging or removing plants, animals, or natural objects ²⁹³ Activities inconsistent with protection e.g. camping ²⁹⁴

²⁸² Section 28 of the [Park Act, RSBC 1996, c 344](#) and the [Park, Conservancy and Recreation Regulation, BC Reg 180/90](#) apply to the Ecological Reserves listed in the [Application of Park Legislation to Ecological Reserves Regulation, BC Reg 364/97](#) as if they were Provincial Parks.

²⁸³ ["Ecological Reserves"](#) (last visited 12 May 2022), online: *BC Parks*.

²⁸⁴ Based on IUCN Protected Area Categories (see [Appendix II](#)).

²⁸⁵ [Ecological Reserve Regulations, BC Reg 335/75](#), s 7.

²⁸⁶ *Ibid*, s 7.

²⁸⁷ *Ibid*, s 1.

²⁸⁸ *Ibid*, s 1.

²⁸⁹ [Ecological Reserve Act, RSBC 1996, c 103](#), ss 2-3, 5; [Ecological Reserve Regulations, BC Reg 335/75](#), s 1; see also ["Ecological Reserves"](#) (last visited 12 May 2022), online: *BC Parks*.

²⁹⁰ [Ecological Reserve Regulations, BC Reg 335/75](#), s 1.

²⁹¹ [Ecological Reserve Act, RSBC 1996, c 103](#), ss 5, 5.1.

²⁹² ["Ecological Reserves"](#) (last visited 12 May 2022), online: *BC Parks*.

²⁹³ [Ecological Reserve Regulations, BC Reg 335/75](#), s 1.

²⁹⁴ ["Ecological Reserves"](#) (last visited 12 May 2022), online: *BC Parks*.

Cabinet can create Ecological Reserves through an Order in Council.²⁹⁵ Ecological Reserves have the highest degree of ecological protection in B.C: all extractive and consumptive uses are prohibited.²⁹⁶

Ecological Reserves can be cancelled by order unless they are protected under the *Protected Areas of British Columbia Act*.²⁹⁷ If an Ecological Reserve is protected under this Act, it can only be decreased in size or cancelled through the enactment or amendment of legislation.²⁹⁸

Ecological Reserves can be created for ecological purposes, including the following:

- (1) Supporting scientific research and environmental education.
- (2) Protecting representative examples of natural ecosystems.
- (3) Offering examples of ecosystems that have been changed by human activity and providing opportunities to study how they can be restored.
- (4) Providing habitat for rare or endangered native species.
- (5) Displaying unique and rare examples of botanical, zoological, or geological phenomena.²⁹⁹

Once an area has been protected as an Ecological Reserve, no one can acquire rights or interests in the area's land, minerals, coal, petroleum, natural gas, timber, or water.³⁰⁰

Protected Areas of British Columbia Act

The *Protected Areas of British Columbia Act* reinforces the majority of Class A Parks, Conservancies, and Ecological Reserves. By ensuring that the boundaries of these protected areas can only be altered by legislative amendment, their level of protection is strengthened.³⁰¹

²⁹⁵ [Ecological Reserve Act, RSBC 1996, c 103](#), s 3.

²⁹⁶ *Ibid*, ss 2-3, 5; [Ecological Reserve Regulations, BC Reg 335/75](#), s 1; see also "[Summary of Protected Area Designations and Allowable Activities](#)" (last visited 12 May 2022), online (pdf): *BC Parks*.

²⁹⁷ [Ecological Reserve Act, RSBC 1996, c 103](#), s 3.

²⁹⁸ *Ibid*, s 3(5).

²⁹⁹ *Ibid*, s 2.

³⁰⁰ *Ibid*, ss 1, 5(1).

³⁰¹ [Protected Areas of British Columbia Act, SBC 2000, c 17](#), ss 1-2.1.

Other Protected Areas

Environment and Land Use Act

By Order in Council, Cabinet can create Protected Areas under the [Environment and Land Use Act](#). This Act's protections are not permanent, but their flexibility can be useful for co-management arrangements with First Nations.³⁰²

For example, the [Huchsduwachsdu Nuyem Jeets/Kitlope Heritage Conservancy](#) was originally protected under the *Environment and Land Use Act*. The Haisla Nation was concerned that protection under the *Park Act* would not allow for co-management. Once the Conservancy designation was created, the Protected Area was transformed into a Conservancy.³⁰³

The *Environment and Land Use Act* continues the Environment and Land Use Committee.³⁰⁴ This Committee has several responsibilities, including:

- Ensuring that environmental considerations are included in land use and resource development decisions;
- Making recommendations to Cabinet regarding environmental protection, land use, and resource development; and
- Studying environmental and land use matters.³⁰⁵

Based on the Committee's recommendations, Cabinet can make any order it believes is "necessary or advisable" regarding the environment or land use.³⁰⁶

Heritage Conservation Act

The purpose of the [Heritage Conservation Act](#) is to protect and conserve heritage property in B.C.³⁰⁷

Cabinet can create Provincial Heritage Sites through Orders in Council.³⁰⁸

Once a Provincial Heritage Site is protected, a permit is required for any activity that might alter the Site.³⁰⁹

The Minister of Tourism, Arts, Culture and Sport ("the Minister") can enter into an agreement with a First Nation to protect a Heritage Site.

³⁰² Philip Akins and Michael Bissonnette, "[Co-governance of Marine Protected Areas in British Columbia: A Reference Report for First Nations](#)" (September 2020) at 26, online (pdf): *Coastal First Nations*.

³⁰³ *Ibid.*

³⁰⁴ [Environment and Land Use Act](#), RSBC 1996, c 117, s 1.

³⁰⁵ *Ibid.*, s 3.

³⁰⁶ *Ibid.*, s 7.

³⁰⁷ [Heritage Conservation Act](#), RSBC 1996, c 187, s 2.

³⁰⁸ *Ibid.*, s 9.

³⁰⁹ *Ibid.*, ss 12.1, 12.4.

These agreements can include a list of Heritage Sites “that are of particular spiritual, ceremonial or other cultural value” to ensure that sites protected by First Nations are also protected under the *Heritage Conservation Act*.³¹⁰ Cabinet must approve the agreement.³¹¹

Wildlife Act

With Cabinet’s permission, through a regulation, the Minister of Land, Water and Resource Stewardship (“the Minister”) can create a Wildlife Management Area. Any activities that can harm wildlife or their habitat are prohibited in a Wildlife Management Area.³¹²

Within a Wildlife Management Area, the Minister can create Critical Wildlife Areas, which protect habitat for endangered or threatened species, and Wildlife Sanctuaries, which prohibit any hunting, trapping, wounding, or killing of wildlife.³¹³ The Minister must consult with First Nations when creating new Wildlife Management Areas and when developing or updating management plans.³¹⁴

Once an Area has been protected, wildlife habitat cannot be altered, destroyed, or damaged without a permit.³¹⁵ The Regional Manager can also make orders prohibiting people from engaging in specific activities in Wildlife Management Areas.³¹⁶

Greenbelt Act

By Order in Council, Cabinet can create Greenbelt Land,³¹⁷ and purchase or acquire land for this purpose.³¹⁸

The Minister of Land, Water and Resource Stewardship (“the Minister”) is responsible for managing Greenbelt Land.³¹⁹

While Greenbelt Land is protected by order, the Minister can lease it if they have the permission of Cabinet and the lease is consistent with “the continued existence, nature and use of the land” as Greenbelt Land.³²⁰

³¹⁰ [Heritage Conservation Act, RSBC 1996, c 187](#), s 4.

³¹¹ *Ibid*, s 4(2).

³¹² [Wildlife Act, RSBC 1996, c 488](#), s 4.

³¹³ *Ibid*, s 5.

³¹⁴ “[Wildlife Management Area, \(WMAs\)](#)” (last visited 12 May 2022), online: *Government of British Columbia*.

³¹⁵ [Wildlife Act, RSBC 1996, c 488](#), s 7.

³¹⁶ *Ibid*, s 7(4).

³¹⁷ [Greenbelt Act, RSBC 1996, c 176](#), s 3(a).

³¹⁸ *Ibid*, s 3(b).

³¹⁹ *Ibid*, s 8.

³²⁰ *Ibid*, ss 6(1), 9.

Manitoba



Overview

Manitoba legislation includes types of protected area designation: provincial parks, provincial park reserves, wilderness parks, and ecological reserves. Provincial parks are further divided into several classes and categories, based on their purpose, level of protection, and permitted activities. One of these categories is an Indigenous Traditional Use Park, which is examined in the chart on [page 56](#) given its potential applicability to IPCAs.

The first chart in this section evaluates provincial parks, wilderness parks, Indigenous traditional use parks, and ecological reserves based on the three characteristics of IPCAs. It also identifies some overall advantages and disadvantages of these designations for the creation of IPCAs.

None of the designations in Manitoba law allow for sole Indigenous leadership in managing IPCAs. However, Manitoba is one of few regions with a protected area designation enshrined in law that facilitates co-management and allows for Indigenous stewardship and traditional practices.

Following this overall survey, this section delves into more detail on each of the four protected area designations. The in-depth charts in this section present information on what activities are permitted and prohibited in each area. They also outline the process for creating them each designation. Additional designations, such as heritage sites and wildland management areas, are briefly described.

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of the Manitoba Provincial Parks Act

	Provincial Park	Wilderness Park	Indigenous Traditional Use Park	Ecological Reserve
Legislation	<i>The Provincial Parks Act</i>	<i>The Provincial Parks Act</i>	<i>The Provincial Parks Act</i>	<i>Ecological Reserves Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister can create advisory committees to support management Opportunities for co-management	Minister can create advisory committees to support management	Cooperative development of management plan and co-management opportunities	Minister can enter into agreements to support management
Advantages	Temporary protections available Strong baseline protections	Strong baseline protections	Focused on protecting land traditionally used by and significant to Indigenous Peoples	Strongest protections of provincial protected areas
Disadvantages	Focus on outdoor recreation Protections vary with classification and category	Focused on protection to the exclusion of humans	Few precedents to establish success	Focused on protection to the exclusion of humans

In-Depth: The Provincial Parks Act

	Provincial Park	Park Reserve ³²¹	Wilderness Park	Indigenous Traditional Use Park
Legislation	<i>The Provincial Parks Act</i>	<i>The Provincial Parks Act</i>	<i>The Provincial Parks Act</i>	<i>The Provincial Parks Act</i>
Responsible Government Department ³²²	Environment, Climate and Parks	Environment, Climate and Parks	Environment, Climate and Parks	Environment, Climate and Parks
Overall Goals and Values	Protect ecosystems and heritage resources while providing recreational and educational opportunities (s. 5)	Temporarily protect lands that may be included in future Provincial Park (ss. 8-9)	Protect representative natural areas ³²³	Preserve land traditionally used by and significant to Indigenous Peoples ³²⁴
Establishment	Regulation (ss. 1, 7)	Regulation (s. 8(1)(a))	Regulation (ss. 1, 7)	Regulation (ss. 1, 7)
Strength of Protection ³²⁵	II National Park	Temporary	Ib Wilderness Area	VI Protected area with sustainable use of natural resources
Decision-Making Authority	Minister responsible for management – can create advisory committees ³²⁶	Minister responsible for management (s. 8)	Minister responsible for management – can create advisory committees ³²⁷	Cooperative development of management plan and co-management opportunities ³²⁸

³²¹ See also [Park Reserves Designation Regulation](#), Man Reg 66/99.

³²² “[Welcome to Manitoba’s Provincial Parks](#)” (last visited 12 May 2022), online: *Government of Manitoba*.

³²³ [The Provincial Parks Act, CCSM c P20](#), ss 3(a), 7(2)(a), 7(4).

³²⁴ [The Provincial Parks Act, CCSM c P20](#), ss 7(2)(e), 7(3)(g); see also [Provincial Parks Designation Regulation, Man Reg 37/97](#), s 2.1.

³²⁵ Based on IUCN Protected Area Categories (see [Appendix II](#)).

³²⁶ [The Provincial Parks Act, CCSM c P20](#), ss 6(1), 11, 29.

³²⁷ *Ibid*, ss 6(1), 11, 29.

³²⁸ See e.g. “[A System Plan for Manitoba’s Provincial Parks](#)” (last visited 12 May 2022), online (pdf): *Government of Manitoba*; “[Manitoba Parks](#)” (last modified 10 December 2020), online: *ArcGIS*.

In-Depth: The Provincial Parks Act (Continued)

	Provincial Park	Park Reserve	Wilderness Park	Indigenous Traditional Use Park
Hunting	With licence (with restrictions) ³²⁹	Dependent on regulation (s. 8(1)(b))	With licence (with restrictions) ³³⁰	With licence (with restrictions) ³³¹
Fishing	With licence ³³²	Dependent on regulation (s. 8(1)(b))	With licence ³³³	With licence ³³⁴
Trapping	With licence (with restrictions) ³³⁵	Dependent on regulation (s. 8(1)(b))	With licence (with restrictions) ³³⁶	With licence (with restrictions) ³³⁷
Development	Construction (with permit) ³³⁸	Dependent on regulation (s. 8(1)(b))	Construction (with permit) ³³⁹	Construction (with permit) ³⁴⁰
Natural Resource Extraction	No logging (s. 7(6)) No commercial peat development (s. 7(7)) Dependent on classification ³⁴¹	Dependent on regulation (s. 8(1)(b))	No logging (s. 7(6)) No mining or development of oil, petroleum, natural gas, or hydroelectric power (s. 7(5)(a)) No commercial peat development (s. 7(7))	No logging (s. 7(6)) No commercial peat development (s. 7(7))

³²⁹ “[Recreation and Activities](#)” (last visited 12 May 2022), online: *Government of Manitoba*; see also generally [The Wildlife Act, CCSM, c W130](#).

³³⁰ *Ibid.*

³³¹ *Ibid.*

³³² [Park Activities Regulations, Man Reg 141/96](#), s 12.1; see also “[Recreation and Activities](#)” (last visited 12 May 2022), online: *Government of Manitoba*.

³³³ *Ibid.*

³³⁴ *Ibid.*

³³⁵ “[Recreation and Activities](#)” (last visited 12 May 2022), online: *Government of Manitoba*; see also generally [The Wildlife Act, CCSM, c W130](#).

³³⁶ *Ibid.*

³³⁷ *Ibid.*

³³⁸ [Park Activities Regulation, Man Reg 141/96](#), ss 8(2), 12, Part X.

³³⁹ *Ibid.*, ss 8(2), 12, Part X.

³⁴⁰ *Ibid.*, ss 8(2), 12, Part X.

³⁴¹ See e.g. [The Provincial Parks Act, CCSM, c W130](#), s 7(5).

In-Depth: The Provincial Parks Act (Continued)

	Provincial Park	Park Reserve	Wilderness Park	Indigenous Traditional Use Park
Access	Motor vehicle access (with permit) ³⁴²	Dependent on regulation (s. 8(1)(b))	Motor vehicle access (with permit) ³⁴³	Motor vehicle access (with permit) ³⁴⁴
Activities Allowed	Outdoor recreational activities ³⁴⁵	Dependent on regulation (s. 8(1)(b))	Outdoor recreational activities ³⁴⁶	Outdoor recreational activities ³⁴⁷ Dependent on management plan
Activities Prohibited	Damaging or destroying land or natural objects (with exceptions) ³⁴⁸ Haying (unless permitted) ³⁴⁹ Grazing (unless permitted) ³⁵⁰	Dependent on regulation (s. 8(1)(b))	Damaging or destroying land or natural objects (with exceptions) ³⁵¹ Haying (unless permitted) ³⁵² Grazing (unless permitted) ³⁵³	Damaging or destroying land or natural objects (with exceptions) ³⁵⁴ Haying (unless permitted) ³⁵⁵ Grazing (unless permitted) ³⁵⁶

Provincial Parks

[The Provincial Parks Act](#) recognizes the importance of managing Provincial for sustainable development and to protect natural lands and Manitobans' quality of life.³⁵⁷ Provincial Parks are intended to be maintained for present and future generations.³⁵⁸

³⁴² [Park Activities Regulation, Man Reg 141/96](#), s 31(1).

³⁴³ *Ibid*, s 31(1).

³⁴⁴ *Ibid*, s 31(1).

³⁴⁵ "[Recreation and Activities](#)" (last visited 12 May 2022), online: *Government of Manitoba*.

³⁴⁶ *Ibid*.

³⁴⁷ *Ibid*.

³⁴⁸ [Park Activities Regulation, Man Reg 141/96](#), s 8(1).

³⁴⁹ *Ibid*, s 17.

³⁵⁰ *Ibid*, s 30.

³⁵¹ *Ibid*, s 8(1).

³⁵² *Ibid*, s 17.

³⁵³ *Ibid*, s 30.

³⁵⁴ *Ibid*, s 8(1).

³⁵⁵ *Ibid*, s 17.

³⁵⁶ *Ibid*, s 30.

³⁵⁷ [The Provincial Parks Act, CCSM c P20](#).

³⁵⁸ *Ibid*, s 4.

By regulation, Cabinet can create a Provincial Park³⁵⁹ for a variety of purposes, including:

- (1) Protecting ecosystems and biodiversity;
- (2) Preserving natural and cultural heritage resources; and
- (3) Providing recreational and educational opportunities.³⁶⁰

With Cabinet's permission, the Minister of Environment, Climate and Parks ("the Minister") can purchase or acquire land to create or increase the area of a Provincial Park.³⁶¹

Each Provincial Park must be classified and categorized in the regulations. Furthermore, the Minister must consult with the public before deciding on a classification and categorization.

Classification and categorization may limit what kind of activities are permitted in the park. For example, mining and hydro-electric power generation is prohibited in parks within the wilderness, backcountry, and heritage categories.³⁶²

Park Classifications:³⁶³

- **Wilderness Park**
 - Main Purpose: To preserve representative natural areas.
- **Natural Park**
 - Main Purpose: To preserve natural areas and support recreation and resource use.
- **Recreation Park**
 - Main Purpose: To provide recreational opportunities.
- **Heritage Park**
 - Main Purpose: To protect resources of cultural or heritage value.
- **Indigenous Traditional Use Park**
 - Main Purpose: To preserve land traditionally used by and significant to Indigenous Peoples.³⁶⁴

³⁵⁹ [The Provincial Parks Act, CCSM c P20](#), s 7(1).

³⁶⁰ *Ibid*, s 5.

³⁶¹ *Ibid*, s 12(1).

³⁶² *Ibid*, ss 7(2), 7(3).

³⁶³ *Ibid*, s 7(2).

³⁶⁴ [Provincial Parks Designation Regulation, Man Reg 37/97](#), s 2.1.

Park Categories:³⁶⁵

- **Wilderness Category**
 - Main Purpose: To protect natural landscapes in an undisturbed state and provide associated recreational opportunities.
- **Backcountry Category**
 - Main Purpose: To protect natural landscapes and provide facilities to support nature-based recreation.
- **Resource Management Category**
 - Main Purpose: To support commercial resource development while protecting natural areas.
- **Heritage Category**
 - Main Purpose: To protect resources of cultural or heritage value.
- **Access Category**
 - Main Purpose: To provide routes of access or facilities for travellers.
- **Indigenous Heritage Category**
 - Main Purpose: To protect sites of cultural, spiritual, or heritage significance to Indigenous Peoples.³⁶⁶

Although classifications and categories restrict some activities, the Minister and Cabinet can still use their discretion to permit or prohibit activities in parks through regulations. These regulations could be used, for example, to tailor permitted activities in Indigenous Traditional Use Parks.³⁶⁷

An example of an Indigenous Traditional Use Park is Chitek Lake Anishinaabe Provincial Park. This park was established in 2014 after [Skownan First Nation](#) submitted a proposal.³⁶⁸ It is a non-operational park, with no dedicated budget supporting operations or management.

In 2016, Manitoba signed a Memoranda of Understanding (MOU) with Skownan First Nation to develop a management plan, explore models for cooperative management, and explore options for boundary expansions to reflect other lands that Skownan First Nation views as important.³⁶⁹

This work is ongoing. The park currently protects wildlife habitat, including a rare herd of wood bison, and is used by community members for hunting, fishing and small-scale logging.

³⁶⁵ [The Provincial Parks Act, CCSM c P20](#), s 7(3).

³⁶⁶ [Provincial Parks Designation Regulation, Man Reg 37/97](#), s 3.1.

³⁶⁷ [The Provincial Parks Act, CCSM c P20](#), ss 32, 33.

³⁶⁸ Pathway to Canada Target I National Steering Committee Indigenous Protected and Conserved Areas Working Group, "[Indigenous Protected and Conserved Areas – Supporting Conditions for Success: Lessons and Experiences from Jurisdictions Across Canada](#)" (last visited 12 May 2022) at 25, online (pdf): *Conservation Through Reconciliation Partnership*.

³⁶⁹ *Ibid.*

Skownan First Nation calls the park “a place of peace and freedom for our people and the bison.”³⁷⁰

Park Reserves

By regulation, Cabinet can create a Park Reserve to temporarily protect lands while deciding whether they should be transformed into a Provincial Park.³⁷¹ These Reserves are initially protected for six months, during which time the Minister must provide opportunities for public consultation on the future of the lands.³⁷²

Little Limestone Lake Provincial Park was established as a Park Reserve in 2007.³⁷³ In 2011, Manitoba signed an MOU with [Mosakahiken Cree Nation](#) to work towards protection and co-management. Little Limestone Lake was transformed into a non-operational Provincial Park in 2011. While a management plan was co-developed with Mosakahiken Cree Nation in 2013, it has not yet been implemented (at the time of publication).³⁷⁴

Agreements and Delegation

The Minister can appoint advisory committees to provide advice and recommendations regarding Provincial Parks.³⁷⁵ The Minister can also delegate any power or duty under *The Provincial Parks Act* to “the director or any other person.”³⁷⁶

³⁷⁰ Skownan First Nation, “[Our Vision, Our Community](#)” (last visited 13 Oct 2022), online: Skownan First Nation.

³⁷¹ [The Provincial Parks Act, CCSM c P20](#), s 8(1).

³⁷² *Ibid.*, ss 8(1), 9(1).

³⁷³ Pathway to Canada Target I National Steering Committee Indigenous Protected and Conserved Areas Working Group, “[Indigenous Protected and Conserved Areas – Supporting Conditions for Success: Lessons and Experiences from Jurisdictions Across Canada](#)” (last visited 12 May 2022) at 25, online (pdf): *Conservation Through Reconciliation Partnership*.

³⁷⁴ *Ibid.*

³⁷⁵ [The Provincial Parks Act, CCSM c P20](#), s 29.

³⁷⁶ While this seems to suggest that powers or duties under *The Provincial Parks Act* could be delegated to Indigenous governments or communities, section 30.1 specifies that the Minister may authorize “a person not employed by the government” to undertake a task, suggesting that “any other person” in section 30 refers only to government employees.

[The Provincial Parks Act, CCSM c P20](#), ss 30-30.1.

In-Depth: Ecological Reserves Act

	Ecological Reserve
Legislation	<i>Ecological Reserves Act</i>
Responsible Government Department	Environment, Climate and Parks ³⁷⁷
Overall Goals and Values	Protect ecosystems and biodiversity while supporting research, educational activities, and aesthetic benefits (s. 3)
Establishment	Regulation (s. 2(2))
Strength of Protection ³⁷⁸	Ia Strict Nature Reserve
Decision-Making Authority	Director responsible for control and management (s. 3.1) The Minister may implement measures, programs, projects, and undertakings that support management (s. 4(1)) The Minister may enter into agreements to support management (s. 4(2))
Hunting	Generally prohibited ³⁷⁹
Fishing	Generally prohibited ³⁸⁰
Trapping	Generally prohibited ³⁸¹
Development	Generally prohibited ³⁸²
Natural Resource Extraction	Generally prohibited ³⁸³
Access	Access by foot (in certain areas) ³⁸⁴
Activities Allowed	Low-impact recreational activities ³⁸⁵ Scientific research or educational activities (with permit) ³⁸⁶
Activities Prohibited	Activities inconsistent with strict ecological protections ³⁸⁷

³⁷⁷ [“Ecological Reserves”](#) (last visited 12 May 2022), online: *Government of Manitoba*.

³⁷⁸ Based on IUCN Protected Area Categories (see Appendix I).

³⁷⁹ [“Ecological Reserves Regulation, Man Reg 245/2014”](#); see also [“Ecological Reserves”](#) (last visited 12 May 2022), online: *Government of Manitoba*.

³⁸⁰ *Ibid.*

³⁸¹ *Ibid.*

³⁸² *Ibid.*

³⁸³ *Ibid.*

³⁸⁴ *Ibid.*

³⁸⁵ [“Ecological Reserves”](#) (last visited 12 May 2022), online: *Government of Manitoba*.

³⁸⁶ [“Ecological Reserves Regulation, Man Reg, 245/2014”](#), s 2(1).

³⁸⁷ [“Ecological Reserves Regulation, Man Reg 245/2014”](#); see also [“Ecological Reserves”](#) (last visited 12 May 2022), online: *Government of Manitoba*.

Ecological Reserves are protected to:

- (a) Provide opportunities to study Manitoba's ecological features;
- (b) Provide opportunities for public enjoyment and educational and aesthetic benefits; and
- (c) Protect the natural environment, including:
 - i. Protect unique and rare botanical, zoological, and geological features;
 - ii. Protect habitat for rare and endangered native species;
 - iii. Protect representative natural ecosystems; and
 - iv. Provide opportunities to study ecosystem recovery.³⁸⁸

By regulation, Cabinet can create an Ecological Reserve. The Minister can purchase or acquire land to create an Ecological Reserve.³⁸⁹ The Minister can also cancel an Ecological Reserve in the public interest.³⁹⁰

The Minister of Environment, Climate and Parks ("the Minister") must appoint a Director of Ecological Reserves to manage the Ecological Reserve system.³⁹¹

With Cabinet's permission, the Minister can enter into agreements to support the management of Ecological Reserves.³⁹² The Minister can also submit a request to the Endangered Species, Ecosystems and Ecological Reserves Advisory Committee to make recommendations for future Ecological Reserves based on public submissions.³⁹³

Heritage Resources Act

The Minister of Sport, Culture and Heritage ("the Minister") can, through regulation, create Heritage Sites that represent:

- (a) The historic or prehistoric development of the province or its peoples; or
- (b) The natural history of the province.³⁹⁴

Heritage Sites can only be developed after conducting a Heritage Resource Impact Assessment to ensure that the development is consistent with the continued protection of the Site.³⁹⁵

³⁸⁸ [The Ecological Reserves Act, CCSM, c E5](#), s 3.

³⁸⁹ *Ibid*, s 5.

³⁹⁰ *Ibid*, s 8(4).

³⁹¹ *Ibid*, s 3.1.

³⁹² *Ibid*, s 4(2).

³⁹³ [The Ecological Reserves Act, CCSM, c E5](#), s 9(6); see also [The Endangered Species and Ecosystems Act, CCSM, c E111](#), s 1.

³⁹⁴ [The Heritage Resources Act, CCSM, c H39.1](#), s 2.

³⁹⁵ *Ibid*, ss 12-13.

With Cabinet’s permission, the Minister can purchase or acquire a Heritage Site³⁹⁶ and can enter into an agreement with “any person, group, society, organization ... government or other body” to support:

- (a) Program coordination;
- (b) Public information-sharing;
- (c) Research programs; and
- (d) Restoration and preservation programs.³⁹⁷

Wildlife Act

By regulation, Cabinet can create Wildlife Management Areas, Wildlife Refuges, and Game Bird Refuges to support the management, conservation, and/or enhancement of wildlife populations.³⁹⁸

The Minister of Natural Resources and Northern Development (“the Minister”) can purchase or acquire land to create Wildlife Management Areas, Wildlife Refuges, and Game Bird Refuges. Wildlife Refuges and Game Bird Refuges protect species from hunting.³⁹⁹ Wildlife Management Areas, on the other hand, are intended to support wildlife and people:

“They play an important role in biodiversity conservation and provide for a variety of wildlife-related forms of recreation, including birding and wildlife watching. Hunting and trapping are generally permitted in Wildlife Management Areas, but these activities can be prohibited or restricted in a few areas. The use of vehicles...can be restricted in some areas.”⁴⁰⁰

East Side Traditional Lands Planning and Special Protected Areas Act

The [East Side Traditional Lands Planning and Special Protected Areas Act](#) (“the Act”) only applies to the area east of Lake Winnipeg. Yet, it provides an example of collaborative land use and resource management planning that could be used as a template in other regions.

The Act has two main objectives:

- (1) “[D]eveloping a new government-to-government relationship between the Wabanong Nakaygum Okimawin (East Side) First Nations and the government arising out of the east side planning initiative;” and

³⁹⁶ [The Heritage Resources Act, CCSM, c H39.1](#), s 22.

³⁹⁷ *Ibid*, s 61.

³⁹⁸ [The Wildlife Act, CCSM, c W130](#), s 2.

³⁹⁹ [Use of Wildlife Lands Regulation, Man Reg 77/99](#), ss 2-3.

⁴⁰⁰ See generally [Use of Wildlife Lands Regulation, Man Reg 77/99](#); see also e.g. “[Wildlife Management Areas](#)” (last visited 12 May 2022), online: *Government of Manitoba*.

- (2) “[I]mplementing the goals and objectives of the Wabanong Nakaygum Okimawin Council of Chiefs Accord dated April 3, 2007, in accordance with the principles set out in that accord.”⁴⁰¹

The two main purposes of the *Act* are to:

- (1) “...enable First Nations and aboriginal communities on the east side of Lake Winnipeg to engage in land use and resource management planning for designated areas of Crown land that they have traditionally used;” and
- (2) “...provide designated areas of Crown land on the east side of Lake Winnipeg with special protection from development and other activities that might occur on that land.”⁴⁰²

The *Act* is informed by seven main principles, including:

- Voluntary:
 - The *Act* only applies to those First Nations who “opt-in.”
- Aboriginal and Treaty Rights Respected:
 - All Crown decisions must respect Aboriginal and Treaty rights.
- Consistent with Wabanong Nakaygum Okimawin Council of Chiefs Accord
 - The *Act* enshrines the goals, objectives, and principles of the Accord.
- Government-to-Government Relations Respected:
 - All decisions are made jointly by First Nations and the provincial government.
- Existing Uses:
 - No First Nation will be forced to accept any existing land uses.
 - The *Act* helps to assess if past decisions to grant permission were fair and reasonable.
- Planning Outside the Act:
 - First Nations can continue to participate in land use planning through existing provincial laws.
- Public Interest and Consultation:
 - Management plans can only be amended if Cabinet determines that the amendment is in the public interest or has fully and meaningfully consulted with affected First Nations before making the decision.⁴⁰³

⁴⁰¹ [The East Side Traditional Lands Planning and Special Protected Areas Act, CCSM, c E3](#), s 2.

⁴⁰² *Ibid*, s 3.

⁴⁰³ *Ibid*, s 16.

The Ministry of Natural Resources and Northern Development (“the Ministry”) is responsible for administering the *Act*. Indigenous governments and communities can submit requests to create a planning area under the *Act*.⁴⁰⁴ Once the Ministry has received a request, a Planning Council can be created to develop a management and development plan for the requested planning area.⁴⁰⁵

Before a planning area is created by regulation, the Ministry must provide opportunities for Indigenous and public participation and consultation.⁴⁰⁶

The Planning Council can develop a management and development plan that:

- (1) Allows the management, use, and sustainable development of Crown land and resources;
- (2) Identifies zones in the planning area and describes the activities that will be permitted, restricted, and/or prohibited in each zone;
- (3) Makes recommendations regarding plan implementation; and
- (4) Addresses any other relevant matters.⁴⁰⁷

When drafting the management and development plan, the Planning Council must consider the following factors:

- (a) The natural resources in the planning area;
- (b) The environmental features of the planning area;
- (c) Traditional uses of the land by members of First Nations and Indigenous communities;
- (d) Cultural and social priorities, including protecting sites with religious, spiritual, or archaeological significance;
- (e) Exercising Aboriginal and Treaty rights in the planning area;
- (f) Economic development needs;
- (g) Pre-existing and pre-approved land and resource uses in the planning area;
- (h) Provincial land use policies; and
- (i) Information received from required public meetings and consultation.⁴⁰⁸

The Planning Council is responsible for the management plan. The Minister of Natural Resources and Northern Development (“the Minister”) can require the Planning Council to hold public meetings, provide the Minister with drafts of the plan, and comply with any ministerial directions regarding the management plan.⁴⁰⁹

⁴⁰⁴ [The East Side Traditional Lands Planning and Special Protected Areas Act, CCSM, c E3](#), s 5.

⁴⁰⁵ *Ibid*, s 9.

⁴⁰⁶ *Ibid*, ss 6, 8.

⁴⁰⁷ *Ibid*, s 10(1).

⁴⁰⁸ *Ibid*, ss 10(3), 11.

⁴⁰⁹ *Ibid*, s 10(2).

Cabinet may approve the management plan by Order in Council, but only after:

- (1) Every First Nation and Indigenous community that requested the creation of the planning area has approved the management plan; and
- (2) The Minister has consulted with First Nations and Indigenous communities that have traditionally used lands in the planning area.⁴¹⁰

Once a management plan has been created for a planning area, all provincial government decisions in that area must align with the management plan.⁴¹¹ The Cabinet can strengthen the management plan by enacting regulations to support the outlined planning requirements.⁴¹²

The Minister can also enter into agreements with First Nations or Indigenous communities to create a Resource Management Board. The Resource Management Board can provide advice and recommendations on land use and resource management issues.⁴¹³

A limitation of this Act is that it only applies to “Crown land that is not located in a municipality or local government district or within the boundaries of a community or settlement...under [The Northern Affairs Act](#).”⁴¹⁴

⁴¹⁰ [The East Side Traditional Lands Planning and Special Protected Areas Act, CCSM, c E3](#), s 12.

⁴¹¹ *Ibid*, ss 7-8, 13.

⁴¹² *Ibid*, s 14.

⁴¹³ *Ibid*, s 17.

⁴¹⁴ [The East Side Traditional Lands Planning and Special Protected Areas Act, CCSM, c E3](#), s 6(3); see also “[Summary of The East Side Traditional Lands Planning and Special Protected Areas Act](#)” (last visited 12 May 2022), online: *Government of Manitoba*.

New Brunswick



Overview

New Brunswick legislation offers three main types of protected area designation: provincial parks, Class I protected areas, and Class II protected areas.

The first chart in this section evaluates provincial parks and the two classes of protected areas based on the three characteristics of Indigenous Protected and Conserved Areas (IPCAs) as outlined by the Indigenous Circle of Experts (ICE). The first chart also identifies some overall advantages and disadvantages of each protected area designation for the creation of IPCAs.

None of the designations allow for sole Indigenous leadership in managing IPCAs. However, New Brunswick law does allow the Minister to enter into agreements and create committees to support the management of protected areas. This power could be used in the context of an IPCA, although there are currently no examples in the province.

Following this overall survey, this section provides more detail on each of the three protected area designations. The in-depth charts in this section present information on what activities are permitted and prohibited in each area. They also outline the process for creating each designation. Additional designations, such as provincial heritage places and wildland management areas, are also briefly described.

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of New Brunswick Parks Act and Protected Natural Areas Act

	Provincial Park	Class I Protected Area	Class II Protected Area
Legislation	<i>Parks Act</i>	<i>Protected Natural Areas Act</i>	<i>Protected Natural Areas Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Included in legislation – requires legislative amendment to remove protections	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister may enter into agreements and create advisory committees to support management	Minister may enter into agreements and create advisory committees to support management	Minister may enter into agreements and create advisory committees to support management
Advantages	Relatively strong baseline protections	Strict protections	Strong baseline protections
Disadvantages	Focus on recreation	Protections less permanent than Provincial Parks Focused on protection to the exclusion of humans	Protections less permanent than Provincial Parks

In-Depth: Parks Act

	Provincial Park
Legislation	<i>Parks Act</i>
Responsible Government Department	Natural Resources and Energy Development ⁴¹⁵
Overall Goals and Values	Permanently protect ecosystems and provide recreational, educational, and natural and cultural heritage appreciation opportunities (s. 3)
Establishment	Legislation (s. 1)
Strength of Protection ⁴¹⁶	II National Park
Decision-Making Authority	Minister responsible for management (s. 10(1)) – may enter into agreements and create advisory committees to support (ss. 10(2)(e), 10(2)(e.1))
Hunting	Prohibited ⁴¹⁷
Fishing	With licence (with exceptions) ⁴¹⁸
Trapping	Prohibited ⁴¹⁹
Development	Construction by agreement ⁴²⁰
Natural Resource Extraction	Dependent on resource management plan (s. 10.1) No mining or quarrying (s. 22) No timber harvesting ⁴²¹ No aggregate extraction ⁴²²
Access	Motor vehicle and off-highway vehicle access (with permit) ⁴²³
Activities Allowed	Outdoor recreational activities ⁴²⁴
Activities Prohibited	Removing vegetation or natural objects or impacting a body of water (unless permitted) ⁴²⁵

⁴¹⁵ [Parks Act, RSNB 2011, c 202](#), s 1.

For Provincial Parks listed in Schedule A.1 of the [General Regulation, NB Reg 85-104](#), the responsible government department is the Department of Tourism, Heritage and Culture.

⁴¹⁶ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁴¹⁷ [General Regulation, NB Reg 85-104](#), s 14.

⁴¹⁸ *Ibid*, s 15.

⁴¹⁹ *Ibid*, s 14.

⁴²⁰ [Parks Act, RSNB 2011, c 202](#), s 10(2); [General Regulation, NB Reg 85-104](#), s 19.

⁴²¹ [General Regulation, NB Reg 85-104](#), s 17.

⁴²² *Ibid*, s 18.

⁴²³ *Ibid*, ss 10-11, 23.

⁴²⁴ See e.g. “[New Brunswick Parks](#)” (last visited 12 May 2022), online: *Parks NB*; “[Explore Our Parks](#)” (last visited 12 May 2022), online: *Parks NB*.

⁴²⁵ [General Regulation, NB Reg 85-104](#), s 3.

Provincial Parks

The Minister of Natural Resources and Energy Development (“the Minister”) can create a Provincial Park by regulation. The approval of Cabinet is required if the value of the land exceeds \$15,000. Cabinet generally retains the power to make regulations respecting the use, classification and management of parks.⁴²⁶ Provincial Parks are dedicated to present and future generations for four purposes:

- (1) To permanently protect the environment and natural and cultural heritage;
- (2) To provide recreational and educational opportunities;
- (3) To encourage appreciation of New Brunswick’s natural and cultural heritage; and
- (4) To create tourist destinations⁴²⁷

The Minister must prepare a resource management plan for each Provincial Park at least once every ten years.⁴²⁸ Additionally, the [Parks Act](#) must be reviewed at least once every ten years.⁴²⁹

Agreements

The Minister is responsible for managing Provincial Parks. The Minister can create an advisory committee, including members of First Nations, to provide advice and recommendations on Provincial Park management. This amendment was introduced in 2014.⁴³⁰

In-Depth: Protected Natural Areas Act

	Class I Protected Area	Class II Protected Area
Legislation	<i>Protected Natural Areas Act</i>	<i>Protected Natural Areas Act</i>
Responsible Government Department	Natural Resources and Energy Development (s. 1)	Natural Resources and Energy Development (s. 1)
Overall Goals and Values	Protect ecosystems, species, and plants while providing opportunities for low-impact outdoor recreation, educational activities, and scientific research (s. 3)	Protect ecosystems, species, and plants while providing opportunities for low-impact outdoor recreation, educational activities, and scientific research (s. 3)
Establishment	Regulation (s. 5)	Regulation (s. 5)
Strength of Protection ⁴³¹	Ia Strict Nature Reserve	Ib Wilderness Area

⁴²⁶ [Parks Act, RSNB 2011, c 202](#), ss 1, 5, 23.

⁴²⁷ [Ibid.](#), s 3.

⁴²⁸ [Ibid.](#), s 10.1.

⁴²⁹ [Ibid.](#), s 10.2.

⁴³⁰ [Ibid.](#), s 10.1.

⁴³¹ Based on IUCN Protected Area Categories (see [Appendix II](#)).

In-Depth: Protected Natural Areas Act (Continued)

	Class I Protected Area	Class II Protected Area
Decision-Making Authority	Minister responsible for management – may enter into agreements to support ⁴³² Minister may also establish Local Advisory Committee ⁴³³	Minister responsible for management – may enter into agreements to support ⁴³⁴ Minister may also establish Local Advisory Committee ⁴³⁵
Hunting	Prohibited (s. 11(b))	With licence ⁴³⁶
Fishing	Prohibited (s. 11(b))	With licence ⁴³⁷
Trapping	Prohibited (s. 11(b))	With permit ⁴³⁸
Development	Road construction for access purposes (s. 17(1))	Road construction for access purposes (s. 17(1)) No other construction allowed (s. 12(a)(viii))
Natural Resource Extraction	Prohibited (s. 11(b))	No forestry, mineral exploration or mining, boring or drilling, quarrying, or gas or petroleum exploration or development (s. 12(a))
Access	No access (unless permitted) (s. 11(a))	No motor vehicle access (with exceptions) ⁴³⁹
Activities Allowed	Scientific research or educational activities (with permit) (s. 15(1))	Scientific research or educational activities (with permit) (s. 15(1)) Low-impact ecotourism activities ⁴⁴⁰
Activities Prohibited ⁴⁴¹	No activities allowed (s. 11(b))	Agriculture, aquaculture, or industrial or commercial activities (s. 12(a)) Removing or destroying plants, animals, or natural objects (s. 12(a)(xiii))

⁴³² [Protected Natural Areas Act, SNB 2003, c P-19.01](#), ss 32-33.

⁴³³ [General Regulation, NB Reg 2004-57](#), s 13.

⁴³⁴ [Protected Natural Areas Act, SNB 2003, c P-19.01](#), ss 32-33.

⁴³⁵ [General Regulation, NB Reg 2004-57](#), s 13.

⁴³⁶ *Ibid*, s 6(o).

⁴³⁷ *Ibid*, s 6(n).

⁴³⁸ *Ibid*, ss 6(d), 6(e).

⁴³⁹ [Protected Natural Areas Act, SNB 2003, c P-19.01](#), s 12(a)(xii); [General Regulation, NB Reg 2004-57](#), s 6(k).

⁴⁴⁰ [General Regulation, NB Reg 2004-57](#), s 6.

⁴⁴¹ Any of the activities that would otherwise be prohibited in a Protected Area may be allowed by the Minister if the activity would support:

- (a) The protection, conservation, or management of a Protected Area;
- (b) The protection, rehabilitation, recovery, or restoration of an ecosystem within a Protected Area;
- (c) The protection of forests and other natural resources; or
- (d) The health and welfare of plant and animal species.

[Protected Natural Areas Act, SNB 2003, c P-19.01](#), s 14.

By regulation, Cabinet can create a Protected Natural Area to protect biodiversity and the natural environment by conserving and managing lands that:

- (a) Are representative of natural ecosystems throughout New Brunswick;
- (b) Contain unique relationships between plant and animal species;
- (c) Provide habitat for rare or endangered native species;
- (d) Contain ecologically sensitive species or habitats;
- (e) Feature unique or rare botanical, zoological, or geological phenomena;
- (f) Offer opportunities to study ecosystem recovery; and/or
- (g) Provide opportunities for low-impact outdoor recreation, educational activities, and scientific research.⁴⁴²

A Protected Natural Area can be either a Class I Protected Natural Area or a Class II Protected Natural Area.⁴⁴³

- **Class I Protected Natural Area:**
 - Requires complete protection due to ecological sensitivity of protected features.⁴⁴⁴
- **Class II Protected Natural Area:**
 - Supports low-impact recreational activities and traditional food gathering activities.⁴⁴⁵

It is important to note that a Class 1 Protected Natural Area does not provide for the exercise of Indigenous harvesting rights. A Class 1 Protected Natural Area designation is an unlikely pathway for an IPCA.

The level of public consultation required before creating a Protected Natural Area is dependent on its size. For example, if the proposed Area is 750 hectares or less, then the Minister of Natural Resources and Energy Development (“the Minister”) can decide on the level of public consultation they believe to be necessary. If the proposed Area is greater than 750 hectares, then the Minister must begin consultation based on the requirements set out in the regulations.⁴⁴⁶

On the Minister’s recommendation and by regulation, Cabinet can change the boundaries of, or cancel, a Protected Natural Area if “the lands are no longer suitable for the purpose of this Act.”⁴⁴⁷

⁴⁴² [Protected Natural Areas Act, SNB 2003, c P-19.01](#), ss 3, 5(1).

⁴⁴³ *Ibid*, s 5(2).

⁴⁴⁴ “[Class 1](#)” (last visited 12 May 2022), online: *Government of New Brunswick*.

⁴⁴⁵ “[Class 2](#)” (last visited 12 May 2022), online: *Government of New Brunswick*.

⁴⁴⁶ [Protected Natural Areas Act, SNB 2003, c P-19.01](#), s 5(3); see also [General Regulation, NB Reg 2004-57](#), s 4.

⁴⁴⁷ [Protected Natural Areas Act, SNB 2003, c P-19.01](#), s 6.

Before changing the boundaries of a Protected Natural Area, the Minister must conduct the level of public consultation they believe to be necessary.⁴⁴⁸

Before cancelling a Protected Natural Area that is greater than 750 hectares in size, the Minister must begin consultation based on the requirements set out in the regulations.⁴⁴⁹

The Minister is responsible for managing Protected Natural Areas.⁴⁵⁰

The Minister can enter into an agreement with “one or more persons” to protect and manage a Protected Natural Area.⁴⁵¹

The Minister can also establish a Local Advisory Committee to provide community input and advice regarding the protection and management of a Protected Natural Area.⁴⁵²

Other Protected Areas

Fish and Wildlife Act

By regulation, the Minister of Natural Resources and Energy Development (“the Minister”) can create a Wildlife Refuge or Wildlife Management Area.⁴⁵³ Hunting and trapping are generally prohibited in Wildlife Refuges and Wildlife Management Areas.⁴⁵⁴

The Minister is responsible for managing Wildlife Refuges and Wildlife Management Areas.⁴⁵⁵ With Cabinet’s permission, the Minister can enter into an agreement with a person to provide for “the better use and management of the fish and wildlife” of New Brunswick.⁴⁵⁶

Heritage Conservation Act

The Minister of Tourism, Heritage and Culture (“the Minister”) can create a Provincial Heritage Place through a ministerial order.⁴⁵⁷ The Minister can also create a Provincial Heritage Place based on their own initiative or based on a public application.⁴⁵⁸

⁴⁴⁸ [Protected Natural Areas Act, SNB 2003, c P-19.01](#), s 6(2).

⁴⁴⁹ *Ibid*, s 6(3); see also [General Regulation, NB Reg 2004-57](#), s 4.

⁴⁵⁰ *Ibid*, s 32.

⁴⁵¹ *Ibid*, s 33.

⁴⁵² [General Regulation, NB Reg 2004-57](#), s 13.

⁴⁵³ [Fish and Wildlife Act, SNB 1980, c F-14.1](#), s 1; see also generally [Wildlife Refuges and Wildlife Management Areas Regulation, NB Reg 94-43](#).

⁴⁵⁴ [Fish and Wildlife Act, SNB 1980, c F-14.1](#), ss 39, 45; see also generally [Wildlife Refuges and Wildlife Management Areas Regulation, NB Reg 94-43](#).

⁴⁵⁵ [Fish and Wildlife Act, SNB 1980, c F-14.1](#), s 4.

⁴⁵⁶ *Ibid*, s 117.

⁴⁵⁷ [Heritage Conservation Act, SNB 2009, c H-4.05](#), ss 1, 34, 36.

⁴⁵⁸ *Ibid*, ss 28, 31.

To be protected as a Provincial Heritage Place, the site must meet at least one of the following criteria:

- (a) The site is “associated with a person, organization, event or theme that
 - i. Had a significant impact on provincial heritage, or
 - ii. Illustrates an important aspect of human history in the Province;”
- (b) The site is politically, socially, culturally, scientifically, or politically significant;
- (c) The site offers information that significantly contributes to a broader understanding of New Brunswick’s history and heritage;
- (d) The site is a “landmark of provincial significance;”
- (e) The site is aesthetically, visually, or contextually important; or
- (f) The site is a distinct or cultural landscape that is significant to the history of New Brunswick.⁴⁵⁹

Once a site is protected as a Provincial Heritage Place, it can only be changed with the Minister’s permission.⁴⁶⁰

The Minister is responsible for managing Provincial Heritage Places.⁴⁶¹

⁴⁵⁹ [General Regulation, NB Reg 2010-132](#), s 6.

⁴⁶⁰ [Heritage Conservation Act, SNB 2009, c H-4.05](#), ss 38, 41.

⁴⁶¹ *Ibid*, s 100.

Newfoundland and Labrador



Overview

Newfoundland and Labrador legislation includes three main types of protected area designation: provincial parks, wilderness reserves, and ecological reserves.

The first chart in this section evaluates each of the three designations based on the characteristics of Indigenous Protected and Conserved Areas (IPCAs) as outlined by the Indigenous Circle of Experts (ICE). It also identifies the overall advantages and disadvantages of each designation for the creation of IPCAs.

None of the designations allow for sole Indigenous leadership in managing IPCAs. However, Newfoundland and Labrador law does allow the Minister to create advisory committees or councils to support the management of protected areas. These committees or councils are intended to facilitate public consultation and input into the creation of parks.

In the case of reserves, the advisory council also recommends management decisions to the Minister. The potential for explicit co-management agreements under the law remains unclear.

Following this overall survey, this section offers more detail on each of the three protected area designations. These charts present information on what activities are permitted and prohibited in each area. They also outline the process for creating them. Additional designations, such as provisional reserves, public reserves, and historical sites are also briefly described.

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of Provincial Parks Act and Wilderness and Ecological Reserves Act

	Provincial Park	Wilderness Reserve	Ecological Reserve
Legislation	<i>Provincial Parks Act</i>	<i>Wilderness and Ecological Reserves Act</i>	<i>Wilderness and Ecological Reserves Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Lieutenant Governor in Council may appoint advisory committee to support management	Wilderness and Ecological Reserves Advisory Council supports management	Wilderness and Ecological Reserves Advisory Council supports management

Overview (Continued):

	Provincial Park	Wilderness Reserve	Ecological Reserve
Advantages	Relatively strong baseline protections	Strong baseline protections Temporary protections available Clear nomination process	Strong baseline protections Temporary protections available Clear nomination process
Disadvantages	May be decreased by order – impermanent protections	Focused on protection to the exclusion of humans	Focused on protection to the exclusion of humans

In-Depth: Provincial Parks Act

	Provincial Park
Legislation	<i>Provincial Parks Act</i>
Responsible Government Department	Tourism, Culture, Arts and Recreation ⁴⁶²
Overall Goals and Values	Conserve and manage natural ecosystems and provide recreational opportunities ⁴⁶³
Establishment	Order in Council (s. 4(1))
Strength of Protection ⁴⁶⁴	II National Park
Decision-Making Authority	Minister responsible for management (s. 5(1)). The Lieutenant Governor in Council may appoint an advisory committee (s. 7)
Hunting	Prohibited (with exceptions) ⁴⁶⁵
Fishing	With licence ⁴⁶⁶
Trapping	Prohibited (with exceptions) ⁴⁶⁷
Development	No private cottages (s. 4(5))
Natural Resource Extraction	No mineral exploration, mining, logging, or hydroelectric development (s. 4(5))

⁴⁶² “[Provincial Parks](#)” (last visited 12 May 2022), online: *Government of Newfoundland and Labrador*.

⁴⁶³ “[About Us](#)” (last visited 12 May 2022), online: *Parks NL*.

⁴⁶⁴ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁴⁶⁵ [Provincial Parks Regulations, NLR 91/97, ss 3\(1\), 4\(2\), 5](#); see also [Hunting in a Waterway Provincial Park Permission Order, NLR 74/20](#).

⁴⁶⁶ [Provincial Parks Regulations, NLR 91/97, s 4\(1\)](#); see also [Fishing and Angling in a Provincial Park Permission Order, NLR 73/20](#).

⁴⁶⁷ “[2021-22 Hunting and Trapping Guide](#)” (last modified 10 June 2021), online: *Government of Newfoundland and Labrador*.

In-Depth: Provincial Parks Act (Continued)

	Provincial Park
Access	Motor vehicle and off-highway vehicle access (with permit) ⁴⁶⁸
Activities Allowed	Outdoor recreational activities ⁴⁶⁹
Activities Prohibited	Scientific research (unless permitted) ⁴⁷⁰

Cabinet can create or increase or decrease the area of a Provincial Park through an Order in Council.⁴⁷¹ Cabinet can purchase or acquire land to create or increase the area of a Provincial Park.⁴⁷²

The Minister of Tourism, Culture, Arts and Recreation (“the Minister”) is responsible for managing Provincial Parks.⁴⁷³ Cabinet can appoint an advisory committee to provide the Minister with advice and recommendations regarding Provincial Park management.⁴⁷⁴

In-Depth: Wilderness and Ecological Reserves Act

	Wilderness Reserve	Ecological Reserve ⁴⁷⁵	Provisional Reserve
Legislation	<i>Wilderness and Ecological Reserves Act</i>	<i>Wilderness and Ecological Reserves Act</i>	<i>Wilderness and Ecological Reserves Act</i>
Responsible Government Department ⁴⁷⁶	Environment and Climate Change	Environment and Climate Change	Environment and Climate Change
Overall Goals and Values	Protect undisturbed wilderness (s. 4)	Protect representative or unique ecosystems while supporting scientific research (s. 5)	Temporarily protect lands that may be included in future Wilderness or Ecological Reserve ⁴⁷⁷

⁴⁶⁸ [Provincial Parks Regulations, NLR 91/97](#), ss 9-12.

⁴⁶⁹ “[About Us](#)” (last visited 12 May 2022), online: *Parks NL*.

⁴⁷⁰ [Provincial Parks Regulations, NLR 91/97](#), s 17.

⁴⁷¹ [Provincial Parks Act, RSNL 1990, c P-32](#), s 4.

⁴⁷² *Ibid*, s 3.

⁴⁷³ *Ibid*, s 5(1).

⁴⁷⁴ *Ibid*, s 7.

⁴⁷⁵ “Ecological reserve management is specific to each reserve and developed in consultation with the public. For example, a botanical ecological reserve may have more restrictions than a representative ecological reserve due to the fragile nature of endangered or threatened plants and their habitat.” [“Ecological Reserves”](#) (last visited 12 May 2022), online: *Government of Newfoundland and Labrador*.

⁴⁷⁶ “[Wilderness and Ecological Reserves](#)” (last visited 12 May 2022), online: *Government of Newfoundland and Labrador*.

⁴⁷⁷ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), ss 12-18; see also “[The WER Act](#)” (last visited 12 May 2022), online: *Government of Newfoundland and Labrador*.

In-Depth: Wilderness and Ecological Reserves Act (Continued)

	Wilderness Reserve	Ecological Reserve ⁴⁷⁸	Provisional Reserve
Establishment	Order in Council (s. 4)	Order in Council (s. 5)	Order in Council (s. 14)
Strength of Protection	Ib Wilderness Area	Ia Strict Nature Reserve	Temporary
Decision-Making Authority	Minister responsible for management (s. 20) – Wilderness and Ecological Reserves Advisory Council established to provide advice (s. 6)	Minister responsible for management (s. 20) – Wilderness and Ecological Reserves Advisory Council established to provide advice (s. 6)	Minister responsible for management (s. 20) – Wilderness and Ecological Reserves Advisory Council established to provide advice (s. 6)
Hunting	With permit ⁴⁷⁹	Prohibited (with exceptions) ⁴⁸⁰	Dependent on order (s. 24)
Fishing	With permit ⁴⁸¹	Prohibited (with exceptions) ⁴⁸²	Dependent on order (s. 24)
Trapping	With permit ⁴⁸³	Prohibited (with exceptions) ⁴⁸⁴	Dependent on order (s. 24)
Development	Prohibited (s. 24(a)(i))	Prohibited (s. 24(a)(i))	Prohibited (s. 24(a)(i))
Natural Resource Extraction	No logging, agriculture, or mining (s. 24(1)(a)(ii)) No aggregate extraction ⁴⁸⁵	No logging, agriculture, or mining (s. 24(1)(a)(ii)) No aggregate extraction ⁴⁸⁶	No logging, agriculture, or mining (s. 24(1)(a)(ii))

⁴⁷⁸ “Ecological reserve management is specific to each reserve and developed in consultation with the public. For example, a botanical ecological reserve may have more restrictions than a representative ecological reserve due to the fragile nature of endangered or threatened plants and their habitat.” “[Ecological Reserves](#)” (last visited 12 May 2022), online: *Government of Newfoundland and Labrador*.

⁴⁷⁹ [Wilderness Reserve Regulations, 1997, NLR 65/97](#), s 10.

⁴⁸⁰ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), s 24(3)(a)(ii); [Botanical Ecological Reserve Regulations, 2013, NLR 31/13](#), s 11; [Fossil Ecological Reserve Regulations, 2009, NLR 13/09](#), s 11.

⁴⁸¹ [Wilderness Reserve Regulations, 1997, NLR 65/97](#), s 10.

⁴⁸² [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), s 24(3)(a)(i); [Botanical Ecological Reserve Regulations, 2013, NLR 31/13](#), s 11; [Fossil Ecological Reserve Regulations, 2009, NLR 13/09](#), s 11; [Seabird Ecological Reserve Regulations, 2015, NLR 32/15](#), s 11.

⁴⁸³ [Wilderness Reserve Regulations, 1997, NLR 65/97](#), s 10.

⁴⁸⁴ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), s 24(3)(a)(ii); [Botanical Ecological Reserve Regulations, 2013, NLR 31/13](#), s 11.

⁴⁸⁵ [Wilderness Reserve Regulations, 1997, NLR 65/97](#), s 7(1)(h).

⁴⁸⁶ [Botanical Ecological Reserve Regulations, 2013, NLR 31/13](#), ss 3(i), 3(j); [Fossil Ecological Reserve Regulations, 2009, NLR 13/09](#), ss 3(h), 3(n); [Seabird Ecological Reserve Regulations, 2015, NLR 32/15](#), ss 3(j), 3(k).

In-Depth: Wilderness and Ecological Reserves Act (Continued)

	Wilderness Reserve	Ecological Reserve	Provisional Reserve
Access	No motorized access (s. 24(2)(a)); off-highway vehicle access in certain Reserves ⁴⁸⁷ Visitor access with permit ⁴⁸⁸	No motorized access (s. 24(2)(a)) Visitor access may be limited ⁴⁸⁹	Dependent on order (s. 24)
Activities Allowed	Low-impact outdoor recreational activities ⁴⁹⁰ Scientific research (with permit) ⁴⁹¹	Low-impact outdoor recreational activities (may be limited) ⁴⁹² Scientific research and educational activities (with permit) ⁴⁹³	Dependent on order (s. 24)
Activities Prohibited	Changing the flow of water entering a Reserve (s. 24(1)(b)) Removing or destroying plants, animals, or natural objects ⁴⁹⁴ Camping ⁴⁹⁵	Changing the flow of water entering a Reserve (s. 24(1)(b)) Removing or destroying plants, animals, or natural objects (s. 24(3)(b)) Camping ⁴⁹⁶ Grazing (unless permitted) ⁴⁹⁷	Dependent on order (s. 24) Changing the flow of water entering a Reserve (s. 24(1)(b))

⁴⁸⁷ [Wilderness Reserve Regulations, 1997, NLR 65/97](#), s 16.

⁴⁸⁸ [Wilderness Reserve Regulations, 1997, NLR 65/97](#), s 4; “[Wilderness Reserves](#)” (last visited 12 May 2022), online: *Government of Newfoundland and Labrador*.

⁴⁸⁹ [Botanical Ecological Reserve Regulations, 2013, NLR 31/13](#), s 10; [Seabird Ecological Reserve Regulations, 2015, NLR 32/15](#), s 10.

⁴⁹⁰ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), s 4; see also “[Wilderness Reserves](#)” (last visited 12 May 2022), online: *Government of Newfoundland and Labrador*.

⁴⁹¹ [Wilderness Reserve Regulations, 1997, NLR 65/97](#), s 26.

⁴⁹² [Botanical Ecological Reserve Regulations, 2013, NLR 31/13](#), s 9; [Fossil Ecological Reserve Regulations, 2009, NLR 13/09](#), s 12.

⁴⁹³ [Botanical Ecological Reserve Regulations, 2013, NLR 31/13](#), ss 6, 8; [Fossil Ecological Reserve Regulations, 2009, NLR 13/09](#), ss 7, 9; [Seabird Ecological Reserve Regulations, 2015, NLR 32/15](#), ss 6, 8.

⁴⁹⁴ [Wilderness Reserve Regulations, 1997, NLR 65/97](#), s 7.

⁴⁹⁵ *Ibid.*, s 5.

⁴⁹⁶ [Botanical Ecological Reserve Regulations, 2013, NLR 31/13](#), s 3(s); [Fossil Ecological Reserve Regulations, 2009, NLR 13/09](#), s 3(r); [Seabird Ecological Reserve Regulations, 2015, NLR 32/15](#), s 3(o).

⁴⁹⁷ [Fossil Ecological Reserve Regulations, 2009, NLR 13/09](#), s 5.

In addition to the [Wilderness and Ecological Reserves Act](#) (“the Act”), management of Wilderness Reserves and Ecological Reserves in Newfoundland and Labrador is guided by the following vision:

“To protect, in an unimpaired condition, large wilderness areas, representative areas of all provincial ecoregions, and areas that contain rare natural phenomena, in order to preserve the diversity and distinctiveness of the Province’s rich natural heritage and to support an ecologically sustainable future for the benefit of present and future generations.”⁴⁹⁸

Wilderness Reserves

By Order in Council, Cabinet can create a Wilderness Reserve in an area of the Province that experiences “no or little human activity” for one of three purposes:

- (1) To protect wilderness and provide areas for people to visit and engage in outdoor recreation and nature appreciation;
- (2) To provide undisturbed areas for species; or
- (3) To protect ecosystems “with primitive or extraordinary characteristics.”⁴⁹⁹

Cabinet can increase or decrease the area of a Wilderness Reserve based on the recommendations of the Wilderness and Ecological Reserves Advisory Council (see below).⁵⁰⁰

Ecological Reserves

Ecological Reserves are generally subject to stronger protections than Wilderness Reserves. By Order in Council, Cabinet can create an Ecological Reserve to protect representative or unique ecosystems for several purposes:

- (1) To support scientific research and environmental education;
- (2) To protect habitat for rare or endangered species;
- (3) To preserve relatively undisturbed environments from development;
- (4) To provide opportunities to study ecosystem recovery;
- (5) To preserve rare botanical, zoological, geological, or geographical characteristics; or
- (6) To protect species in their natural habitats.⁵⁰¹

Cabinet can increase or decrease the area of an Ecological Reserve based on the recommendations of the Wilderness and Ecological Reserves Advisory Council (see below).⁵⁰²

⁴⁹⁸ [“Wilderness and Ecological Reserves”](#) (last visited 12 May 2022), online: *Government of Newfoundland and Labrador*.

⁴⁹⁹ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), s 4.

⁵⁰⁰ *Ibid*, ss 12-18, 21.

⁵⁰¹ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), s 5.

⁵⁰² *Ibid*, ss 12-18, 21.

Ecological Reserves can be categorized by regulation. There are three categories of Ecological Reserves:

- (1) Botanical Ecological Reserves: Protect rare plants and animals.
- (2) Fossil Ecological Reserves: Protect globally significant fossils and rock formations.
- (3) Seabird Ecological Reserves: Protect seabird colonies.⁵⁰³

Wilderness and Ecological Reserves Advisory Council (WERAC)

The [Wilderness and Ecological Reserves Advisory Council \(WERAC\)](#) provides advice to the Minister of Environment and Climate Change (“the Minister”) regarding the creation, management, and cancellation of Wilderness and Ecological Reserves.⁵⁰⁴ More than half of the members of the WERAC must be representatives of the public.⁵⁰⁵

The WERAC can determine areas across Newfoundland and Labrador that are suitable for the creation of a Wilderness or Ecological Reserve and can accept public recommendations using the following process.⁵⁰⁶

Reserve Nomination Process

The following process is followed after a public proposal for the creation of a new Wilderness or Ecological Reserve:⁵⁰⁷

- **Step 1: Proposal received by WERAC**⁵⁰⁸
 - Proposal may be rejected at this stage.
- **Step 2: WERAC conducts preliminary review**
 - WERAC meets with person or group submitting proposal, conducts site visit and investigation, holds meetings with community representatives and residents, and prepares a preliminary report.
 - Proposal may be rejected at this stage.
- **Step 3: Government reviews proposal**⁵⁰⁹
 - Government identifies outstanding land use issues and meets with WERAC to clarify and attempt to resolve these issues.

⁵⁰³ [Botanical Ecological Reserve Regulations, 2013, NLR 31/13; Fossil Ecological Reserve Regulations, 2009, NLR 13/09; Seabird Ecological Reserve Regulations, 2015, NLR 32/15](#); see also “[Ecological Reserves](#)” (last visited 12 May 2022), online: *Government of Newfoundland and Labrador*.

⁵⁰⁴ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), s 6.

⁵⁰⁵ *Ibid*, s 7(1).

⁵⁰⁶ *Ibid*, s 11.

⁵⁰⁷ “[Reserve Establishment Process Wilderness and Ecological Reserves Act](#)” (last visited 12 May 2022), online (pdf): *Government of Newfoundland and Labrador*.

⁵⁰⁸ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), ss 11(1), 11(2).

⁵⁰⁹ *Ibid*, s 12(1).

- **Step 4: Proposal reviewed by community representatives and residents**
 - WERAC holds public meetings to inform the public of the proposal and to clarify and attempt to resolve outstanding land use issues.
- **Step 5: WERAC conducts second review**⁵¹⁰
 - WERAC approves or rejects suggested revisions, updates preliminary report, and drafts submission to government.
 - Proposal may be rejected at this stage.
- **Step 6: Government recommends Cabinet establish Provisional Reserve (see below)**
 - Proposal may be rejected at this stage.
- **Step 7: Provisional Reserve established**⁵¹¹
- **Step 8: Preliminary management plan drafted**
- **Step 9: Public notice published**⁵¹²
 - Members of the public must provide written notice if they wish to participate in the public hearing.
- **Step 10: Minister schedules public hearing**⁵¹³
- **Step 11: WERAC hosts public hearings**
 - WERAC drafts final report and prepares government submission.
- **Step 12: WERAC submits final recommendation to government**⁵¹⁴
- **Step 13: Reserve established, or proposal rejected**⁵¹⁵

Provisional and Emergency Reserves

Once the WERAC has recommended the establishment of a Wilderness or Ecological Reserve, the Minister must prepare a description of the Reserve and its purposes.⁵¹⁶ After receiving the Minister's description, Cabinet can make an order creating a Provisional Reserve.⁵¹⁷ This ensures that the area is protected while long-term management decisions are made.

If Cabinet creates a Provisional Reserve, the WERAC must hold a public hearing to discuss the potential creation of a Wilderness or Ecological Reserve.⁵¹⁸

⁵¹⁰ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), s 12(2).

⁵¹¹ *Ibid*, s 14(1).

⁵¹² *Ibid*, s 15.

⁵¹³ *Ibid*, ss 16(1), 16(2).

⁵¹⁴ *Ibid*, s 17.

⁵¹⁵ *Ibid*, s 18.

⁵¹⁶ *Ibid*, s 13.

⁵¹⁷ *Ibid*, s 14.

⁵¹⁸ *Ibid*, s 16.

Based on the outcomes of this public hearing, the WERAC can recommend:

- 1) Creating a Wilderness or Ecological Reserve; or
- 2) Cancelling the Provisional Reserve.⁵¹⁹

By ministerial order, the Minister can create an Emergency Reserve to protect:

- 1) An area that is being examined by the WERAC; or
- 2) An area that has not yet been recommended as a Provisional Reserve to ensure that the area is not negatively impacted.⁵²⁰

Other Protected Areas

Lands Act

By ministerial order, the Minister of Municipal and Provincial Affairs (“the Minister”) can create a Public Reserve “for the purpose and the period set out in the order.”⁵²¹

For example, the Glover Island Public Reserve was created to protect the habitat of the Newfoundland Marten for ten years.⁵²² During this period, anyone wishing to participate in construction, commercial development, and/or natural resource extraction in the Reserve must receive a permit issued by the Minister.⁵²³

Historic Resources Act

By Order in Council and based on the Minister of Tourism, Culture, Arts and Recreation (“the Minister”)’s recommendation, Cabinet can create a Provincial Historic Site to protect an area of historical significance.⁵²⁴ The Minister can also purchase or acquire lands to create a Provincial Historic Site.⁵²⁵

Once created, no one can damage, alter, or remove anything from a Provincial Historic Site without the Minister’s permission.⁵²⁶ The Minister must create and maintain a Provincial Registry of Historic Resources that includes Provincial Historic Sites. The Minister can only remove a Provincial Historic Site from the Registry with Cabinet’s permission.⁵²⁷

⁵¹⁹ [Wilderness and Ecological Reserves Act, RSNL 1990, c W-9](#), ss 17-18.

⁵²⁰ *Ibid*, s 22.

⁵²¹ [Lands Act, SNL 1991, c 36](#), s 8.

⁵²² [Glover Island Public Reserve Order, 2013, NLR 123/13](#), ss 2, 4.

⁵²³ [Glover Island Public Reserve Regulations, NLR 87/02](#), ss 3-8, 10.

⁵²⁴ [Historic Resources Act, RSNL 1990, c H-4](#), ss 2(k), 16.

⁵²⁵ *Ibid*, s 16.2.

⁵²⁶ *Ibid*, s 18.

⁵²⁷ *Ibid*, s 15.

Northwest Territories



Overview

Northwest Territories legislation offers four main types of protected area designation: territorial parks, cultural conservation areas, heritage parks, and protected areas.

The first chart in this section evaluates these four designations based on the characteristics of Indigenous Protected and Conserved Areas (IPCAs) as outlined by the Indigenous Circle of Experts (ICE). It also identifies overall advantages and disadvantages of each designation for the creation of IPCAs.

The establishment process and management structure of protected areas allows for collaboration and co-management with Indigenous leadership. The [Protected Areas Act](#) guarantees that Indigenous governments or Indigenous governance organization have a say in management decisions through negotiated establishment agreements.

Following this chart, this section offers more detail on each of the four protected area designations, with a special focus on protected areas. The in-depth charts in this section present information on what activities are permitted and prohibited in each area. They also outline the process for creating them. Additional designations, such as conservation areas, are also briefly described.

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of Territorial Parks Act and Protected Areas Act

	Territorial Park	Cultural Conservation Area	Heritage Park	Protected Area
Legislation	<i>Territorial Parks Act</i>	<i>Territorial Parks Act</i>	<i>Territorial Parks Act</i>	<i>Protected Areas Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister or Superintendent may enter into agreement to support management	Minister or Superintendent may enter into agreement to support management	Minister or Superintendent may enter into agreement to support management	Legislation co-developed and areas co-managed with Indigenous Peoples Minister must enter into Establishment Agreement with Indigenous governments or organizations

Overview (Continued):

	Territorial Park	Cultural Conservation Area	Heritage Park	Protected Area
Advantages	Relatively strong baseline protections	Relatively strong baseline protections Focus on intersections between culture and biodiversity	Relatively strong baseline protections	Focus on intersections between culture and biodiversity Clear nomination process Flexible, but strong, protections May support traditional or conservation economy opportunities
Disadvantages	Minimal prohibitions on industrial natural resource extraction	Prohibitions on industrial natural resource extraction optional	Minimal prohibitions on industrial natural resource extraction Development permitted to provide services	Joint management, not full IPCAs Minister may bypass Establishment Agreement in certain circumstances Minister may reject proposal for protection

In-Depth: Territorial Parks Act

	Territorial Park	Cultural Conservation Area	Heritage Park
Legislation	<i>Territorial Parks Act</i>	<i>Territorial Parks Act</i>	<i>Territorial Parks Act</i>
Responsible Government Department ⁵²⁸	Industry, Tourism and Investment	Industry, Tourism and Investment	Industry, Tourism and Investment
Overall Goals and Values	Preserve natural habitat for future generations while offering recreational opportunities ⁵²⁹	Protect culturally significant sites or landscapes (s. 3(1)(a))	Preserve and protect culturally or historically significant areas (s. 3(1)(b))
Establishment	Regulation (s. 5)	Regulation (s. 5)	Regulation (s. 5)
Strength of Protection ⁵³⁰	II National Park	V Protected Landscape/Seascape	III Natural Monument or Feature V Protected Landscape/Seascape
Decision-Making Authority	Minister/Superintendent responsible for management (s. 7) – may enter into agreements to support (s. 6)	Minister/Superintendent responsible for management (s. 7) – may enter into agreements to support (s. 6)	Minister/Superintendent responsible for management (s. 7) – may enter into agreements to support (s. 6)
Hunting ⁵³¹	Prohibited	Prohibited	Prohibited
Fishing ⁵³²	With licence	With licence	With licence
Trapping ⁵³³	With permit	With permit	With permit
Development	Dependent on purpose of protection (s. 3(2)) Construction (with permit) (ss. 8, 12)	Development permitted to protect the landscape (s. 3(3)) Construction (with permit) (ss. 8, 12)	Development permitted to provide compatible service infrastructure and commercial enterprises (s. 4) Construction (with permit) (ss. 8, 12)

⁵²⁸ [“Industry, Tourism and Investment”](#) (last visited 12 May 2022), online: *Government of Northwest Territories*.

⁵²⁹ [“Northwest Territories Road and Campground Guide”](#) (2020), online (pdf): *Government of Northwest Territories*.

⁵³⁰ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁵³¹ [“Northwest Territories Summary of Hunting and Trapping Regulations July 1, 2021-June 30, 2022”](#) (2021), online (pdf): *Government of Northwest Territories*; see also [“NWT Campsite Etiquette and Rules”](#) (last visited 12 May 2022), online.

⁵³² [“Northwest Territories Parks”](#) (last visited 12 May 2022), online: *Northwest Territories Tourism*; [“Parks”](#) (last visited 12 May 2022), online: *NWT Parks*.

⁵³³ [“Northwest Territories Summary of Hunting and Trapping Regulations July 1, 2021-June 30, 2022”](#) (2021), online (pdf): *Government of Northwest Territories*; [“Trapping and harvesting”](#) (last visited 12 May 2022), online: *Government of Northwest Territories*.

In-Depth: Territorial Parks Act (Continued)

	Territorial Park	Cultural Conservation Area	Heritage Park
Natural Resource Extraction	No timber harvesting ⁵³⁴	No timber harvesting ⁵³⁵ Natural resource extraction may be prohibited (s. 3(3))	No timber harvesting ⁵³⁶
Access ⁵³⁷	Motor vehicle access in certain areas (s. 13(1)(e))	Motor vehicle access in certain areas (s. 13(1)(e))	Motor vehicle access in certain areas (s. 13(1)(e))
Activities Allowed	Scientific research with permit (s. 8(1)(d)) Outdoor recreational activities ⁵³⁸	Scientific research with permit (s. 8(1)(d)) Outdoor recreational activities ⁵³⁹	Scientific research with permit (s. 8(1)(d)) Outdoor recreational activities ⁵⁴⁰
Activities Prohibited	Damaging or destroying natural features (s. 13)	Damaging or destroying natural features (s. 13)	Damaging or destroying natural features (s. 13)

Under the [Territorial Parks Act](#) and by regulation, the Minister of Industry, Tourism and Investment (“the Minister”) can create a Territorial Park.⁵⁴¹ Before creating a Territorial Park, the Minister must consult with Indigenous governments, organizations, and bodies created under a Land Claims Agreement that might be affected by the Park’s creation.⁵⁴² Additionally, the Minister must have the support of the Legislative Assembly before creating a Territorial Park.⁵⁴³

There are four classes of Territorial Parks:⁵⁴⁴

- **Cultural Conservation Areas**
 - Main Purpose: To protect culturally significant sites or landscapes.
 - Area can be developed for its protection.
 - Industrial activity can be prohibited.⁵⁴⁵

⁵³⁴ [Territorial Parks Regulations, RRNWT 1990, c T-13](#), s 5.1.

⁵³⁵ *Ibid.*

⁵³⁶ *Ibid.*

⁵³⁷ See also [Territorial Parks Regulations, RRNWT 1990, c T-13](#), Part V.

⁵³⁸ “[Explore NWT Parks](#)” (last visited 12 May 2022), online: *NWT Parks*.

⁵³⁹ *Ibid.*

⁵⁴⁰ *Ibid.*

⁵⁴¹ [Territorial Parks Act, RSNWT 1988, c T-4](#), s 5.

⁵⁴² *Ibid.*, s 4.

⁵⁴³ *Ibid.*, s 5.

⁵⁴⁴ *Ibid.*, s 3(1).

⁵⁴⁵ Industrial activity “includes the harvesting of timber resources, any activity in respect of a mine or minerals, and any activity in respect of an energy resource such as oil, gas, or water.” [Territorial Parks Act, RSNWT 1988, c T-4](#), ss 1, 3(3).

- **Heritage Parks**

- Main Purpose: To preserve and protect culturally or historically significant sites or landscapes.
- Park can be developed to provide services for interpretation and recreation.⁵⁴⁶
- Heritage Parks must:
 - Have the support of neighbouring communities;
 - Promote cultural heritage;
 - Be accessible to visitors;
 - Be capable of supporting visitors; and
 - Offer on-site interpretation and explanation⁵⁴⁷

- **Recreation Parks**

- Main Purpose: To protect the environment while supporting recreational activities.
- Park can be developed to provide services for interpretation and recreation.⁵⁴⁸

- **Wayside Parks**

- Main Purpose: To provide services for the travelling public.
- Park can be developed to provide basic infrastructure and information for the travelling public.⁵⁴⁹

Agreements and Delegation

The Minister can appoint a Superintendent to be responsible for Territorial Park management and to enforce the *Territorial Parks Act*.⁵⁵⁰ The Minister can also enter into agreements with “persons...societies, associations, partnerships, municipalities, or other bodies” to support the management of Territorial Parks.⁵⁵¹

⁵⁴⁶ [Territorial Parks Act, RSNWT 1988, c T-4](#), s 3(4).

⁵⁴⁷ [Territorial Parks Regulations, RRNWT 1990, c T-13](#), s 33.

⁵⁴⁸ [Territorial Parks Act, RSNWT 1988, c T-4](#), s 3(6).

⁵⁴⁹ *Ibid*, s 3(7).

⁵⁵⁰ *Ibid*, s 7.

⁵⁵¹ *Ibid*, s 6(1).

In-Depth: Protected Areas Act

	Protected Area
Legislation	<i>Protected Areas Act</i>
Responsible Government Department ⁵⁵²	Environment and Natural Resources
Overall Goals and Values	Protect biodiversity, ecological integrity, and cultural continuity (s. 2) ⁵⁵³
Establishment	Regulation (s. 17) Indigenous governments or organizations can nominate areas for protection (s. 10(3))
Strength of Protection ⁵⁵⁴	VI Protected area with sustainable use of natural resources
Decision-Making Authority	Minister responsible for management (s. 19) Ministers must enter into Establishment Agreement with Indigenous governments or organizations (s. 14)
Hunting	Site-specific ⁵⁵⁵
Fishing	Site-specific ⁵⁵⁶
Trapping	Site-specific ⁵⁵⁷
Development	No energy developments (s. 35(2))
Natural Resource Extraction	Artisanal (small scale) uses are permitted Timber and non-timber forest product harvesting in certain circumstances (s. 31(2)) Aggregate extraction in certain circumstances (s. 33). No mineral exploration, mining, or oil and gas exploration or development (s. 35(2))
Access	Site-specific ⁵⁵⁸

⁵⁵² "[Protected Areas Act](#)" (last visited 12 May 2022), online: *Government of Northwest Territories*.

⁵⁵³ Biodiversity is defined as "the full variety of life, including the biological and genetic diversity of aquatic and terrestrial animals and plants..."

Cultural Continuity is defined as "the evolving linkages and ongoing relationship between Indigenous culture and the natural environment."

Ecological Integrity is defined as "the native components and conditions of the ecosystems that are characteristic of the Northwest Territories and that are likely to persist into the future."

[Protected Areas Act, SNWT 2019, c 11](#), s 1.

⁵⁵⁴ Based on IUCN Protected Area Categories (see Appendix I).

⁵⁵⁵ "[Protected Areas Act](#)" (last visited 12 May 2022), online: *Government of Northwest Territories*.

⁵⁵⁶ *Ibid.*

⁵⁵⁷ *Ibid.*

⁵⁵⁸ *Ibid.*

In-Depth: Protected Areas Act (Continued):

	Protected Area
Activities Allowed	Site-specific Sustainable tourism and traditional or conservation economy opportunities can be allowed ⁵⁵⁹
Activities Prohibited	Dependent on Establishment Agreement (ss. 14(3), 28(3)) Activities that negatively impact biodiversity, ecological integrity, or cultural continuity (s. 28(1)) Removing or destroying vegetation (with exceptions) (s. 31(1)) Agriculture (with exceptions) (s. 32)

The [Protected Areas Act](#) recognizes that:

- Protected Areas support current and future generations;
- The Government must recognize and respect Aboriginal and Treaty rights;
- "...cooperative and collaborative governance with Indigenous governments and organizations is desirable for all protected areas;"
- Decision-making regarding Protected Areas must use the best available information, including Indigenous knowledge and values, local and community knowledge, and scientific knowledge;
- Protected Areas planning must account for climate change considerations;
- Protected Areas must "contribute to efforts to conserve biodiversity, ecological integrity and cultural continuity regionally, nationally and internationally;" and
- Protected Areas must be managed using the precautionary principle.⁵⁶⁰

The purpose of the *Protected Areas Act* is to protect biodiversity, ecological integrity, and cultural continuity through the creation of permanent Protected Areas for present and future generations.⁵⁶¹

Protected Areas

Cabinet can create a Protected Area through regulation.⁵⁶² Cabinet may only decrease the size of or cancel a Protected Area if Indigenous governments or organizations agree with this decision or if the lands are found to be Aboriginal title lands.⁵⁶³

⁵⁵⁹ "[Protected Areas Act](#)" (last visited 12 May 2022), online: *Government of Northwest Territories*.

⁵⁶⁰ [Protected Areas Act, SNWT 2019, c 11](#).

⁵⁶¹ *Ibid*, s 2.

⁵⁶² *Ibid*, s 17(1).

⁵⁶³ *Ibid*, s 26(2).

Generally, the creation of a Protected Area requires an Establishment Agreement with one or more Indigenous governments or organizations in the designated area.

The Establishment Agreement may lay out management roles, permitted and restricted activities, governance rights and obligations, and permitted Aboriginal rights activities.⁵⁶⁴ This agreement may also address other issues of importance to each party.

It should be noted that Cabinet has the power to establish a Protected Area without an Establishment Agreement in exceptional circumstances, where “irreconcilable differences” arise during negotiations and an Agreement cannot be reached.⁵⁶⁵

The Government of Northwest Territories notes that the *Protected Areas Act* is “designed to be flexible in order to ensure the unique needs and features of each individual Protected Area can be addressed through the establishment and management processes.”⁵⁶⁶ Overall, “the Regulations and Management Plans for each Protected Area detail what activities can happen where, when, and under what conditions.”⁵⁶⁷

Each Protected Area must have a management plan that includes:

- Conservation and management objectives;
- Permitted activities;
- Indicators and baseline data collection to measure progress towards objectives;
- Management actions;
- Review processes; and
- Climate change considerations.⁵⁶⁸

Subject to the Establishment Agreement, the Minister of Environment and Natural Resources (“the Minister”) is responsible for managing Protected Areas.⁵⁶⁹ To support this management, the Minister can enter into funding agreements and/or create a Management Board for a Protected Area.⁵⁷⁰

Based on the recommendation of an Indigenous government or organization or Management Board, the Minister can also create an Advisory Board to provide advice regarding the management of Protected Areas.⁵⁷¹

The Minister must also create a Protected Areas registry that provides information about candidates and established Protected Areas to the public.⁵⁷²

⁵⁶⁴ [Protected Areas Act, SNWT 2019, c 11.](#), s 14.

⁵⁶⁵ *Ibid*, s 15.

⁵⁶⁶ “[Protected Areas Act](#)” (last visited 12 May 2022), online: *Government of Northwest Territories*.

⁵⁶⁷ *Ibid*; see also [Protected Areas Act, SNWT 2019, c 11](#), s 17(2).

⁵⁶⁸ [Protected Areas Act, SNWT 2019, c 11](#), s 24.

⁵⁶⁹ *Ibid*, s 19.

⁵⁷⁰ *Ibid*, ss 20-21.

⁵⁷¹ *Ibid*, s 23.

⁵⁷² *Ibid*, s 9.

Nomination Process

The *Protected Areas Act* sets out a process to nominate an area for protection.⁵⁷³ An Indigenous government or organization can nominate an area for protection.⁵⁷⁴

The nomination package must include the following information:

- A summary of the area's values;
- A description of how protecting the area would support the purpose of the *Act*;
- A map of the area; and
- If the area includes private lands, the consent of private landowners.⁵⁷⁵

Once an area has been nominated, the Minister must consider it “without delay.”⁵⁷⁶

A proposal will be considered by the Minister if the proposed Protected Area is entirely on public lands, or where the consent of private landowners has been obtained, and the proposed Area meets the purpose of the *Act*.⁵⁷⁷

If the Minister chooses to reject a proposal made by an Indigenous government or organization, they must provide the government or organization with written reasons explaining their decision.⁵⁷⁸

On the Minister's recommendation, the Executive Council can approve a proposal for a candidate Protected Area if the following criteria are met:

- (1) The proposed Protected Area supports the purpose of the *Act*;
- (2) The Government has discharged its duty to consult;
- (3) The proposal contains sufficient information to protect the area;
- (4) The consent of private landowners has been obtained, if applicable; and
- (5) The area will be sufficiently protected.⁵⁷⁹

The Minister must review a candidate Protected Area at least once every five years until it is either removed from the registry or established as a Protected Area.⁵⁸⁰

⁵⁷³ [Protected Areas Act, SNWT 2019, c 11](#), s 10.

⁵⁷⁴ *Ibid*, s 10(3).

⁵⁷⁵ *Ibid*, s 10(5).

⁵⁷⁶ *Ibid*, s 1.1.

⁵⁷⁷ *Ibid*, s 10(2).

⁵⁷⁸ [Protected Areas Act, SNWT 2019, c 11](#), s 10(6).

⁵⁷⁹ *Ibid*, s 11(1).

⁵⁸⁰ *Ibid*, s 13(1).

A candidate Protected Area can only be removed from the registry if the nominating Indigenous government or organization no longer supports its protection or if protecting the lands no longer supports the purposes of the *Act*.⁵⁸¹

Other Protected Areas

Wildlife Act

The [Wildlife Act](#) highlights the Government of the Northwest Territories' commitment to working collaboratively to protect and manage wildlife for the benefit of present and future generations.⁵⁸²

The Minister of Environment and Natural Resources (“the Minister”) is responsible for protecting and managing wildlife in the Northwest Territories.⁵⁸³ On the Minister’s recommendation, by regulation, Cabinet can create a Conservation Area to protect wildlife and habitat.⁵⁸⁴

To support the management of wildlife, habitat, and Conservation Areas, the Minister can enter into agreements with governments, persons, bodies, or organizations.⁵⁸⁵

The Minister is required to establish a process for receiving submissions from the public regarding wildlife and habitat conservation and management. These submissions must be made available for public review.⁵⁸⁶

⁵⁸¹ [Protected Areas Act, SNWT 2019, c 11](#), s 13.

⁵⁸² [Wildlife Act, SNWT 2013, c 30](#), s 2(1).

⁵⁸³ *Ibid*, s 11.

⁵⁸⁴ *Ibid*, ss 89(1), 173(1).

⁵⁸⁵ *Ibid*, s 12.

⁵⁸⁶ *Ibid*, s 16.

Nova Scotia



Overview

Nova Scotia law offers six main types of protected area designation: provincial parks, park reserves, wildland parks, natural heritage reserves, wilderness areas, and nature reserves.

The first chart in this section evaluates the four most important of these designations based on the Indigenous Circle of Experts' (ICE) three characteristics of Indigenous Protected and Conserved Areas (IPCAs). It also outlines overall advantages and disadvantages of the designations for creating IPCAs. The Minister has the power to negotiate with Indigenous communities regarding park management. Further, Nova Scotia has committed to conserving 20 percent of its total land and water mass by 2030, and to developing a collaborative protected areas strategy to facilitate this goal.

Following this chart, this section offers more detail on each of the four protected area designations, with a special focus on protected areas. The in-depth charts in this section present information on what activities are permitted and prohibited in each area. They also outline the process for creating them. Additional designations, such as conservation areas, are also briefly described.

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of Nova Scotia Provincial Parks Act and Wilderness Areas Protection Act

	Provincial Park	Natural Heritage Reserve	Wilderness Area	Nature Reserve
Legislation	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>	<i>Wilderness Areas Protection Act</i>	<i>Special Places Protection Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act	Established by regulation – less permanent than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister may enter into agreements or appoint advisory committees to support management	Minister may enter into agreements or appoint advisory committees to support management	Minister may enter into agreements to support management Province works with Indigenous communities to nominate areas for protection	Advisory Committee supports management

Overview (Continued):

	Provincial Park	Natural Heritage Reserve	Wilderness Area	Nature Reserve
Advantages	Relatively strong baseline protections Temporary protections available	Relatively strong baseline protections	Strong baseline protections Supports traditional hunting and trapping patterns	More permanent protections than other three protected area types
Disadvantages	Focus on recreation; some classifications and zones more than others	Focus on research and education to the exclusion of humans	Focus on protection to the exclusion of humans	Focus on protection to the exclusion of humans

Environmental Goals and Climate Change Reduction Act

The [Environmental Goals and Climate Change Reduction Act](#) (“the Act”) specifies that the Government of Nova Scotia’s long-term goal is “to achieve sustainable prosperity.”⁵⁸⁷ Sustainable prosperity⁵⁸⁸ “must include Netukulimk,⁵⁸⁹ sustainable development, a circular economy, and equity.”⁵⁹⁰

Netukulimk “as defined by the Mi’kmaq, [is] the use of the natural bounty provided by the Creator for the self-support and well-being of the individual and the community by achieving adequate standards of community nutrition and economic well-being without jeopardising the integrity, diversity or productivity of the environment.”⁵⁹¹

The Act sets the following land protection goals:

- (1) To conserve at least 20 percent of Nova Scotia’s total land and water mass by 2030, including IPCAs;
- (2) To develop a collaborative protected areas strategy to achieve the above goal; and
- (3) To implement an ecological forestry approach on Crown lands.⁵⁹²

The Minister of Environment and Climate Change is responsible for facilitating the achievement of the goals set under this Act.⁵⁹³

⁵⁸⁷ [Environmental Goals and Climate Change Reduction Act, SNS 2021, c 20](#), s 5(1).

⁵⁸⁸ Sustainable prosperity is defined as “prosperity where economic growth, environmental stewardship and social responsibility are integrated and recognized as being interconnected.” *Ibid*, s 2(l).

⁵⁸⁹ *Ibid*, s 2(i).

⁵⁹⁰ *Ibid*, s 4.

⁵⁹¹ *Ibid*, s 2(i).

⁵⁹² *Ibid*, s 10.

⁵⁹³ *Ibid*, s 3.

In-Depth: Provincial Parks Act

	Provincial Park	Park Reserve ⁵⁹⁴	Wildland Park	Natural Heritage Reserve
Legislation	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>	<i>Provincial Parks Act</i>
Responsible Government Department ⁵⁹⁵	Natural Resources and Renewables	Natural Resources and Renewables	Natural Resources and Renewables	Natural Resources and Renewables
Overall Goals and Values	Protect ecosystems and heritage resources while providing recreational and educational opportunities (s. 2)	Temporarily protect lands that can be included in future Provincial Park (s. 6)	Protect natural landscapes in largely undisturbed state ⁵⁹⁶	Protect natural heritage for scientific and educational purposes ⁵⁹⁷
Establishment	Order in Council (s. 8)	Order in Council (s. 8)	Order in Council (s. 8)	Order in Council (s. 8)
Strength of Protection ⁵⁹⁸	II National Park	Temporary	Ib Wilderness Area	III Natural Monument or Feature V Protected Landscape/Seascape
Decision-Making Authority	Minister responsible for management (s. 4) – can enter into agreements (s. 18) or appoint an advisory committee (s. 19) to support	Minister responsible for management (s. 6) – can enter into agreements (s. 18) or appoint an advisory committee (s. 19) to support	Minister responsible for management (s. 4) – can enter into agreements (s. 18) or appoint an advisory committee (s. 19) to support	Minister responsible for management (s. 4) – can enter into agreements (s. 18) or appoint an advisory committee (s. 19) to support
Hunting ⁵⁹⁹	With permit	With permit	With permit	With permit
Fishing ⁶⁰⁰	With licence (with exceptions)	With licence (with exceptions)	With licence (with exceptions)	With licence (with exceptions)

⁵⁹⁴ The *Provincial Parks Act* and regulations apply to Park Reserves as if they were Provincial Parks. [Provincial Parks Regulations, NS Reg 69/89](#), s 4(2)(b).

⁵⁹⁵ “[Department of Natural Resources and Renewables: About us](#)” (last visited 12 May 2022), online: *Government of Nova Scotia*.

⁵⁹⁶ [Provincial Parks Regulations, NS Reg 69/89](#), s 4(1)(a).

⁵⁹⁷ *Ibid.*, s 4(1)(b).

⁵⁹⁸ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁵⁹⁹ [Provincial Parks Regulations, NS Reg 69/89](#), s 27.

⁶⁰⁰ *Ibid.*, s 28.

In-Depth: Provincial Parks Act (Continued)

	Provincial Park	Park Reserve ⁶⁰¹	Wildland Park	Natural Heritage Reserve
Trapping ⁶⁰²	With permit	With permit	With permit	With permit
Development	Construction (with permit) (s. 13)	Construction (with permit) (s. 13)	Construction (with permit) (s. 13)	Construction (with permit) (s. 13)
Natural Resource Extraction	No aggregate removal or mining ⁶⁰³ No timber harvesting ⁶⁰⁴	No aggregate removal or mining ⁶⁰⁵ No timber harvesting ⁶⁰⁶	No aggregate removal or mining ⁶⁰⁷ No timber harvesting ⁶⁰⁸	No aggregate removal or mining ⁶⁰⁹ No timber harvesting ⁶¹⁰
Access ⁶¹¹	Motor vehicle and off-highway vehicle access (with permit)	Motor vehicle and off-highway vehicle access (with permit)	Motor vehicle and off-highway vehicle access (with permit)	Motor vehicle and off-highway vehicle access (with permit)
Activities Allowed	Research (with permit) (s. 13) Dependent on zone and classification ⁶¹²	Research (with permit) (s. 13) Dependent on zone and classification ⁶¹³	Research (with permit) (s. 13) Low-intensity recreational use ⁶¹⁴	Research (with permit) (s. 13) Dependent on zone ⁶¹⁵
Activities Prohibited	Destroying natural resources or watercourses ⁶¹⁶ Agriculture (unless permitted) ⁶¹⁷	Destroying natural resources or watercourses ⁶¹⁸ Agriculture (unless permitted) ⁶¹⁹	Destroying natural resources or watercourses ⁶²⁰ Agriculture (unless permitted) ⁶²¹	Destroying natural resources or watercourses ⁶²² Agriculture (unless permitted) ⁶²³

⁶⁰¹ The *Provincial Parks Act* and regulations apply to Park Reserves as if they were Provincial Parks. [Provincial Parks Regulations, NS Reg 69/89](#), s 4(2)(b).

⁶⁰² *Ibid*, s 27.

⁶⁰³ *Ibid*, ss 19-20.

⁶⁰⁴ *Ibid*, s 21.

⁶⁰⁵ *Ibid*, ss 19-20.

⁶⁰⁶ *Ibid*, s 21.

⁶⁰⁷ *Ibid*, ss 19-20.

⁶⁰⁸ *Ibid*, s 21.

⁶⁰⁹ *Ibid*, ss 19-20.

⁶¹⁰ *Ibid*, s 21.

⁶¹¹ *Ibid*, ss 29-30.

⁶¹² *Ibid*, ss 4(1)(a), 5.

⁶¹³ *Ibid*, ss 4(1)(a), 5.

⁶¹⁴ *Ibid*, s 4(1)(a).

⁶¹⁵ *Ibid*, ss 4(1)(a), 5.

⁶¹⁶ *Ibid*, s 22.

⁶¹⁷ *Ibid*, s 18.

⁶¹⁸ *Ibid*, s 22.

⁶¹⁹ *Ibid*, s 18.

⁶²⁰ *Ibid*, s 22.

⁶²¹ *Ibid*, s 18.

⁶²² *Ibid*, s 22.

⁶²³ *Ibid*, s 18.

Provincial Parks Act

The [Provincial Parks Act](#) allows the government to create and maintain Provincial Parks for five purposes:

- (1) To provide recreational opportunities;
- (2) To preserve natural and historic resources;
- (3) To support natural and cultural heritage interpretation and education programs;
- (4) To provide tourism opportunities; and
- (5) To protect lands to meet Nova Scotians' present and future needs.⁶²⁴

By Order in Council, Cabinet can create, increase or decrease the area of a Provincial Park.⁶²⁵ With the Governor in Council's permission, the Minister of Natural Resources and Renewables ("the Minister") can purchase or acquire land to create or increase the area of a Provincial Park.⁶²⁶

The Minister can classify Provincial Parks as one of the following:

- **Wildland Park**
 - Main Purpose: To protect natural landscapes and support low-intensity recreation.
- **Natural Heritage Reserve**
 - Main Purpose: To protect natural features for scientific and educational purposes.
- **Historic Park**
 - Main Purpose: To protect historical resources for educational and research purposes.
- **Natural Environment Park**
 - Main Purpose: To protect natural environments and provide recreational opportunities.
- **Outdoor Recreational Park**
 - Main Purpose: to support recreational needs of visitors
- **Wayside Park**
 - Main Purpose: To provide services to travellers.

⁶²⁴ [Provincial Parks Act, RSNS 1989, c 367](#), s 2(1).

⁶²⁵ *Ibid*, s 8.

⁶²⁶ *Ibid*, s 5.

- **Wildlife Park**

- Main Purpose: To provide opportunities for wildlife viewing and appreciation.⁶²⁷

The Minister is responsible for managing Provincial Parks and can designate a person to act on their behalf in exercising this responsibility.⁶²⁸ The Minister can also appoint a Director of Parks and Recreation to administer the *Provincial Parks Act*.⁶²⁹

Within Provincial Parks, the Minister can create zones to provide distinct protections in different areas, including:

- **Environmental Protection Zone**

- Provides environmental protection.
- Allows interpretative, educational, and scientific activities that do not negatively impact the area.

- **Resource Conservation Zone**

- Provides a high standard of conservation.
- Allows activities that do not negatively impact “the inherent natural character and aesthetic qualities” of the area.

- **Recreational Development Zone**

- Supports outdoor recreational activities.⁶³⁰

Park Reserves

By Order in Council, the Governor in Council can create a Park Reserve to temporarily protect lands while determining whether they should be transformed into a Provincial Park.⁶³¹ Park Reserves receive the same protections as Provincial Parks.⁶³²

Agreements

The Minister can enter into agreements to ensure Provincial Parks or Park Reserves are effectively managed.⁶³³ The Minister can also appoint a Parks Committee to provide advice and recommendations on Provincial Park management.⁶³⁴

⁶²⁷ [Provincial Parks Regulations, NS Reg 69/89](#), s 4(1).

⁶²⁸ [Provincial Parks Act, RSNS 1989, c 367](#), ss 4(1), 4(2).

⁶²⁹ *Ibid*, s 15(1).

⁶³⁰ *Ibid*, s 20; [Provincial Parks Regulations, NS Reg 69/89](#), s 5.

⁶³¹ [Provincial Parks Act, RSNS 1989, c 367](#), s 6.

⁶³² [Provincial Parks Regulations, NS Reg 69/89](#), s 4(2).

⁶³³ [Provincial Parks Act, RSNS 1989, c 367](#), s 18(1).

⁶³⁴ *Ibid*, s 19.

In-Depth: Wilderness Areas Protection Act

Wilderness Area	
Legislation	<i>Wilderness Areas Protection Act</i>
Responsible Government Department	Environment and Climate Change (s. 3)
Overall Goals and Values	Protect natural processes, biodiversity, and natural ecosystems while providing opportunities for research, education, and wilderness recreation (s. 2)
Establishment	Ministerial Order (s. 11)
Strength of Protection ⁶³⁵	Ib Wilderness Area
Decision-Making Authority	Minister responsible for management – can delegate powers or duties to “any person,” establish advisory committees, or enter into agreements to support ⁶³⁶
Hunting	Traditional patterns of hunting permitted ⁶³⁷
Fishing	With licence ⁶³⁸
Trapping	Traditional patterns of trapping permitted ⁶³⁹
Development	No energy-resource developments, including hydroelectric (s. 17(1)(b)) No transmission or distribution lines, pipelines, or tunnels (s. 17(1)(c)) Construction prohibited (s. 17(2))
Natural Resource Extraction	No mining, petroleum development, or forestry (s. 17(1))
Access	No vehicle or bicycle access (with exceptions) ⁶⁴⁰
Activities Allowed	Wilderness recreational activities that are consistent with environmental protection ⁶⁴¹ Environmental, educational, and natural history interpretation that is consistent with environmental protection (s. 20) Scientific research (with permit) (s. 21)
Activities Prohibited	Aquaculture (s. 17(1)) Agriculture or removing or destroying ecosystems, plants, animals, or natural objects (s. 17(2))

⁶³⁵ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁶³⁶ *Wilderness Areas Protection Act*, SNS 1998, c 27, ss 2, 6, 9(1), 10(2).

⁶³⁷ *Ibid*, ss 2, 24(1)(b).

⁶³⁸ *Ibid*, ss 2, 24(1)(a).

⁶³⁹ *Ibid*, ss 2, 24(1)(b).

⁶⁴⁰ *Ibid*, ss 17(2)(e), 23.

⁶⁴¹ The *Wilderness Areas Protection Act* defines “wilderness recreation” as “non-motorized, outdoor recreational activities that have minimal environmental impact, including nature-based tourism.” *Ibid*, ss 2, 3(n), 22-23.

By ministerial order, the Minister of Environment and Climate Change (“the Minister”) can create Wilderness Areas, which will be permanently protected for present and future generations, with the aim of achieving the following objectives:

- (a) Maintain and restore natural processes and biodiversity;
- (b) Protect representative landscapes and ecosystems;
- (c) Protect unique, rare, and vulnerable natural features;
- (d) Provide examples of undisturbed ecosystems against which to measure the effects of human activities on the natural environment;
- (e) Provide opportunities for scientific research, environmental education, and wilderness recreation; and
- (f) Promote public consultation and community stewardship in the establishment and management of Wilderness Areas.⁶⁴²

The Minister is responsible for the management of Wilderness Areas.⁶⁴³ Through an order and with permission of Cabinet, the Minister can add Crown lands to or change the boundaries of a Wilderness Area to increase the effectiveness of its protection and management.⁶⁴⁴

The province works with Indigenous and local communities to identify potential areas for protection.⁶⁴⁵ Before creating a Wilderness Area, the Minister must conduct a socioeconomic analysis to assess the outcomes of a potential wilderness area designation. The Minister must make the results of this analysis available to the public.⁶⁴⁶

Each Wilderness Area must be supported by a management plan that is drafted by the Minister following appropriate public consultations.⁶⁴⁷

To support the management of Wilderness Areas, the Minister can enter into an agreement “with any person...for any purpose” under the [Wilderness Areas Protection Act](#) or regulations.⁶⁴⁸

⁶⁴² [Wilderness Areas Protection Act, SNS 1998, c 27](#), ss 2, 11(3).

⁶⁴³ *Ibid*, s 3.

⁶⁴⁴ *Ibid*, s 11(3).

⁶⁴⁵ “[Wilderness Areas FAQs](#)” (last visited 12 May 2022), online: *Government of Nova Scotia*

⁶⁴⁶ [Wilderness Areas Protection Act, SNS 1998, c 27](#), s 11(9).

⁶⁴⁷ *Ibid*, s 15.

⁶⁴⁸ *Ibid*, s 9(1).

In-Depth: Special Places Protection Act

	Nature Reserve
Legislation	<i>Special Places Protection Act</i>
Responsible Government Department	Environment and Climate Change ⁶⁴⁹
Overall Goals and Values	Protect ecological sites and natural heritage (s. 2)
Establishment	Ministerial Order/Regulation (s. 14)
Strength of Protection ⁶⁵⁰	Ia Strict Nature Reserve Ib Wilderness Area
Decision-Making Authority	Minister responsible for management (s. 15) – Advisory Committee supports management (ss. 5-6)
Hunting	Generally prohibited ⁶⁵¹
Fishing	Generally prohibited ⁶⁵²
Trapping	Generally prohibited ⁶⁵³
Development	Generally prohibited ⁶⁵⁴
Natural Resource Extraction	No mining or forestry (s. 18)
Access	Publicly accessible (with exceptions) ⁶⁵⁵
Activities Allowed	Low-impact recreational activities ⁶⁵⁶
Activities Prohibited	Damaging or destroying land or vegetation (s. 17)

The [Special Places Protection Act](#) works to:

- (a) Protect ecological sites and natural heritage sites that:
- i. Support scientific research and education;
 - ii. Are representative of natural ecosystems throughout Nova Scotia;
 - iii. Offer opportunities to study ecosystem recovery;
 - iv. Provide habitat for rare or endangered native species; or
 - v. Provide opportunities for long-term research studies; and

⁶⁴⁹ “[Nature Reserves](#)” (last visited 12 May 2022), online: *Government of Nova Scotia*

⁶⁵⁰ Based on IUCN Protected Area Categories (see Appendix I).

⁶⁵¹ [Special Places Protection Act, RSNS 1989](#), c 438, ss 17-18; see also “[Nature Reserves](#)” (last visited 12 May 2022), online: *Government of Nova Scotia*; see also “[Nature Reserves FAQs](#)” (last visited 12 May 2022), online: *Government of Nova Scotia*

⁶⁵² *Ibid.*

⁶⁵³ *Ibid.*

⁶⁵⁴ *Ibid.*

⁶⁵⁵ “[Nature Reserves](#)” (last visited 12 May 2022), online: *Government of Nova Scotia*; see also “[Nature Reserves FAQs](#)” (last visited 12 May 2022), online: *Government of Nova Scotia*.

⁶⁵⁶ *Ibid.*

- (b) Promote understanding and appreciation for the scientific, educational, and cultural values represented by Nova Scotia’s ecological and natural heritage sites.⁶⁵⁷

By ministerial order, with Cabinet’s permission, the Minister of Environment and Climate Change (“the Minister”) can create a Nature Reserve to protect ecological and natural heritage.⁶⁵⁸ The Nature Reserve can only be cancelled if its continued protection is deemed “inappropriate” and the public has been provided at least 30 days to make submissions.⁶⁵⁹ The Minister is responsible for managing Nature Reserves.⁶⁶⁰

The *Special Places Protection Act* creates an Advisory Committee on the Protection of Special Places, which includes Indigenous representatives.⁶⁶¹ The Advisory Committee can make recommendations to the Minister regarding Nature Reserves, recommend regulations, conduct research⁶⁶² and can work collaboratively with the Minister to establish a management plan for a Nature Reserve.⁶⁶³

Other Protected Areas

Heritage Property Act

The purpose of the [Heritage Property Act](#) is to protect and encourage the continued use of cultural landscapes.⁶⁶⁴ A cultural landscape is one that represents “the combined work of nature and of people.”⁶⁶⁵

By ministerial order, the Minister of Communities, Culture, Tourism and Heritage (“the Minister”) can create a Provincial Heritage Property.⁶⁶⁶

Cabinet can appoint an Advisory Council on Heritage Property to provide advice to the Minister regarding Provincial Heritage Properties.⁶⁶⁷ Once a landscape is recommended for protection, it is temporarily protected for up to 120 days.⁶⁶⁸

The Minister can cancel Provincial Heritage Properties by recommendation of the Advisory Council if the Property has either been destroyed or lost its heritage value.⁶⁶⁹

Once protected, Provincial Heritage Property cannot be altered without Cabinet’s permission.⁶⁷⁰

⁶⁵⁷ [Special Places Protection Act, RSNS 1989, c 438](#), s 2.

⁶⁵⁸ *Ibid*, s 14.

⁶⁵⁹ *Ibid*, s 14A.

⁶⁶⁰ *Ibid*, s 15.

⁶⁶¹ *Ibid*, s 5.

⁶⁶² *Ibid*, s 6.

⁶⁶³ *Ibid*, s 14(2).

⁶⁶⁴ [Heritage Property Act, RSNS 1989, c 199](#), s 2.

⁶⁶⁵ *Ibid*, s 3(da).

⁶⁶⁶ *Ibid*, s 3.

⁶⁶⁷ *Ibid*, ss 4-5, 7.

⁶⁶⁸ *Ibid*, s 7(4).

⁶⁶⁹ *Ibid*, s 9.

⁶⁷⁰ *Ibid*, s 11.

Wildlife Act

The Minister of Natural Resources and Renewables (“the Minister”) is responsible for protecting and managing wildlife in Nova Scotia.⁶⁷¹

By Order in Council, Cabinet can create, increase or decrease the area of a Wildlife Sanctuary or Wildlife Management Area, or cancel it altogether.⁶⁷² The Governor in Council has broad discretion to enact regulations outlining the activities that are allowed in these protected areas.⁶⁷³

With Cabinet’s permission, the Minister can purchase or acquire land for a Wildlife Sanctuary or Wildlife Management Area and can enter into an agreement with “any society, group, organization, person or individual to jointly manage wildlife and habitats.”⁶⁷⁴

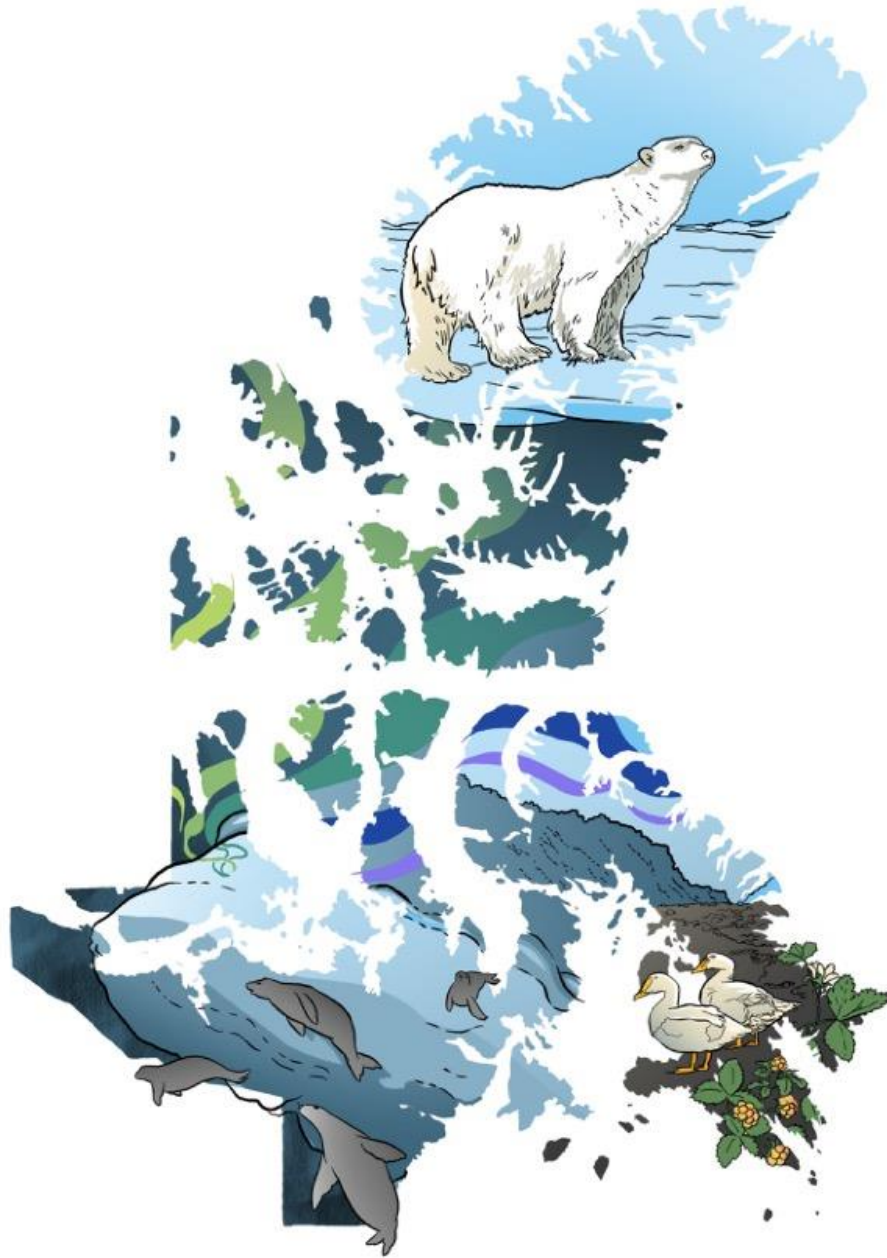
⁶⁷¹ [Special Places Protection Act, RSNS 1989, c 438](#), ss 3, 5, 6(1).

⁶⁷² *Ibid*, ss 14-15.

⁶⁷³ *Ibid*, ss 14-15.

⁶⁷⁴ *Ibid*, s 13.

Nunavut



Overview

Nunavut law includes three main types of protected area designation: territorial parks, natural environment recreation parks, and historic parks.

The first chart in this section evaluates these designations based on the three characteristics of Indigenous Protected and Conserved Areas (IPCAs) as defined by the Indigenous Circle of Experts (ICE) and identifies some overall advantages and disadvantages. The Act allows for park co-management in all cases.

Following this survey, this section provides detail on each of the three protected area designations. These charts present information on permitted and prohibited activities in each area. The charts also outline the process for creating each protected area designation for the creation of IPCAs.

Additional designations, such as special management areas, are also briefly described. These special management areas may be of interest to Indigenous communities because they must be co-managed and managed according to the principles of Inuit Qaujimajatuqangit, or traditional knowledge of the Inuit.

Overview: IPCA Characteristic Assessment, Advantages and Disadvantages of Territorial Parks Act

	Territorial Park	Natural Environment Recreation Park	Historic Park
Legislation	<i>Territorial Parks Act</i>	<i>Territorial Parks Act</i>	<i>Territorial Parks Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Co-management	Co-management	Co-management
Advantages	Flexible, but strong, protections	Flexible, but strong, protections	Flexible, but strong, protections
Disadvantages	Relatively weak establishing mechanism	Focus on public recreation Relatively weak establishing mechanism	Relatively weak establishing mechanism

In-Depth: Territorial Parks Act

	Territorial Park	Natural Environment Recreation Park	Historic Park
Legislation	<i>Territorial Parks Act</i>	<i>Territorial Parks Act</i>	<i>Territorial Parks Act</i>
Responsible Government Department ⁶⁷⁵	Environment	Environment	Environment
Overall Goals and Values	Protect environment while promoting and developing land-based and traditional activities ⁶⁷⁶	Protect the natural environment for public use and benefit (s. 3(1)(a))	Protect historical sites for public education and enjoyment (s. 3(1)(e))
Establishment	Ministerial Order (s. 5)	Ministerial Order (s. 5(1))	Ministerial Order (s. 5(2))
Strength of Protection ⁶⁷⁷	II National Park	Protected area with recreational focus	III Natural Monument or Feature V Protected Landscape/Seascape
Decision-Making Authority ⁶⁷⁸	Minister/Superintendent responsible for management – can enter into agreements to support and can create Consultative Committee (ss. 4-6)	Minister/Superintendent responsible for management – can enter into agreements to support and can create Consultative Committee (ss. 4-6)	Minister/Superintendent responsible for management – can enter into agreements to support and can create Consultative Committee (ss. 4-6)
Hunting ⁶⁷⁹	Sport hunting prohibited	Sport hunting prohibited	Sport hunting prohibited
Fishing ⁶⁸⁰	With licence	With licence	With licence
Trapping ⁶⁸¹	With permit	With permit	With permit

⁶⁷⁵ “[Parks and Special Places](#)” (last visited 12 May 2022), online: *Government of Nunavut*.

⁶⁷⁶ *Ibid.*

⁶⁷⁷ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁶⁷⁸ The Nunavut Parks and Special Places Division notes that “Parks...through the *Umbrella Inuit Impact and Benefits Agreement (IIBA) for Territorial parks* and sections in the *Nunavut Agreement pertaining to Nunavut Parks*, are planned and managed jointly and are founded in sound and comprehensive resource information, Inuit Qaujimagajatuqangit, local and scientific knowledge, and current technological and geospatial information.”

“[Parks and Special Places](#)” (last visited 12 May 2022), online: *Government of Nunavut*.

⁶⁷⁹ “[Summary of the Nunavut Hunting Regulations 2021-2022](#)” (2021), online (pdf): *Government of Nunavut*.

⁶⁸⁰ “[Nunavut Fishing Licence](#)” (last visited 12 May 2022), online.

⁶⁸¹ “[Summary of the Nunavut Hunting Regulations 2021-2022](#)” (2021), online (pdf): *Government of Nunavut*.

In-Depth: Territorial Parks Act (Continued)

	Territorial Park	Natural Environment Recreation Park	Historic Park
Development	Construction (with permit) (s. 8)	Limited to development necessary to preserve the natural environment for public enjoyment (s. 3(2)) Construction (with permit) (s. 8)	Limited to development necessary to designate, protect, and explain historic sites (s. 3(6)) Construction (with permit) (s. 8)
Natural Resource Extraction ⁶⁸²	Dependent on management plan	Dependent on management plan	Dependent on management plan
Access	Motor vehicle and off-highway vehicle access in certain areas (s. 13(e))	Motor vehicle and off-highway vehicle access in certain areas (s. 13(e))	Motor vehicle and off-highway vehicle access in certain areas (s. 13(e))
Activities Allowed	Outdoor recreational activities ⁶⁸³	Outdoor recreational activities ⁶⁸⁴	Outdoor recreational activities compatible with protecting historic sites ⁶⁸⁵
Activities Prohibited	Research (unless permitted) (s. 8) Damaging or destroying natural features (s. 13(a))	Research (unless permitted) (s. 8) Damaging or destroying natural features (s. 13(a))	Research (unless permitted) (s. 8) Damaging or destroying natural features (s. 13(a))

Territorial Parks

By ministerial order, the Minister of Environment (“the Minister”) can create a Territorial Park.⁶⁸⁶ Before creating it, the Minister must consult with anyone who might be affected by its creation.⁶⁸⁷ Additionally, prior to creating certain classes of Territorial Park, the Minister must have the support of the Legislative Assembly.⁶⁸⁸

There are five classes of Territorial Parks, including:⁶⁸⁹

- **Natural Environment Recreation Park**
 - Main Purpose: To preserve natural environment for public use and benefit.

⁶⁸² “[Nunavut Parks Program](#)” (2017), online (pdf): *Nunavut Parks*.

⁶⁸³ [Territorial Parks Regulations, RRNWT \(Nu\) 103-95](#).

⁶⁸⁴ *Ibid.*

⁶⁸⁵ *Ibid.*, s 33.

⁶⁸⁶ [Territorial Parks Act, RSNWT \(Nu\) 1988, c T-4](#), s 5.

⁶⁸⁷ *Ibid.*, s 4.

⁶⁸⁸ *Ibid.*, s 5.

⁶⁸⁹ *Ibid.*, s 3(1).

- Limited to development necessary to support purpose.
- **Outdoor Recreation Park**
 - Main Purpose: To provide recreational opportunities.
 - Park can be developed to support outdoor recreation.
- **Community Park**
 - Main Purpose: To provide recreational opportunities for communities.
 - Park can be developed to support outdoor recreation.
- **Wayside Park**
 - Main Purpose: To provide services for the travelling public.
 - Park can be developed to provide basic infrastructure and information for the travelling public.
- **Historic Park**
 - Main Purpose: To protect and commemorate historic sites for public education and enjoyment.
 - Limited to development necessary to commemorate and protect historic sites.
 - Historic Parks must:
 - Have the support of neighbouring communities;
 - Promote cultural heritage;
 - Be accessible to visitors;
 - Be capable of supporting visitors; and
 - Offer on-site interpretation and explanation⁶⁹⁰

Overall, Territorial Parks in Nunavut are created and managed to meet the following goals:

- Protect Nunavut's cultural and natural landscapes for present and future generations
 - Joint planning and management use Inuit Qaujimajatuqangit and scientific knowledge.
- Enhance community and visitor experiences
 - Support Inuit self-reliance and cultural and social well being.
- Engage communities in natural and cultural heritage protection and appreciation
 - Recognizes that Inuit have a unique relationship with Nunavut and that they have an accumulated body of Inuit Qaujimajatuqangit.

⁶⁹⁰ [Territorial Parks Regulations, RRNWT \(Nu\) 103-95](#), s 33.

- Communities are engaged in decision-making and Inuit benefit from parks-related tourism, economic development, education, and employment.⁶⁹¹

Agreements and Delegation⁶⁹²

The Minister can appoint a Superintendent of Parks to enforce the *Territorial Parks Act* in Territorial Parks.⁶⁹³

The Minister can enter into agreements with “persons...societies, associations, partnerships, municipalities, or other bodies” to support the management and maintenance of Territorial Parks.⁶⁹⁴ The Minister can also create Parks Consultative Committees to provide advice on park creation and management.⁶⁹⁵

Other Protected Areas

Wildlife Act

The purpose of the *Wildlife Act* is to protect and manage wildlife and habitat in Nunavut.⁶⁹⁶

By regulation, Cabinet can create a Special Management Area to protect wildlife, habitats, and biodiversity.⁶⁹⁷ Special Management Areas must be co-managed by the Minister of Environment (“the Minister”) and a Designated Inuit Organization.⁶⁹⁸

When managing Special Management Areas, parties must consider the following values and conservation principles:

- Wildlife and habitat should be managed in a holistic way.
- Wildlife and habitat management should include research, education, harvesting, regulation, protection, conservation, and restoration.
- Inuit Qaujimagatuqangit should guide management decisions.
- Management decisions should:
 - Maintain the balance of ecological systems;
 - Protect habitat;
 - Maintain sustainable wildlife populations; and

⁶⁹¹ “[Parks and Special Places](#)” (last visited 12 May 2022), online: *Government of Nunavut*.

⁶⁹² The Parks planning and management context in Nunavut is extremely unique due to the influence of the Umbrella Inuit Impact and Benefits Agreement for Territorial Parks and sections in the Nunavut Agreement pertaining to Nunavut Parks. See e.g. “[Parks and Special Places](#)” (last visited 12 May 2022), online: *Government of Nunavut*.

⁶⁹³ [Territorial Parks Act, RSNWT \(Nu\) 1988, c T-4](#), s 7.

⁶⁹⁴ *Ibid*, s 6(1).

⁶⁹⁵ *Ibid*, s 4.

⁶⁹⁶ [Wildlife Act, SNu 2003, c 26](#), s 1(1).

⁶⁹⁷ *Ibid*, s 141.

⁶⁹⁸ *Ibid*, s 143.

- Restore depleted wildlife populations.⁶⁹⁹

Special Management Area management must also be informed by guiding principles and concepts of Inuit Qaujimagatuqangit, including:

- *Avatimik Kamattiarniq/Amiginik Avatimik*
 - "...people are stewards of the environment and must treat all of nature holistically and with respect, because humans, wildlife and habitat are interconnected and each person's actions and intentions towards everything else have consequences, for good or ill."
- *Pijitsirniq/Ihumaliukti*
 - "...a person with the power to make decisions must exercise that power to serve the people to whom he or she is responsible."
- *Ikpigusuttiarniq Nirjutilimaanik/Pitiaklugit nekyutit*
 - "...all wildlife should be treated respectfully."⁷⁰⁰

⁶⁹⁹ [Wildlife Act, SNU 2003, c 26](#), s 1(2), 1(3).

⁷⁰⁰ *Ibid*, s 8.

Ontario



Overview

Ontario law includes four main types of protected area designation: provincial parks, conservation reserves, cultural heritage parks, and historical parks.

Following this survey, this section provides detail on each of the three protected area designations. These charts present information on permitted and prohibited activities in each area. The charts also outline the process for creating each protected area designation.

The Minister of the Environment, Conservation, and Parks has the authority to enter into management agreements concerning any park. This could provide an opportunity for co-managed IPCAs.

This section then offers more detail on each of the four protected area designations. These charts present detailed information on what activities are permitted and prohibited in each area. The charts also outline the process for creating them.

Additional designations, such as wilderness areas, are also briefly described. Ontario's *Far North Act*, passed in 2010, claims to set out a collaborative land use management scheme with First Nations. However, we note that the Act has been met with criticism and controversy.

Overview: IPCA Characteristics Assessment, Advantages and Disadvantages of the Provincial Parks and Conservation Reserves Act

	Provincial Park	Conservation Reserve	Cultural Heritage Park	Historical Park
Legislation	<i>Provincial Parks and Conservation Reserves Act</i>	<i>Provincial Parks and Conservation Reserves Act</i>	<i>Provincial Parks and Conservation Reserves Act</i>	<i>Historical Parks Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by regulation – less permanent, but safeguards on changes ⁷⁰¹	Established by regulation – less permanent, but safeguards on changes	Established by regulation – less permanent, but safeguards on changes	Established by order – less permanent than regulation or in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister can enter into agreements or create advisory committees to support management	Minister can enter into agreements or create advisory committees to support management	Minister can enter into agreements or create advisory committees to support management	Minister can appoint advisory committee to support management
Advantages	High level of protection	Focus on retaining natural heritage values and traditional and cultural activities High level of protection	High level of protection	Relatively strong protections
Disadvantages	Can support considerable range of activities ⁷⁰²	No co-management or Indigenous management	Can support considerable range of activities	Focused on sites of historical significance

⁷⁰¹ The [Provincial Park and Conservation Reserve Act](#) mentions a permanent system, prioritizes ecological integrity, and requires Legislative Assembly approval of dispositions greater than 50 hectares or 1 percent of the area.

⁷⁰² The Minister could authorize Indigenous-led or related uses and leases of parts of or entire parks and conservation reserves under section 14; A Minister's regulation may exempt Indigenous Peoples from requiring a permit to carry out various activities. See [Provincial Parks and Conservation Reserves Act, 2006, S.O. 2006, c. 12](#), ss 22(1) and 54(2)(e).

In-Depth: Provincial Parks and Conservation Reserves Act

	Provincial Park	Conservation Reserve	Cultural Heritage Park
Legislation	<i>Provincial Parks and Conservation Reserves Act</i>	<i>Provincial Parks and Conservation Reserves Act</i>	<i>Provincial Parks and Conservation Reserves Act</i>
Responsible Government Department	Environment, Conservation and Parks (s. 5(1))	Environment, Conservation and Parks (s. 5(1))	Environment, Conservation and Parks (s. 5(1))
Overall Goals and Values	Protect natural and cultural heritage while providing sustainable outdoor recreation opportunities (s. 2(1))	Protect natural and cultural features while supporting compatible traditional activities (s. 2(2))	Protect cultural heritage while supporting education and research (s. 8(4))
Establishment	Order in Council (s. 9(1)) or Regulation (s. 54(1)(b))	Order in Council (s. 9(1)) or Regulation (s. 54(1)(b))	Order in Council (s. 9(1)) or Regulation (s. 54(1)(b))
Strength of Protection ⁷⁰³	II National Park	VI Protected Area with sustainable use of natural resources	V Protected Landscape/Seascape
Decision-Making Authority	Minister responsible for management (s. 12(1)) – can enter into agreements to support (s. 24) or create an advisory committee (s. 23) ⁷⁰⁴	Minister responsible for management (s. 12(1)) – can enter into agreements to support (s. 24) or create an advisory committee (s. 23)	Minister responsible for management (s. 12(1)) – can enter into agreements to support (s. 24) or create an advisory committee (s. 23)
Hunting	Prohibited (with exceptions) ⁷⁰⁵	With licence ⁷⁰⁶	Prohibited (with exceptions) ⁷⁰⁷
Fishing ⁷⁰⁸	With licence	With licence	With licence
Trapping ⁷⁰⁹	With permit	With permit	With permit
Development ⁷¹⁰	No electricity generation or other industrial uses (s. 16(1))	No electricity generation or other industrial uses (s. 16(1))	No electricity generation or other industrial uses (s. 16(1))

⁷⁰³ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁷⁰⁴ The Minister could authorize Indigenous-led or related uses and leases of parts of or entire parks and conservation reserves under section 14; A Minister's regulation may exempt Indigenous Peoples from requiring a permit to carry out various activities. See [Provincial Parks and Conservation Reserves Act, 2006, S.O. 2006, c. 12](#), ss 22(1) and 54(2)(e).

⁷⁰⁵ [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 15(1); [Hunting, O Reg 665/98, Part XIV](#).

⁷⁰⁶ [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 15(3).

⁷⁰⁷ [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 15(1); [Hunting, O Reg 665/98, Part XIV](#).

⁷⁰⁸ "Day use at Ontario Parks" (last visited 12 May 2022), online: [Ontario Parks](#).

⁷⁰⁹ [Trapping, O Reg 667/98](#), s 12.

⁷¹⁰ With exceptions. See [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s.19

In-Depth: Provincial Parks and Conservation Reserves Act (Continued)

	Provincial Park	Conservation Reserve	Cultural Heritage Park
Natural Resource Extraction ⁷¹¹	No commercial timber harvest, mining, or aggregate, soil, or peat extraction (s. 16(1))	No commercial timber harvest, mining, or aggregate, soil, or peat extraction (s. 16(1))	No commercial timber harvest, mining, or aggregate, soil, or peat extraction (s. 16(1))
Access	Motor vehicle and off-highway vehicle access (with permit and with exceptions) ⁷¹²	Motor vehicle and off-highway vehicle access (with permit) ⁷¹³	Motor vehicle and off-highway vehicle access (with permit and with exceptions) ⁷¹⁴
Activities Allowed	Outdoor recreational activities ⁷¹⁵	Outdoor recreational activities ⁷¹⁶	Outdoor recreational activities ⁷¹⁷
Activities Prohibited	Damaging or removing natural objects ⁷¹⁸ Research (unless permitted) ⁷¹⁹	Damaging or removing natural objects ⁷²⁰ Research (unless permitted) ⁷²¹	Damaging or removing natural objects ⁷²² Research (unless permitted) ⁷²³

Provincial Parks

Cabinet can create Provincial Parks for the purposes of protecting Ontario’s natural and cultural heritage and of providing environmentally sustainable recreation opportunities for present and future generations.⁷²⁴

The *Provincial Parks and Conservation Reserves Act (PPCRA)* sets out the following objectives for protecting and managing Provincial Parks:

- (1) Permanently protect ecosystems and Ontario’s natural and cultural heritage;

⁷¹¹ With exceptions. See [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), ss 17-19.

⁷¹² [Provincial Parks: General Provisions, O Reg 347/07](#), ss 23, 34; see also [Mechanized Travel in Wilderness Parks, O Reg 346/07](#).

⁷¹³ [Conservation Reserves: General Provisions, O Reg 319/07](#), s 13.

⁷¹⁴ [Provincial Parks: General Provisions, O Reg 347/07](#), ss 23, 34; see also [Mechanized Travel in Wilderness Parks, O Reg 346/07](#).

⁷¹⁵ See e.g. “[Day use at Ontario Parks](#)” (last visited 12 May 2022), online: *Ontario Parks*.

⁷¹⁶ See e.g. “[What is a conservation reserve](#)” (6 August 2021), online: *Ontario Parks*.

⁷¹⁷ See e.g. “[Day use at Ontario Parks](#)” (last visited 12 May 2022), online: *Ontario Parks*.

⁷¹⁸ [Provincial Parks: General Provisions, O Reg 347/07](#), s 2.

⁷¹⁹ *Ibid.*

⁷²⁰ [Conservation Reserves: General Provisions, O Reg 319/07](#), s 2.

⁷²¹ *Ibid.*

⁷²² [Provincial Parks: General Provisions, O Reg 347/07](#), s 2.

⁷²³ *Ibid.*

⁷²⁴ [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), ss 1, 6.

- (2) Provide opportunities for environmentally sustainable recreation;
- (3) Support tourism and natural and cultural heritage appreciation; and
- (4) Provide opportunities for scientific research and ecological monitoring.⁷²⁵

Cabinet can create, increase, or decrease the area of Provincial Parks by Order in Council.⁷²⁶

Cabinet can only remove an area from a Provincial Park that is greater than 50 hectares or one percent of the total area if the Legislative Assembly approves of this decision.⁷²⁷

Cabinet may classify Provincial Parks as any of the following to help guide park management and ensure continuity:

- **Wilderness Class Parks**
 - Main Purpose: To protect natural environments and support low-impact recreation.
- **Nature Reserve Class Parks**
 - Main Purpose: To protect ecosystems and natural heritage, support research, and maintain biodiversity.
- **Cultural Heritage Class Parks**
 - Main Purpose: To protect cultural heritage and support interpretation, education, and research.
- **Natural Environment Class Parks**
 - Main Purpose: to protect natural environments and provide recreational opportunities.
- **Waterway Class Parks**
 - Main Purpose: To protect recreational water routes and ecosystems.
- **Recreational Class Parks**
 - Main Purpose: To provide outdoor recreation opportunities.⁷²⁸

The Minister of Environment, Conservation and Parks (“the Minister”) is responsible for managing Provincial Parks.⁷²⁹ The Minister must also designate a Superintendent to supervise each Provincial Park.⁷³⁰

⁷²⁵ [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 2(1).

⁷²⁶ *Ibid*, s 9(1).

⁷²⁷ *Ibid*, s 9(4).

⁷²⁸ *Ibid*, s 8.

⁷²⁹ *Ibid*, s 12(1).

⁷³⁰ *Ibid*, s 12(1).

When managing Provincial Parks, the government must prioritize ecological integrity and provide opportunities for public consultation.⁷³¹

Ecological integrity is defined as “a condition in which biotic and abiotic components of ecosystems and the composition and abundance of native species and biological communities are characteristic of their natural regions and rates of change and ecosystem processes are unimpeded.”⁷³²

This includes:

- (a) “Healthy and viable populations of native species, including species at risk, and maintenance of the habitat on which the species depend;” and
- (b) “Levels of air and water quality consistent with protection of biodiversity and recreational enjoyment.”⁷³³

The Ministry of Environment, Conservation and Parks is required to prepare a management plan for each Provincial Park.⁷³⁴ These plans must be reviewed at least once every 20 years, with opportunities for public consultation.⁷³⁵

Conservation Reserves

By Order in Council, Cabinet can create Conservation Reserves for the purposes of protecting Ontario’s natural and cultural heritage and providing environmentally sustainable land-use opportunities for present and future generations.⁷³⁶ The *PPCRA* sets out the following objectives for creating and managing Conservation Reserves:

- (1) Permanently protect ecosystems and Ontario’s natural and cultural heritage;
- (2) Provide opportunities for environmentally sustainable land use, including traditional outdoor heritage activities; and
- (3) Support scientific research and ecological monitoring.⁷³⁷

The Minister is responsible for managing Conservation Reserves. The Minister must appoint a Manager to supervise each Conservation Reserve.⁷³⁸ When managing Conservation Reserves, the government must prioritize ecosystem health and provide opportunities for public consultation.⁷³⁹

⁷³¹ [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 3.

⁷³² *Ibid*, s 5.

⁷³³ *Ibid*.

⁷³⁴ *Ibid*, s 10(1).

⁷³⁵ *Ibid*, ss 10(6), 10(9).

⁷³⁶ *Ibid*, ss 1, 6.

⁷³⁷ *Ibid*, s 2(2).

⁷³⁸ *Ibid*, s 12(1).

⁷³⁹ *Ibid*, s 3. Also note s 10(6), which sets out minimum requirements for management plan consultations with the public.

By Order in Council, Cabinet can create, increase, or decrease the area of Conservation Reserves.⁷⁴⁰ Cabinet can only remove an area greater than 50 hectares or one percent of the total area from a Conservation Reserve if the Legislative Assembly approves this decision.⁷⁴¹

The Ministry of Environment, Conservation and Parks must prepare a management plan for each Conservation Reserve.⁷⁴² These plans must be reviewed at least once every 20 years, with opportunities for public consultation.⁷⁴³

Temporary Protection

Under the [Public Lands Act](#), the Ministry of Northern Development, Mines, Natural Resources and Forestry can create a Recommended Provincial Park or Recommended Conservation Reserve to ensure temporary protections while long-term management decisions are being made.⁷⁴⁴ There is also the ability to withdraw lands from mineral extraction under the [Mining Act](#), including sites of “Aboriginal cultural significance.”⁷⁴⁵

Agreements

The Minister can make an agreement with any person to support the management of Provincial Parks and Conservation Reserves.⁷⁴⁶

The Minister could also authorize Indigenous-led or related uses and leases of parts of or entire parks and conservation reserves.⁷⁴⁷

Kerrie Blaise of the Canadian Environmental Law Association [highlights](#) that these agreements could support Indigenous rights and co-management. To date there have been no precedents illustrating that the Act can be used to do this.⁷⁴⁸

With Cabinet’s permission, the Minister can also appoint an advisory committee to provide advice and make recommendations regarding the management of Provincial Parks and Conservation Reserves.⁷⁴⁹

⁷⁴⁰ [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 9(1).

⁷⁴¹ *Ibid*, s 9(4).

⁷⁴² *Ibid*, s 10(1).

⁷⁴³ *Ibid*, ss 10(6), 10(9).

⁷⁴⁴ [Public Lands Act, RSO 1990, c P.43](#), s 12; see also “[Part II: Provincial policies for Crown land use designations – 12.0 Overview of Crown land use designations](#)” (last modified 7 April 2021), online: *Government of Ontario*.

⁷⁴⁵ See “[Sites of Aboriginal Cultural Significance](#)”. Ontario Ministry of Northern Development and Mines

⁷⁴⁶ [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 24.

⁷⁴⁷ *Ibid*, s 14.

⁷⁴⁸ Kerrie Blaise, “[Briefing Note: Legal Landscape of Indigenous Protected and Conserved Areas \(IPCAs\) in Ontario](#)” (16 June 2020) at 3, online (pdf): *David Suzuki Foundation*. See also: [Protecting Lands and Waters: A Toolkit for Advancing Indigenous Rights through Indigenous Protected and Conserved Areas \(IPCAs\)](#).

⁷⁴⁹ [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 23.

In-Depth: Historical Parks Act

Historical Park	
Legislation	<i>Historical Parks Act</i>
Government Department	Heritage, Sport, Tourism and Culture Industries (s. 1)
Overall Goals and Values	Protect sites of historical significance for public use and enjoyment (s. 3)
Establishment	Order in Council (s. 3)
Strength of Protection ⁷⁵⁰	III Natural Monument or Feature V Protected Landscape/Seascape
Decision-Making Authority	Minister responsible for management ⁷⁵¹ Can appoint advisory committee ⁷⁵²
Hunting	Prohibited ⁷⁵³
Fishing	Dependent on regulation ⁷⁵⁴
Trapping	Dependent on regulation ⁷⁵⁵
Development	No electricity generation or other industrial uses ⁷⁵⁶
Natural Resource Extraction	No mineral exploration, mining, or extraction of aggregate, topsoil, or peat ⁷⁵⁷
Access	Motor vehicle access ⁷⁵⁸
Activities Allowed	Dependent on regulation ⁷⁵⁹
Activities Prohibited	Dependent on regulation ⁷⁶⁰

⁷⁵⁰ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁷⁵¹ [Historical Parks Act, RSO 1990, c H.9](#), s 4; see also [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 12(1).

⁷⁵² [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#) s 23.

⁷⁵³ *Ibid*, s 15(1).

⁷⁵⁴ *Ibid*, s 54.

⁷⁵⁵ *Ibid*, s 54.

⁷⁵⁶ *Ibid*, s 16(1).

⁷⁵⁷ *Ibid*, s 16(1).

⁷⁵⁸ *Ibid*, s 39.

⁷⁵⁹ *Ibid*, s 54.

⁷⁶⁰ *Ibid*, s 54.

By Order in Council, Cabinet can create a Historical Park to protect an area of historical significance.⁷⁶¹ The Minister of Tourism and Recreation is responsible for managing Historical Parks.⁷⁶² With Cabinet's permission, the Minister can appoint an advisory committee to provide advice and make recommendations regarding the management of Historical Parks.⁷⁶³

Other Protected Areas

Far North Act

The [Far North Act](#) was passed in 2010. The Act was intended to establish a framework for collaborative land use management between the province and Indigenous governments. The government claims that the Act was developed in consultation with the [Nishnawbe Aski Nation](#) (NAN), the political organization representing 49 communities in the territory of Treaties 5 and 9). NAN has subsequently stated that the Act is "an invalid law and a new form of colonialism."⁷⁶⁴

Ontario recently contemplated repealing the Act. Instead, the Province introduced amendments to the Act in 2021 to support economic development and fast track approvals for projects.⁷⁶⁵ Given NAN's opposition and the recent amendments, it seems unlikely that the *Far North Act* will provide a path forward for IPCAs in Ontario's north.

Wilderness Areas Act

By regulation, Cabinet can create a Wilderness Area to protect the area, support research and education, and protect plant and animal species.⁷⁶⁶

To create Wilderness Areas, the Minister of Northern Development, Mines, Natural Resources and Forestry ("the Minister") can purchase or acquire land.⁷⁶⁷ The Minister manages Wilderness Areas, which are typically on crown or unceded lands.⁷⁶⁸

The [Wilderness Areas Act](#) states that natural resource extraction and development can occur in any Wilderness Area that is larger than 260 hectares.⁷⁶⁹

⁷⁶¹ [Historical Parks Act, RSO 1990, c H.9](#), s 3.

⁷⁶² *Ibid* ss 1, 4; see also [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 12(1).

⁷⁶³ [Historical Parks Act, RSO 1990, c H.9](#), s 4; see also [Provincial Parks and Conservation Reserves Act, 2006, SO 2006, c 12](#), s 23.

⁷⁶⁴ NAN, "[NAN statement on Ontario consultations on the Far North Act](#)" (25 February 2019), online.

⁷⁶⁵ Environmental Registry of Ontario, "[Proposed Amendments to the Far North Act, 2010](#)," online.

⁷⁶⁶ [Wilderness Areas Act, RSO 1990, c W.8](#), s 1.

⁷⁶⁷ *Ibid*, s 3.

⁷⁶⁸ *Ibid*, s 4.

⁷⁶⁹ *Ibid*, s 2.

Wilderness Areas are being phased out and are not intended to be used anymore.⁷⁷⁰ Further, the 2020 Auditor's Report, pointed out that the Minister is allowing logging, roads, and mining in Wilderness Areas that are smaller than 260 hectares.⁷⁷¹

Other Designations

Several other designations also could be considered to establish IPCAs in Ontario. These include:

- Land use plans and Enhanced Management Areas under the [Public Lands Act](#);
- Provincial Wildlife Areas and related wildlife designations under [the Fish and Wildlife Conservation Act](#); and
- Regional parks under [St. Clair Parks Commission Act](#), [St. Lawrence Parks Commission Act](#), and [Niagara Parks Act](#).

⁷⁷⁰ See "[Guide to Crown Land Use Planning](#)." Ministry of Natural Resources and Forestry. 2023

⁷⁷¹ See "[Value-for-Money Audit: Conserving the Natural Environment with Protected Areas](#)". Office of the Auditor General of Ontario. November 2020. pp. 6, 34, 35.

Prince Edward Island



Overview

Prince Edward Island (PEI) offers four main types of protected area designation: Provincial Parks, Protected Areas, Protected Beaches, and Natural Areas.

The first chart in this section evaluates these four designations based on the Indigenous Circle of Experts' (ICE) three characteristics of Indigenous Protected and Conserved Areas (IPCAs) and identifies some overall advantages and disadvantages for IPCA creation. The Minister of the Environment, Conservation and Parks has the authority to enter into management agreements concerning parks, protected areas, and protected beaches. This could provide an opportunity for co-managed IPCAs.

This section then offers more detail on each of the four protected area designations. These charts present detailed information on what activities are permitted and prohibited in each area. They also outline the process for creating the four designations. Additional designations, such as heritage places and wildlife management areas, are also briefly described.

Overview: IPCA Characteristic Assessment, Advantages and Disadvantages of Recreation Development Act

	Provincial Park	Protected Area	Protected Beach	Natural Area
Legislation	<i>Recreation Development Act</i>	<i>Recreation Development Act</i>	<i>Recreation Development Act</i>	<i>Natural Areas Protection Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister can enter into agreements or create advisory committees to support management	Minister can enter into agreements or create advisory committees to support management	Minister can enter into agreements or create advisory committees to support management	Minister can appoint advisory committee to support management
Advantages	Relatively strong baseline protections	Relatively strong baseline protections	Relatively strong baseline protections	Strong protections
Disadvantages	Relatively impermanent protections	Relatively impermanent protections	Relatively impermanent protections	Relatively impermanent protections Focused on protection to the exclusion of humans

In-Depth: Recreation Development Act

	Provincial Park	Protected Area	Protected Beach
Legislation	<i>Recreation Development Act</i>	<i>Recreation Development Act</i>	<i>Recreation Development Act</i>
Responsible Government Department ⁷⁷²	Economic Growth, Tourism and Culture	Economic Growth, Tourism and Culture	Economic Growth, Tourism and Culture
Overall Goals and Values	Protect ecosystems and provide recreational opportunities (s. 6(1)(a))	Protect natural objects of historical or scientific interest (s. 6(1)(b))	Protect areas under or directly next to tidal water (s. 6(1)(c))
Establishment	Order in Council (ss. 6-7)	Order in Council (ss. 6-7)	Order in Council (ss. 6-7)
Strength of Protection ⁷⁷³	II National Park	II National Park	II National Park
Decision-Making Authority	Minister responsible for management – can enter into agreements to support (s. 2) Minister can also create an advisory committee or delegate powers (s. 3)	Minister responsible for management – can enter into agreements to support (s. 2) Minister can also create an advisory committee or delegate powers (s. 3)	Minister responsible for management – can enter into agreements to support (s. 2) Minister can also create an advisory committee or delegate powers (s. 3)
Hunting ⁷⁷⁴	Prohibited (with exceptions)	Prohibited (with exceptions)	Prohibited (with exceptions)
Fishing ⁷⁷⁵	Prohibited (with exceptions)	Prohibited (with exceptions)	Prohibited (with exceptions)
Trapping ⁷⁷⁶	Prohibited (with exceptions)	Prohibited (with exceptions)	Prohibited (with exceptions)
Development	Construction with permit (s. 15)	Construction with permit (s. 15)	Construction with permit (s. 15)
Natural Resource Extraction ⁷⁷⁷	With permit	With permit	With permit
Access ⁷⁷⁸	Motor vehicle access in certain areas	Motor vehicle access in certain areas	Motor vehicle access in certain areas

⁷⁷² “[About: Economic Growth, Tourism and Culture](#)” (last visited 12 May 2022), online: *Government of Prince Edward Island*.

⁷⁷³ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁷⁷⁴ [Provincial Parks Regulations, PEI Reg EC2009-686](#), s 11.

⁷⁷⁵ *Ibid*, s 11.

⁷⁷⁶ *Ibid*, s 11.

⁷⁷⁷ *Ibid*, s 2.

⁷⁷⁸ *Ibid*, s 2(m).

In-Depth: Recreation Development Act (Continued)

	Provincial Park	Protected Area	Protected Beach
Activities Allowed ⁷⁷⁹	Outdoor recreational activities	Outdoor recreational activities	Outdoor recreational activities
Activities Prohibited	Activities inconsistent with protection (s. 10) Removing or damaging any natural object or polluting any water body (unless permitted) ⁷⁸⁰	Activities inconsistent with protection (s. 10) Removing or damaging any natural object or polluting any water body (unless permitted) ⁷⁸¹	Activities inconsistent with protection (s. 10) Removing or damaging any natural object or polluting any water body (unless permitted) ⁷⁸² Removing sand, gravel, or stone or altering beach (s. 11)

Cabinet can create a Provincial Park, Protected Area, or Protected Beach on the recommendation of the Minister of Economic Growth, Tourism and Culture (presumably through an Order in Council).⁷⁸³

The main purpose of PEI's [Recreation Development Act](#) is to "promote and encourage the development of recreational facilities and services."⁷⁸⁴ In addition, the Minister is responsible for encouraging the conservation of natural resources in these parks. [Provincial Parks Regulations](#) prohibit certain harmful activities within them.

Agreements and Delegation

The Minister is responsible for managing Provincial Parks, Protected Areas, and Protected Beaches.⁷⁸⁵ With Cabinet's permission, the Minister can create a board or committee to provide advice and support the management of these protected areas.⁷⁸⁶ The Minister can also delegate management powers to the board or committee.⁷⁸⁷

⁷⁷⁹ See e.g. "[Beaches and Parks in Prince Edward Island](#)" (last visited 12 May 2022), online: *Tourism PEI*.

⁷⁸⁰ [Provincial Parks Regulations, PEI Reg EC2009-686](#), s 2.

⁷⁸¹ *Ibid*, s 2.

⁷⁸² *Ibid*, s 2.

⁷⁸³ [Recreation Development Act, RSPEI 1988, c R-8](#), s 6.

⁷⁸⁴ *Ibid*, s 2.

⁷⁸⁵ *Ibid*, s 2.

⁷⁸⁶ *Ibid*, s 3.

⁷⁸⁷ *Ibid*, s 3(2).

In-Depth: Natural Areas Protection Act

	Natural Area
Legislation	<i>Natural Areas Protection Act</i>
Responsible Government Department	Environment, Energy and Climate Action (s. 1(a))
Overall Goals and Values	Protect natural ecosystems that offer habitat for rare species, contain unusual features, and/or provide scientific and educational opportunities (s. 1(b))
Establishment	Ministerial Order (s. 3(1))
Strength of Protection ⁷⁸⁸	Ib Wilderness Area
Decision-Making Authority	Minister responsible for management – can appoint an Advisory Committee to support (s. 6(1))
Hunting	With licence ⁷⁸⁹
Fishing	With licence ⁷⁹⁰
Trapping	Restricted (with licence) ⁷⁹¹
Development	No construction permitted (with exceptions) ⁷⁹²
Natural Resource Extraction	No logging (with exceptions) ⁷⁹³
Access	No motor vehicle access (with exceptions) ⁷⁹⁴ Publicly accessible ⁷⁹⁵
Activities Allowed	Low-impact outdoor recreational activities ⁷⁹⁶
Activities Prohibited	Removing or destroying vegetation (with exceptions) ⁷⁹⁷

⁷⁸⁸ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁷⁸⁹ [Wildlife Conservation Act, RSPEI 1988, c W-4.1](#); see also [Hunting Regulations, PEI Reg EC512/05](#).

⁷⁹⁰ [Wildlife Conservation Act, RSPEI 1988, c W-4.1](#); see also [Angling Regulations, PEI Reg EC 532/19](#).

⁷⁹¹ [Wildlife Conservation Act, RSPEI 1988, c W-4.1](#); see also [Fur Harvesting Regulations, PEI Reg EC663/04](#); “[2022 Hunting and Trapping Summary](#)” at 40, online (pdf): *Government of Prince Edward Island*.

⁷⁹² [Natural Areas Protection Act Regulations, PEI Reg EC54/89](#), ss 3, 3.1.

⁷⁹³ *Ibid*, ss 3, 3.1.

⁷⁹⁴ *Ibid*, ss 3, 3.1.

⁷⁹⁵ “[Natural Areas](#)” (last visited 12 May 2022), online: *Government of Prince Edward Island*.

⁷⁹⁶ *Ibid*.

⁷⁹⁷ [Natural Areas Protection Act Regulations, PEI Reg EC54/89](#), ss 3, 3.1.

By ministerial order, the Minister of Environment, Energy and Climate Action (“the Minister”) can create a Natural Area if the proposed area:

- (1) Contains natural ecosystems or provides habitat for rare or endangered native species;
- (2) Features unique botanical, zoological, geological, or palaeontological phenomena;
- (3) Provides “exceptional and diversified scenery;”
- (4) Offers seasonal habitat for species; and/or
- (5) Provides opportunities for scientific and educational programs.⁷⁹⁸

When deciding whether to create or cancel a Natural Area, the Minister must provide opportunities for and consider public input.⁷⁹⁹ The Minister can create an Advisory Committee to provide advice on creating and managing Natural Areas.⁸⁰⁰ However, the Minister does not have the power to enter into co-management agreements with First Nations.

The Minister can cancel a Natural Area if protecting the Area would no longer support the purposes of the *Natural Areas Protection Act* or if the public interest would be served.⁸⁰¹

Other Protected Areas

Heritage Places Protection Act

By ministerial order, the Minister of Economic Growth, Tourism and Culture (“the Minister”) can create a Heritage Place.⁸⁰² A Heritage Place houses a “Heritage Resource”, which is defined as “any work of nature or of man that is primarily of value for its palaeontological, archaeological, prehistoric, historic, cultural, natural, scientific or aesthetic interest.”⁸⁰³

Once a Heritage Place is protected, it cannot be altered without the Minister’s permission.⁸⁰⁴

The Minister is responsible for managing Heritage Places⁸⁰⁵ and must create a Heritage Places Advisory Board to provide advice regarding their protection.⁸⁰⁶

The Minister must also create and maintain a registry of Heritage Places.⁸⁰⁷ By request or by their own initiative, the Minister can add a Heritage Place to the registry if it meets the necessary criteria.⁸⁰⁸ Any interested person or group can submit a Heritage Place application.

⁷⁹⁸ [Natural Areas Protection Act, RSPEI 1988, c N-2](#), ss 1(b), 3.

⁷⁹⁹ *Ibid*, ss 1(b), 3, s 3(4).

⁸⁰⁰ *Ibid*, s 6(1).

⁸⁰¹ *Ibid*, s 3(3).

⁸⁰² [Heritage Places Protection Act, RSPEI 1988, c H-3.1](#), s 5(1).

⁸⁰³ *Ibid*, ss 1(a), 1(b).

⁸⁰⁴ *Ibid*, ss 5, 10-11.

⁸⁰⁵ *Ibid*, s 2.

⁸⁰⁶ *Ibid*, s 3.

⁸⁰⁷ *Ibid*, s 4(1).

⁸⁰⁸ *Ibid*, s 4(2); see also [Heritage Places Protection Act Regulations, PEI Reg EC 414/00](#), s 3.

The application is screened by a heritage officer and, if it meets the criteria, is forwarded to the Advisory Board for review.⁸⁰⁹

The Minister can also temporarily protect a proposed Heritage Place where it is “at risk of imminent irreparable or costly damage to the site’s heritage nature.”⁸¹⁰

Wildlife Conservation Act

By regulation, Cabinet can create a Wildlife Management Area to support the management and protection of wildlife and habitat.⁸¹¹

The Minister of Environment, Energy and Climate Action (“the Minister”) is responsible for managing Wildlife Management Areas⁸¹² and can enter into agreements with any person to support the joint protection and management of wildlife and habitat.⁸¹³

The Minister can also create an Advisory Committee to provide advice and make recommendations regarding wildlife and wildlife habitat.⁸¹⁴

⁸⁰⁹ [“Provincial Heritage Places Recognition Program”](#) (last visited 22 May 2022), online: *Government of Prince Edward Island*.

⁸¹⁰ [Heritage Places Protection Act Regulations, PEI Reg EC 414/00](#), s 9.

⁸¹¹ [Wildlife Conservation Act, RSPEI 1988, c W-4.1](#), s 16(1).

⁸¹² *Ibid*, s 3(1).

⁸¹³ *Ibid*, ss 3(3), 16(3).

⁸¹⁴ *Ibid*, s 8.

Québec



Overview

Québec offers seven main types of protected area designation: national parks, Aboriginal-led protected areas, protected areas with sustainable use, biodiversity reserves, ecological reserves, wildlife sanctuaries, and wildlife preserves.

The first chart in this section evaluates four of these seven designations based on the Indigenous Circle of Experts' (ICE) three characteristics of Indigenous Protected and Conserved Areas (IPCAs) and identifies some overall advantages and disadvantages. Québec is the only province with laws that specifically offers a protected area designation that is led by Indigenous Peoples: "Aboriginal-led protected areas."

At the time of publication, the benefits and drawbacks of this new protected area designation are unknown. Several elements are promising, including the proposal process and the ability to delegate management powers to Indigenous communities.

This section also delves into each of the seven protected area designations. The charts in this section present information on what activities are permitted and prohibited in each area, and the process for creating them. Additional designations, such as heritage cultural landscapes, are briefly described.

Overview: IPCA Characteristics Assessment, Advantages, and Disadvantages

	National Park	Aboriginal-led Protected Area	Protected Area with Sustainable Use	Wildlife Sanctuary
Legislation	<i>Parks Act</i>	<i>Natural Heritage Conservation Act</i>	<i>Natural Heritage Conservation Act</i>	<i>Act respecting the conservation and development of wildlife</i>
IPCA Characteristic #1: Indigenous-led	No	Yes	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act	Established by order – less permanent than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Société des établissements de plein air du Québec may enter into agreements to support park management	Minister must encourage Indigenous participation in protected area management and may enter into agreements or delegate authority to support	Minister may delegate authority to Indigenous communities	Minister can enter into agreements with Indigenous communities to support management
Advantages	Relatively strong legislative protections	Indigenous governments or communities can propose areas for protection First explicit IPCA in Canadian legislation	Focused on protecting biodiversity and associated cultural values Flexible protections	Supports wildlife harvesting and protections Relatively flexible protections
Disadvantages	No explicit power for co-management Protections vary depending on zone	No precedents to date	Vague management powers	Least permanent protections of all protected area types

In-Depth: Parks Act

	National Park⁸¹⁵
Legislation	<i>Parks Act</i>
Responsible Government Department ⁸¹⁶	Forêts, de la Faune et des Parcs (Forests, Wildlife, and Parks)
Overall Goals and Values	Conserve and permanently protect natural areas while providing sustainable recreation opportunities (s. 1(b))
Establishment	Regulation (s. 2)
Strength of Protection ⁸¹⁷	II National Park
Decision-Making Authority	Minister responsible for management Société des établissements de plein air du Québec responsible for operating certain parks ⁸¹⁸
Hunting	Prohibited (s. 7(a))
Fishing	With permit (with exceptions) ⁸¹⁹
Trapping	Prohibited (s. 7(a))
Development	No pipelines or power lines (with exceptions) (s. 7(b)) Construction (with permit) (s. 8) Dependent on zoning ⁸²⁰
Natural Resource Extraction	No prospecting, logging, mining, or energy production (s. 7(b))
Access	Motor vehicle and off-highway vehicle access (with permit and with exceptions) ⁸²¹
Activities Allowed	Outdoor recreational activities ⁸²² Dependent on zoning and activities authorized by Superintendent ⁸²³
Activities Prohibited	Damaging or removing natural objects ⁸²⁴

⁸¹⁵ In this context, National Parks are distinct from federal National Parks. Under the *Parks Act*, National Parks are equivalent to Provincial Parks or Territorial Parks.

⁸¹⁶ “[Ministry of Forests, Wildlife and Parks](#)” (last visited 12 May 2022), online: *Government of Québec*

⁸¹⁷ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁸¹⁸ The Société des établissements de plein air du Québec is responsible for operating National Parks that are located south of the areas covered by the [Act respecting hunting and fishing rights in the James Bay and New Québec territories, CQLR, c D-13.1.](#); *Parks Act, CQLR, c P-9*, s 5.1.

⁸¹⁹ *Parks Regulation, CQLR, c P-9, r 25*, ss 10-12; see also *Parks Act, CQLR, c P-9*, s 6.1.

⁸²⁰ *Parks Regulation, CQLR, c P-9, r 25*, s 2.

⁸²¹ *Ibid*, ss 2, 14-16.

⁸²² “[Quoi Faire](#)” (last visited 12 May 2022), online: *Sépaq* <sepaq.com/quoi-faire/>.

⁸²³ *Parks Regulation, CQLR, c P-9, r 25*, s 20.

⁸²⁴ *Parks Act, CQLR, c P-9*, ss 1-2.

By regulation, the Government can create a National Park to conserve and permanently protect natural areas while supporting recreational opportunities.⁸²⁵

The Minister of Forests, Wildlife and Parks (“the Minister”) can assign “zone” designations to different areas within National Parks. Zone designations describe the purpose of the Park and the intended type of use, including:

- **Natural Environment Zone**
 - Reserved for protection and development of natural heritage.
- **Maximum Preservation Zone**
 - Reserved for protection of natural heritage; only accessible in exceptional circumstances.
- **Preservation Zone**
 - Reserved for protection of natural heritage; only accessible for low-impact activities.
- **Intensive Recreation Zone**
 - Reserved for golf course or Alpine ski centre.
- **Services Zone**
 - Reserved for reception, lodging, or management.⁸²⁶

The Minister can purchase or acquire land to create or increase the area of a National Park.⁸²⁷ The Government can create, change the boundaries of, or remove the protections of a National Park only after the Minister has provided opportunities for public consultation.⁸²⁸

The Minister is responsible for managing National Parks,⁸²⁹ while the Société des établissements de plein air du Québec is responsible for all National Parks located south of the lands covered by the [Act respecting hunting and fishing rights in the James Bay and New Québec territories](#).⁸³⁰

⁸²⁵ [Parks Act, CQLR, c P-9](#), ss 1-2.

⁸²⁶ [Parks Regulation, CQLR, c P-9, r 25](#), s 2.

⁸²⁷ [Parks Act, CQLR, c P-9](#), s 2.1.

⁸²⁸ *Ibid*, s 4.

⁸²⁹ *Ibid*, s 5.1.

⁸³⁰ *Ibid*, s 5.1.

In-Depth: Natural Heritage Conservation Act

	Protected Area with Sustainable Use	Biodiversity Reserve	Ecological Reserve	Aboriginal-led Protected Areas
Legislation	<i>Natural Heritage Conservation Act</i>	<i>Natural Heritage Conservation Act</i>	<i>Natural Heritage Conservation Act</i>	<i>Natural Heritage Conservation Act</i>
Responsible Government Department	Forests, Wildlife and Parks (s. 4)	Forests, Wildlife and Parks (s. 4)	Forests, Wildlife and Parks (s. 4)	Forests, Wildlife and Parks (s. 4)
Overall Goals and Values	Protect ecosystems and associated cultural values (s. 47)	Protect ecosystems, biodiversity, and natural monuments (s. 48)	Permanently protect biodiversity and habitats in their natural state while supporting scientific and educational activities (s. 50)	Conserve biodiversity and associated cultural values (s. 4.3)
Establishment	Regulation ⁸³¹	Regulation ⁸³²	Regulation ⁸³³	Regulation (ss. 4.6, 12.3, 12.6) Indigenous governments or communities can propose areas for protection (s. 4.3)
Strength of Protection ⁸³⁴	VI Protected Area with sustainable use of natural resources	VI Protected Area with sustainable use of natural resources	Ia Strict Nature Reserve	VI Protected Area with sustainable use of natural resources

⁸³¹ [Natural Heritage Conservation Act, CQLR, c C-61.01](#), ss 12.3, 12.6, 27.

⁸³² *Ibid*, ss 12.3, 12.6, 27.

⁸³³ *Ibid*, ss 12.3, 12.6, 27.

⁸³⁴ Based on IUCN Protected Area Categories (see [Appendix II](#)).

In-Depth: Natural Heritage Conservation Act (Continued)

	Protected Area with Sustainable Use	Biodiversity Reserve	Ecological Reserve	Aboriginal-led Protected Areas
Decision-Making Authority	Minister responsible for management – can delegate authority to Indigenous communities ⁸³⁵	Minister responsible for management – can delegate authority to Indigenous communities ⁸³⁶	Minister responsible for management – can delegate authority to Indigenous communities ⁸³⁷	Minister must encourage Indigenous participation in protected area management and can enter into agreements to support (ss. 4.7, 12) Minister can delegate authority to Indigenous communities (ss. 8, 12)
Hunting	Dependent on conservation plan	Prohibited (s. 12.3)	Prohibited (s.51)	Dependent on conservation plan
Fishing	With licence ⁸³⁸	With licence ⁸³⁹	Prohibited (s.51)	With licence ⁸⁴⁰
Trapping	Dependent on conservation plan	Prohibited (s. 12.3)	Prohibited (s.51)	Dependent on conservation plan
Development	Dependent on conservation plan	Commercial forest development, road construction, and electricity generation are prohibited without the Minister's explicit permission (ss. 49, 44)	Prohibited (s.51)	Dependent on conservation plan

⁸³⁵ [Natural Heritage Conservation Act, CQLR, c C-61.01](#), ss 4, 8, 12.

⁸³⁶ *Ibid.*, ss 4, 8, 12.

⁸³⁷ *Ibid.*, ss 4, 8, 12.

⁸³⁸ See generally [Act respecting the conservation and development of wildlife, CQLR, c C-61.1](#); [Regulation respecting fishing licences, CQLR, c C-61.1, r 20.2](#).

⁸³⁹ *Ibid.*

⁸⁴⁰ *Ibid.*

In-Depth: Natural Heritage Conservation Act (Continued)

	Protected Area with Sustainable Use	Biodiversity Reserve	Ecological Reserve	Aboriginal-led Protected Areas
Natural Resource Extraction	Focus on sustainable use of natural resources (s. 47)	No commercial forest development, mineral exploration, mining, or petroleum or brine exploration or production (s. 49, 44)	Prohibited (s.51)	Dependent on conservation plan
Access	Dependent on conservation plan (s. 29)	Dependent on conservation plan (s. 29)	No access (with exceptions) (s. 51)	Dependent on conservation plan
Activities Allowed	Dependent on conservation plan (s. 29)	Dependent on conservation plan (s. 29)	Educational or scientific activities (with permit) (s. 52)	Dependent on conservation plan
Activities Prohibited	Dependent on conservation plan (s. 29)	Dependent on conservation plan (s. 29) Removal of non-timber forest products, excluding sugar bush operations (s. 49(1)(c))	No activities can be carried out in ecological reserves (with some exceptions) (s. 51)	Dependent on conservation plan

Québec’s [Natural Heritage Conservation Act](#) includes several types of protected area designation, including Aboriginal-led protected areas, protected areas with sustainable use, ecological reserves, and biodiversity reserves. Many of these protected area designations were introduced through recent amendments in 2021.

The *Natural Heritage Conservation Act* (“the Act”) recognizes that:

- Québec’s natural heritage has intrinsic value;
- Indigenous governments and communities have close cultural connections with this natural heritage;
- Québec’s natural heritage supports health, security, and economy;
- Québec has international responsibilities under the United Nations Convention on Biodiversity; and

- Québec must conserve its natural heritage for present and future generations.⁸⁴¹

The *Natural Heritage Conservation Act* works to ensure the protection of Québec’s natural heritage by:

- (1) Supporting the creation and management of a protected areas network;
- (2) Supporting Indigenous and community involvement in biodiversity conservation; and
- (3) Supporting government collaboration in protected areas creation and management.⁸⁴²

In many respects, the process for designating and managing these areas is the same. Important differences are highlighted in the sections below.

Before selecting and protecting an area, the Minister of Forests, Wildlife and Parks (“the Minister”) must collaborate with concerned government departments and municipalities.⁸⁴³ A Conservation Plan must inform each protected area.⁸⁴⁴

Before protecting an area, the Minister must also hold a public information and consultation period.⁸⁴⁵ Once it has done so, the Government can designate any area as a protected area with sustainable use, an ecological or biodiversity reserve, or an Aboriginal-led protected area.⁸⁴⁶

The Government can prohibit activities in protected areas by regulation.⁸⁴⁷ When determining which activities to prohibit, the Government must consider “the fundamental characteristics of [the] protected area...and ensure that the activities that may be carried on in a protected area are compatible with the conservation objectives applicable to that protected area.”⁸⁴⁸ The Minister can exempt any activity from regulation if it is in the public interest to do so.⁸⁴⁹

In other words, the designation chosen (Aboriginal-led protected area, ecological reserve, sustainable use protected area, etc.) will influence the types of activities that the Minister can permit. In more strictly protected areas (ecological reserves and biodiversity reserves), some activities are forbidden by default, as noted in the chart above. The Minister must provide special permission for these activities to be allowed.⁸⁵⁰

⁸⁴¹ [Natural Heritage Conservation Act, CQLR, c C-61.01.](#)

⁸⁴² *Ibid*, s 1.

⁸⁴³ *Ibid*, s 28.

⁸⁴⁴ *Ibid*, s 29.

⁸⁴⁵ *Ibid*, ss 31-32.

⁸⁴⁶ *Ibid*, s 27.

⁸⁴⁷ *Ibid*, s 44.

⁸⁴⁸ *Ibid*, s 44.

⁸⁴⁹ *Ibid*, s 46.

⁸⁵⁰ *Ibid*, ss 44, 49-51.

When determining whether to allow any activity to be carried out in a protected area by regulation, the Minister must consider:

- (1) The nature of the activity and the likelihood of it causing disturbances or losses;
- (2) The ecological characteristics of the protected area and ongoing human pressures;
- (3) How much the activity adds to the overall impact on the watershed;
- (4) The activity's impact on biodiversity;
- (5) The availability of other potential locations in which to carry out the activity;
- (6) The possibility of changing the activity to minimize or prevent damage;
- (7) The possibility of alternative land uses;
- (8) The consequences of refusing to allow the activity; and
- (9) The relative benefits and impacts caused by either decision.⁸⁵¹

The Minister can refuse to allow an activity if:

- (a) The activity does not help maintain the ecosystem's natural state;
- (b) The proposed alternatives would not minimize the activity's impacts;
- (c) The activity would negatively impact ecological function and biodiversity; or
- (d) The activity would impact the habitat of threatened or vulnerable species.⁸⁵²

If the Minister believes that a protected area is "facing a real or apprehended threat of irreversible degradation," then he/she can make an order prohibiting all access to, terminating all activities in, or doing any other thing regarding the protected area necessary to reduce or remove the threat.⁸⁵³

Aboriginal-Led Protected Areas

Under the *Natural Heritage Conservation Act*, by regulation, the Minister of Forests, Wildlife and Parks ("the Minister") can create an Aboriginal-led protected area.⁸⁵⁴ This form of designation creates unique opportunities for the creation of IPCAs.

An Indigenous government or community can propose areas for protection to allow for "the conservation of elements of biodiversity and associated cultural values that are of interest" to the Nation or community.⁸⁵⁵

⁸⁵¹ [Natural Heritage Conservation Act, CQLR, c C-61.01](#), s 22.

⁸⁵² *Ibid*, s 22.1.

⁸⁵³ *Ibid*, s 69.1.

⁸⁵⁴ *Ibid*, ss 4.3, 12.3, 12.6.

⁸⁵⁵ *Ibid*, s 4.3-4.4.

The proposal must include a map of the proposed Protected Area and its proposed conservation and development objectives.⁸⁵⁶ When assessing the proposal, the Minister must consult with all other concerned Indigenous governments or communities.⁸⁵⁷

The Minister must encourage the participation of Indigenous governments and communities in the management of Aboriginal-led Protected Areas. The Minister can enter into an agreement with Indigenous governments or communities to support this process.⁸⁵⁸ Importantly, the Minister has the power to delegate their management responsibilities to any Indigenous community under the Act.⁸⁵⁹

Protected Areas with Sustainable Use

The purpose of a Protected Area with Sustainable Use is to protect ecosystems and their associated cultural values.⁸⁶⁰ The designation was created to balance conservation and sustainable resource development and avoid an all-or-nothing approach.⁸⁶¹ The land “must be developed for the benefit of the local and [Indigenous] communities concerned,” with the focus remaining on community participation and the sustainable use of natural resources.⁸⁶²

Biodiversity Reserve

Biodiversity Reserves are developed to protect natural settings or a natural monument or to protect representative areas of biodiversity.⁸⁶³

Generally, biodiversity reserves have stricter protections compared to sustainable use protected areas, but they permit some activities. On the other hand, ecological reserves do not permit any activities.

Ecological Reserve

Ecological Reserves can be protected for the following three purposes:

- (1) To protect elements of biodiversity in their natural state;
- (2) To preserve land for scientific or educational purposes; or
- (3) To protect habitat for threatened or vulnerable species.⁸⁶⁴

⁸⁵⁶ [Natural Heritage Conservation Act, CQLR, c C-61.01](#), s 4.4.

⁸⁵⁷ *Ibid*, s 4.5.

⁸⁵⁸ *Ibid*, ss 4.7, 12.

⁸⁵⁹ *Ibid*, ss 8, 12.

⁸⁶⁰ *Ibid*, s 47.

⁸⁶¹ Nature Québec, “[L’après-2020 des aires protégées](#),” online (5 October 2021).

⁸⁶² [Natural Heritage Conservation Act, CQLR, c C-61.01](#), s 47.

⁸⁶³ *Ibid*, s 48.

⁸⁶⁴ *Ibid*, s 50.

The ecological reserve designation is the strictest form of protection in Québec: no activity is permitted, and no person may enter the reserve without special permission from the Minister, or in very limited situations.

Agreements and Delegation

By agreement, the Minister can delegate all or some of their powers regarding protected area management to any Indigenous government or community.⁸⁶⁵ These agreements must be made public and must specify the powers delegated, the Indigenous government or community's obligations, and the terms and conditions of the agreement.⁸⁶⁶

However, the *Act* clarifies that any actions taken by Indigenous governments or communities under these agreements are not binding on the State.⁸⁶⁷

In-Depth: Act respecting the conservation and development of wildlife

	Wildlife Sanctuary	Wildlife Preserve
Legislation	<i>Act respecting the conservation and development of wildlife</i>	<i>Act respecting the conservation and development of wildlife</i>
Government Department ⁸⁶⁸	Minister of Forests, Wildlife and Parks	Minister of Forests, Wildlife and Parks
Overall Goals and Values	Conserve, develop, and use wildlife while supporting recreational activities (s. 111)	Preserve wildlife habitat (s. 122)
Establishment	Ministerial order (s. 111)	Ministerial order/regulation (s. 122)
Strength of Protection ⁸⁶⁹	VI Protected Area with sustainable use of natural resources	IV Habitat/Species Management Area
Decision-Making Authority	Minister responsible for management – can enter into agreements with Indigenous communities to support (s. 24.1)	Minister responsible for management – can enter into agreements with Indigenous communities to support (s. 24.1)

⁸⁶⁵ [Natural Heritage Conservation Act, CQLR, c C-61.01](#), s 12.

⁸⁶⁶ *Ibid*, s 12.1.

⁸⁶⁷ *Ibid*, s 12.2.

⁸⁶⁸ [Act respecting the Ministère des Ressources naturelles et de la Faune, CQLR, c M-25.2](#), s 12.1; see also "[Faune](#)" (last visited 12 May 2022), online: *Government of Québec*.

⁸⁶⁹ Based on IUCN Protected Area Categories (see [Appendix II](#)).

In-Depth: Act respecting the conservation and development of wildlife (Continued)

	Wildlife Sanctuary	Wildlife Preserve
Hunting	With permit (with exceptions) ⁸⁷⁰	Dependent on regulation (s. 125)
Fishing	With permit (with exceptions) ⁸⁷¹	Dependent on regulation (s. 125)
Trapping	Dependent on regulation (s. 121)	Dependent on regulation (s. 125)
Development	Construction (with permit) (s. 121)	Dependent on regulation (s. 125)
Natural Resource Extraction	Dependent on regulation (s. 121)	Dependent on regulation (s. 125)
Access	Off-highway vehicle access (with conditions) ⁸⁷²	Dependent on regulation (s. 125)
Activities Allowed	Recreational activities ⁸⁷³	Dependent on regulation (s. 125)
Activities Prohibited	Dependent on regulation (s. 121)	Dependent on regulation (s. 125)

By ministerial order, the Minister of Forests, Wildlife and Parks (“the Minister”) can create a Wildlife Sanctuary to support the conservation, development, and use of wildlife and related recreational activities,⁸⁷⁴ and create a Wildlife Preserve dedicated to protecting wildlife habitat.⁸⁷⁵

To support wildlife conservation and management as well as related Indigenous activities, the Minister can enter into agreements with Indigenous communities.⁸⁷⁶

General Agreements

The Société des établissements de plein air du Québec can enter into agreements to support the management and protection of certain National Parks.⁸⁷⁷

The Minister of Forests, Wildlife and Parks can delegate land management powers to a Band Council. This delegation can include planning and monitoring as well as management of hydraulic, mineral, energy, forest, and wildlife resources.⁸⁷⁸

⁸⁷⁰ [Regulation respecting wildlife sanctuaries, CQLR, c C-61.1, r 53](#), ss 5, 19.

⁸⁷¹ *Ibid*, ss 7, 20.

⁸⁷² *Ibid*, s 26.

⁸⁷³ [Act respecting the conservation and development of wildlife, CQLR, c C-61.1](#), ss 118.0.1, 118.1, 120.

⁸⁷⁴ *Ibid*, s 111.

⁸⁷⁵ *Ibid*, s 122.

⁸⁷⁶ *Ibid*, s 24.1.

⁸⁷⁷ [Act respecting the Société des établissements de plein air du Québec, CQLR, c S-14.001](#), s 18.

⁸⁷⁸ [Act respecting the Ministère des Ressources naturelles et de la Faune, CQLR, c M-25.2](#), ss 11, 17.22.

The Minister of Forests, Wildlife and Parks can delegate park program management to an Indigenous community.⁸⁷⁹

Other Protected Areas

Cultural Heritage Act

The purpose of the *Cultural Heritage Act* is to protect cultural heritage, including Heritage Cultural Landscapes.⁸⁸⁰ A Heritage Cultural Landscape is “a land area recognized by a community for its remarkable landscape features, which are the result of the interaction of natural and human factors and are worth conserving...because of their historical or emblematic interest, or their value as a source of identity.”⁸⁸¹

On the Minister of Culture and Communications (“the Minister”)’s recommendation by order, the Government can create a Heritage Cultural Landscape.⁸⁸² The creation of a Cultural Heritage Landscape must be requested and supported by all concerned municipalities and metropolitan communities.⁸⁸³ If the request is approved, the applicants must develop a conservation plan outlining the area, protective measures, and economic, social, and cultural uses.⁸⁸⁴

By order, the Government can cancel the Heritage Cultural Landscape if the conservation plan is not being applied or the landscape’s protection has been compromised.⁸⁸⁵

The Minister must develop a consultation policy to support and encourage public participation regarding “knowledge, protection, enhancement and transmission of cultural heritage.”⁸⁸⁶

⁸⁷⁹ [Act respecting the Ministère du Développement durable, de L'Environnement et des Parcs, CQLR c M-30.001](#), ss 11-12, 12.2.

⁸⁸⁰ [Cultural Heritage Act, CQLR c P-9.002](#), s 1.

⁸⁸¹ *Ibid*, s 2.

⁸⁸² *Ibid*, ss 17, 22.

⁸⁸³ *Ibid*, s 18.

⁸⁸⁴ *Ibid*, s 20.

⁸⁸⁵ *Ibid*, s 25.

⁸⁸⁶ *Ibid*, ss 11.1, 11.2.

Saskatchewan



Overview

Saskatchewan offers five main types of protected area designation: provincial parks, park reserves, protected areas, historic sites, and ecological reserves.

The first chart in this section evaluates four of these five designations based on the Indigenous Circle of Experts' (ICE) characteristics of Indigenous Protected and Conserved Areas (IPCAs) and identifies some overall advantages and disadvantages for IPCA creation. In Saskatchewan, there is no explicit legislative authority for the Minister to enter into co-management agreements with Indigenous governments and communities.

This section then delves into each of the five protected area designations. The charts in this section present information on what activities are permitted and prohibited in each area, as well as the process for creating them. Additional designations, such as heritage properties, are also briefly described.

Overview: IPCA Characteristics Assessment, Advantages, and Disadvantages of Parks Act and Ecological Reserves Act

	Provincial Park	Protected Area	Historic Site	Ecological Reserve
Legislation	<i>Parks Act</i>	<i>Parks Act</i>	<i>Parks Act</i>	<i>Ecological Reserves Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Included in legislation – requires legislative amendment to remove protections	Included in legislation – requires legislative amendment to remove protections	Established by regulation – less permanent than in an Act	Established by regulation – less permanent than in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	No explicit powers for joint management or decision-making	No explicit powers for joint management or decision-making	No explicit powers for joint management or decision-making	No explicit powers for joint management or decision-making

Overview: IPCA Characteristics Assessment, Advantages, and Disadvantages of Parks Act (Continued)

	Provincial Park	Protected Area	Historic Site	Ecological Reserve
Advantages	Strong protections Temporary protections available	Strong protections	Strong protections	Very strong and flexible protections
Disadvantages	No explicit powers for joint management or decision-making	No explicit powers for joint management or decision-making	No explicit powers for joint management or decision-making Historical requirements	No explicit powers for joint management or decision-making Focus on protection to the exclusion of humans

In-Depth: Parks Act

	Provincial Park	Park Reserve	Protected Area	Historic Site
Legislation	<i>Parks Act</i>	<i>Parks Act</i>	<i>Parks Act</i>	<i>Parks Act</i>
Responsible Government Department ⁸⁸⁷	Parks, Culture and Sport	Parks, Culture and Sport	Parks, Culture and Sport	Parks, Culture and Sport
Overall Goals and Values	Protect the environment for enjoyment and education of present and future generations (s. 3)	Temporarily protect lands that can be included in future parks or protected area (s. 9)	Protect natural, prehistoric, or historic resources of interest or significance (s. 5)	Protect significant prehistoric or historic resources (s. 7)
Establishment	Act (s. 4)	Regulation (s. 9)	Act (s. 5)	Regulation (s. 7)
Strength of Protection ⁸⁸⁸	II National Park	Temporary	V Protected Landscape	III Natural Monument or Feature V Protected Landscape
Decision-Making Authority	Minister responsible for management (s. 13)	Minister responsible for management (s. 10)	Minister responsible for management (s. 13)	Minister responsible for management (s. 13)

⁸⁸⁷ "Ministry of Parks, Culture and Sport" (last visited 12 May 2022), online: *Government of Saskatchewan*.

⁸⁸⁸ Based on IUCN Protected Area Categories (see [Appendix II](#)).

In-Depth: Parks Act (Continued)

	Provincial Park	Park Reserve	Protected Area	Historic Site
Hunting	With licence	Dependent on regulation (s. 10)	With licence	With licence
Fishing	With licence (with exceptions)	Dependent on regulation (s. 10)	With licence (with exceptions)	With licence (with exceptions)
Trapping	With permit	Dependent on regulation (s. 10)	With permit	With permit
Development	With permit ⁸⁸⁹	Dependent on regulation (s. 10)	With permit ⁸⁹⁰	With permit ⁸⁹¹
Natural Resource Extraction	No timber harvesting (unless permitted) (s. 25.1) No resource use or exploitation (unless permitted) ⁸⁹²	Dependent on regulation (s. 10)	No timber harvesting (unless permitted) (s. 25.1) No resource use or exploitation (unless permitted) ⁸⁹³	No timber harvesting (unless permitted) (s. 25.1) No resource use or exploitation (unless permitted) ⁸⁹⁴
Access	Motor vehicle access (with permit) ⁸⁹⁵ Off-highway vehicle access in certain areas ⁸⁹⁶	Dependent on regulation (s. 10)	Motor vehicle access (with permit) ⁸⁹⁷ Off-highway vehicle access in certain areas ⁸⁹⁸	Motor vehicle access (with permit) ⁸⁹⁹ Off-highway vehicle access in certain areas ⁹⁰⁰
Activities Allowed	Outdoor recreational activities ⁹⁰¹	Dependent on regulation (s. 10)	Outdoor recreational activities ⁹⁰²	Outdoor recreational activities ⁹⁰³
Activities Prohibited	Research, grazing, haying, or removing natural objects (unless permitted) ⁹⁰⁴	Dependent on regulation (s. 10)	Research, grazing, haying, or removing natural objects (unless permitted) ⁹⁰⁵	Research, grazing, haying, or removing natural objects (unless permitted) ⁹⁰⁶

⁸⁸⁹ [The Parks Regulations, 1991, RRS, c P-1.1, Reg 6](#), ss 41, 44.

⁸⁹⁰ *Ibid*, ss 41, 44.

⁸⁹¹ *Ibid*, ss 41, 44.

⁸⁹² *Ibid*, s 41.

⁸⁹³ *Ibid*, s 41.

⁸⁹⁴ *Ibid*, s 41.

⁸⁹⁵ *Ibid*, ss 4, 17.

⁸⁹⁶ *Ibid*, s 17.

⁸⁹⁷ *Ibid*, ss 4, 17.

⁸⁹⁸ *Ibid*, s 17.

⁸⁹⁹ *Ibid*, ss 4, 17.

⁹⁰⁰ *Ibid*, s 17.

⁹⁰¹ ["Our Parks"](#) (last visited 12 May 2022), online: *Saskatchewan Parks*.

⁹⁰² *Ibid*.

⁹⁰³ *Ibid*.

⁹⁰⁴ [The Parks Regulations, 1991, RRS, c P-1.1, Reg 6](#), ss 41, 59.

⁹⁰⁵ *Ibid*, ss 41, 59.

⁹⁰⁶ *Ibid*, ss 41, 59.

The [Parks Act](#) works to protect lands and natural and historic resources for the benefit of present and future generations.⁹⁰⁷

Provincial Park

Cabinet can create a Provincial Park by including it in the *Parks Act*.⁹⁰⁸ Parks can be classified as one of the following types:

- **Historic Parks**
 - Main Purpose: To preserve and interpret historic resources.
- **Recreation Parks**
 - Main Purpose: To support outdoor recreation.
- **Natural Environment Parks**
 - Main Purpose: To protect natural landscapes and provide recreational opportunities.
- **Wilderness Parks**
 - Main Purpose: To preserve natural landscapes and support low impact recreation.⁹⁰⁹

The Minister of Parks, Culture and Sport (“the Minister”) is responsible for managing Provincial Parks.⁹¹⁰

Protected Area

Cabinet can create a Protected Area by including it in the *Parks Act*.⁹¹¹ These areas are protected to ensure the preservation of natural and historic resources.⁹¹² The Minister is responsible for managing Protected Areas.⁹¹³

Recreation Site

By regulation, Cabinet can create a Recreation Site to provide public recreational opportunities.⁹¹⁴ The Minister is responsible for managing Recreation Sites.⁹¹⁵

⁹⁰⁷ [Parks Act, SS 1986, c P-1.1](#), s 3.

⁹⁰⁸ *Ibid*, s 4.

⁹⁰⁹ *Ibid*, s 4.

⁹¹⁰ *Ibid*, s 13.

⁹¹¹ *Ibid*, s 5.

⁹¹² *Ibid*, s 5(2).

⁹¹³ *Ibid*, s 13.

⁹¹⁴ *Ibid*, s 6.

⁹¹⁵ *Ibid*, s 13.

Historic Site

By regulation, Cabinet can create a Historic Site to protect historic resources.⁹¹⁶ The Minister is responsible for managing Historic Sites.⁹¹⁷

Park Reserve

By regulation, Cabinet can create a Park Reserve to temporarily protect lands while determining whether they should be transformed into a Provincial Park or Protected Area.⁹¹⁸ A regulation creating a Park Reserve expires after five years.⁹¹⁹ Park Reserves are managed as public lands but cannot be sold, transferred, or altered.⁹²⁰

In-Depth: Ecological Reserves Act

	Ecological Reserve
Legislation	<i>Provincial Lands Act, 2016</i> and <i>The Representative Area Ecological Reserve Regulations</i> (established under the repealed <i>Ecological Reserves Act</i>)
Government Department	Environment ⁹²¹
Overall Goals and Values	Protect representative ecosystems and provide opportunities for scientific research and ecological monitoring ⁹²²
Establishment	Regulation ⁹²³
Strength of Protection ⁹²⁴	Ia Strict Nature Reserve
Decision-Making Authority	Minister responsible for management ⁹²⁵

⁹¹⁶ [Parks Act, SS 1986, c P-1.1](#), s 7.

⁹¹⁷ *Ibid*, s 13.

⁹¹⁸ *Ibid*, s 9.

⁹¹⁹ *Ibid*, s 9(3).

⁹²⁰ *Ibid*, ss 10-12.

⁹²¹ "[Ministry of Environment](#)" (last visited 12 May 2022), online: *Government of Saskatchewan*.

⁹²² [Representative Area Ecological Reserves Regulations, RRS, c E-0.01, Reg 7](#), s 3.

⁹²³ [The Provincial Lands Act, 2016, SS 2016, c P-31.1](#), s 3-1.

⁹²⁴ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁹²⁵ [The Provincial Lands Act, 2016, SS 2016, c P-31.1](#), s 2-1(1).

In-Depth: Ecological Reserves Act (Continued)

	Ecological Reserve
Hunting	Permitted ⁹²⁶
Fishing	Permitted ⁹²⁷
Trapping	Permitted ⁹²⁸
Development	Site-specific ⁹²⁹
Natural Resource Extraction	Site-specific ⁹³⁰
Access	Site-specific ⁹³¹
Activities Allowed	Low-impact recreational activities, including hiking and nature appreciation ⁹³² Scientific research (with permit) ⁹³³
Activities Prohibited	Site-specific ⁹³⁴

By regulation, Cabinet can create an Ecological Reserve to protect unique or representative ecosystems.⁹³⁵

Other Protected Areas

Heritage Property Act

A Heritage Property includes any property that is of interest due to its “historical, cultural, environmental, archaeological, palaeontological, aesthetic, or scientific value.”⁹³⁶

By order, the Minister of Parks, Culture and Sport (“the Minister”) can create a Heritage Property.⁹³⁷ Land for Heritage Properties can be purchased or acquired by the Minister.⁹³⁸

⁹²⁶ [Representative Area Ecological Reserves Regulations, RRS, c E-0.01, Reg 7](#), s 5(1)(b).

⁹²⁷ *Ibid*, s 5(1)(c).

⁹²⁸ *Ibid*, s 5(1)(a).

⁹²⁹ See generally [Representative Area Ecological Reserves Regulations, RRS, c E-0.01, Reg 7](#).

⁹³⁰ *Ibid*

⁹³¹ *Ibid*.

⁹³² *Ibid*, s 5(1).

⁹³³ *Ibid*, s 6(1).

⁹³⁴ *Ibid*, see generally.

⁹³⁵ [The Provincial Lands Act, 2016, SS 2016, c P-31.1](#), s 3-1.

⁹³⁶ [The Heritage Property Act, SS 1979-80, c H-2.2](#), s 2(i), 2(iii).

⁹³⁷ *Ibid*, s 39(1).

⁹³⁸ *Ibid*, s 3(1)(a).

Once a Heritage Property is protected, it cannot be damaged, destroyed, or changed without the Minister's permission.⁹³⁹ However, the Heritage Property can be cancelled after the Minister provides public notice.⁹⁴⁰

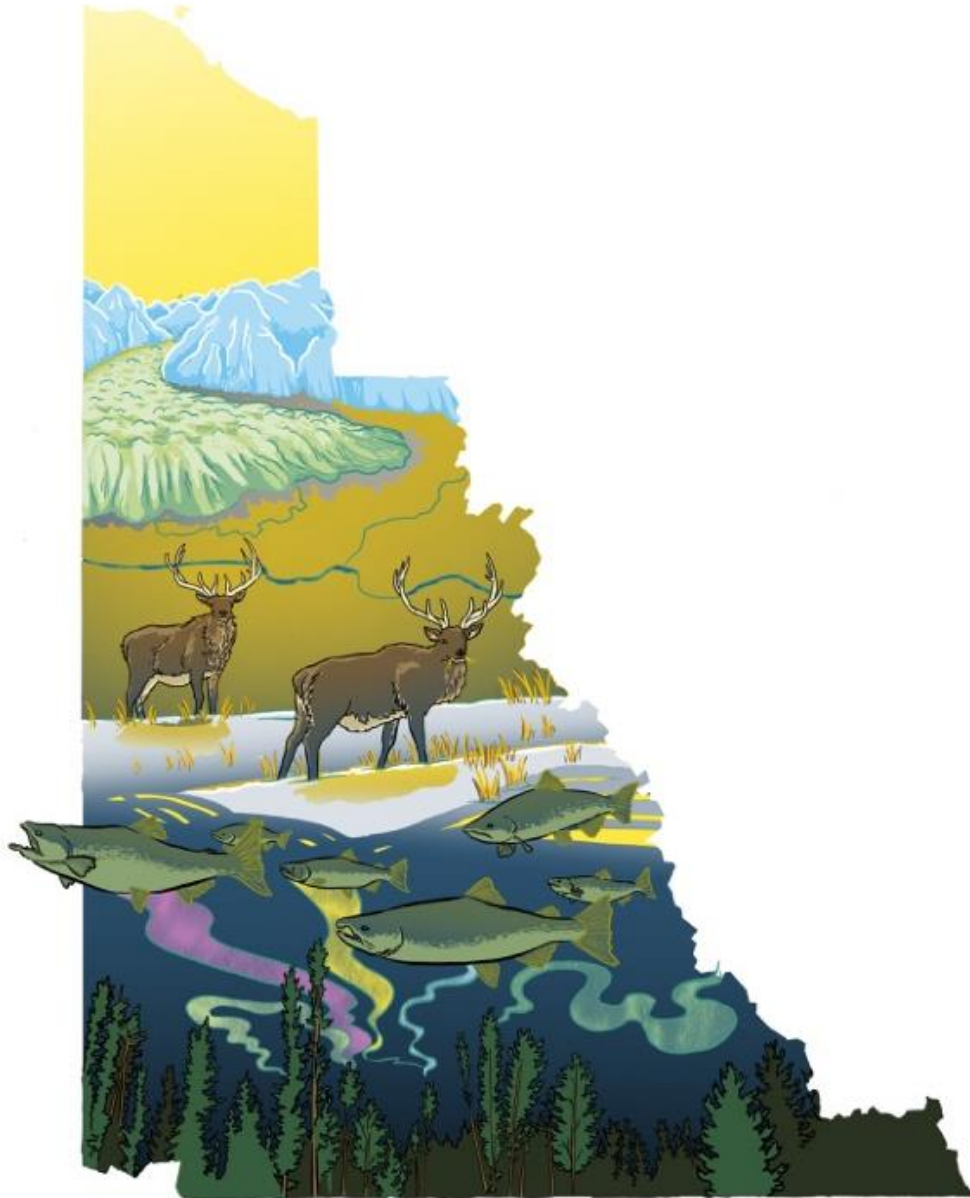
A weakness of the [Heritage Property Act](#) is that the Minister can exempt certain properties from protection if protecting them would prevent "a development project that is of major significance to and benefit for the people of Saskatchewan."⁹⁴¹

⁹³⁹ [The Heritage Property Act, SS 1979-80, c H-2.2](#), ss 4, 44.

⁹⁴⁰ [Ibid.](#), s 57.

⁹⁴¹ [Ibid.](#), 71.1.

Yukon



Overview

Yukon offers three main types of protected area designation: natural environment parks, ecological reserves, and wilderness preserves.

The first chart in this section evaluates these three designations based on the characteristic of Indigenous Protected and Conserved Areas (IPCAs) as defined by the Indigenous Circle of Experts (ICE) and identifies some overall advantages and disadvantages. The *Parks and Land Certainty Act* allows for the possibility of park co-management in all cases.

Following this chart, this section delves into more detail on each of the three protected area designations. The in-depth charts in this section present information on what activities are permitted and prohibited in each area, as well as the process for creating them. Additional designations, such as historic sites, are also briefly described.

Overview: IPCA Characteristics Assessment, Advantages, and Disadvantages of the Parks and Land Certainty Act

	Natural Environment Park	Ecological Reserve	Wilderness Preserve
Legislation	<i>Parks and Land Certainty Act</i>	<i>Parks and Land Certainty Act</i>	<i>Parks and Land Certainty Act</i>
IPCA Characteristic #1: Indigenous-led	No	No	No
IPCA Characteristic #2: Long-term commitment to conservation	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act	Established by order – less permanent than regulation or in an Act
IPCA Characteristic #3: Elevate Indigenous rights and responsibilities	Minister can enter into agreements with Yukon First Nations to support management	Minister can enter into agreements with Yukon First Nations to support management	Minister can enter into agreements with Yukon First Nations to support management
Advantages	Strong protections Co-management	Strong protections Co-management	Strong protections Co-management
Disadvantages	Relatively impermanent protection	Relatively impermanent protection	Relatively impermanent protection

In-Depth: Parks and Land Certainty Act

	Natural Environment Park	Ecological Reserve	Wilderness Preserve
Legislation	<i>Parks and Land Certainty Act</i>	<i>Parks and Land Certainty Act</i>	<i>Parks and Land Certainty Act</i>
Responsible Government Department ⁹⁴²	Environment	Environment	Environment
Overall Goals and Values	Protect natural landscapes (s. 2)	Protect natural areas of significance or importance (s. 2)	Protect environment by conserving biodiversity and ecological viability (s. 2)
Establishment	Order in Council (s. 11)	Order in Council (s. 11)	Order in Council (s. 11)
Strength of Protection ⁹⁴³	II National Park	Ia Strict Nature Reserve	Ib Wilderness Area
Decision-Making Authority ⁹⁴⁴	Minister responsible for management (s. 28) – can enter into agreement with Yukon First Nations to support (s. 65)	Minister responsible for management (s. 28) – can enter into agreement with Yukon First Nations to support (s. 65)	Minister responsible for management (s. 28) – can enter into agreement with Yukon First Nations to support (s. 65)
Hunting ⁹⁴⁵	With licence (with exceptions)	With licence (with exceptions)	With licence (with exceptions)
Fishing ⁹⁴⁶	With licence	With licence	With licence
Trapping ⁹⁴⁷	With permit	With permit	With permit
Development	Development (with permit) (s. 30)	Limited development (with permit) (s. 30)	Limited development (with permit) (s. 30)

⁹⁴² “[Department of Environment](#)” (last visited 12 May 2022), online: *Government of Yukon*.

⁹⁴³ Based on IUCN Protected Area Categories (see [Appendix II](#)).

⁹⁴⁴ The preamble of the *Parks and Land Certainty Act* highlights that a goal of the Act is “to establish and manage protected areas with the involvement of...First Nation governments...” [Parks and Land Certainty Act, RSY 2002, c 165](#).

⁹⁴⁵ “[Yukon Hunting Regulations Summary 2021-2022](#)” (2021), online (pdf): *Government of Yukon*.

⁹⁴⁶ “[Yukon Fishing Regulations Summary 2022-2023](#)” (2022), online (pdf): *Government of Yukon*.

⁹⁴⁷ “[Yukon Trapping Regulations Summary 2022-2023](#)” (2022), online (pdf): *Government of Yukon*

In-Depth: Parks and Land Certainty Act (Continued)

	Natural Environment Park	Ecological Reserve	Wilderness Preserve
Natural Resource Extraction	Oil or gas production from outside Park if no adverse effects (s. 35)	No industrial development (s. 32) ⁹⁴⁸	No industrial development (s. 32)
Access	Motor vehicle access (with permit) ⁹⁴⁹	Access consistent with protections	Access consistent with protections
Activities Allowed	Dependent on zone (s. 22) Outdoor recreation activities ⁹⁵⁰	Dependent on zone (s. 22) Outdoor recreation activities ⁹⁵¹	Dependent on zone (s. 22) Outdoor recreation activities ⁹⁵²
Activities Prohibited	Removing or damaging natural resources (s. 60)	Removing or damaging natural resources (s. 60)	Removing or damaging natural resources (s. 60)

The *Parks and Land Certainty Act* recognizes the Yukon government’s commitment to preserving and protecting representative ecosystems in accordance with the following principles:

- Protect biodiversity and ecological systems;
- Encourage public participation;
- Create and manage protected areas in collaboration with federal and First Nations governments, local communities, and bodies created under Land Claim Agreements;
- Manage protected areas in an open, transparent, and accountable way;
- Create protected areas using traditional knowledge, local knowledge, and science;
- Create protected areas using processes that respect aesthetic, cultural, economic, ecological, intrinsic, and social values;
- Respect rights; and
- Contribute to sustainable economic development.⁹⁵³

⁹⁴⁸ The *Parks and Land Certainty Act* defines industrial development as including the “development of mines and minerals, oil and gas, hydro-electric and other energy resources, and agricultural lands; harvesting of timber resources, development of townsites, and any land use, activity, or infrastructure associated with the above.” [Parks and Land Certainty Act, RSY 2002, c 165](#), s 2.

⁹⁴⁹ See e.g. [“Find a campground or recreation site”](#) (last visited 12 May 2022), online: *Government of Yukon*.

⁹⁵⁰ [“Yukon Parks Strategy \(2020-2030\)”](#) (2020), online (pdf): *Government of Yukon*.

⁹⁵¹ *Ibid.*

⁹⁵² *Ibid.*

⁹⁵³ [Parks and Land Certainty Act, RSY 2002, c 165](#); see also [“Yukon Parks Strategy \(2020-2030\)”](#) (2020), online (pdf): *Government of Yukon*.

The purpose of the *Parks and Land Certainty Act* is to create Territorial Parks for four reasons:

- (1) To implement Settlement Agreements;
- (2) To protect and manage natural areas of territorial significance;
- (3) To provide recreational opportunities; and
- (4) To encourage appreciation of Yukon's natural environment among present and future generations.⁹⁵⁴

Natural Environment Park

By Order in Council, Cabinet can create a Natural Environment Park to protect unique or significant landscapes.⁹⁵⁵ Before creating the Park, it must provide opportunities for public participation.⁹⁵⁶

The Minister of Environment ("the Minister") can purchase or acquire land to create or increase the size of a Natural Environment Park.⁹⁵⁷ A Natural Environment Park can only be decreased or cancelled if the Legislative Assembly approves of this decision.⁹⁵⁸

The Minister must prepare a management plan for each Natural Environment Park and provide opportunities for public participation in this process.⁹⁵⁹ The Minister is responsible for managing the Park in a manner consistent with this plan.⁹⁶⁰

Ecological Reserve

By Order in Council, Cabinet can create an Ecological Reserve to protect a unique or significant natural area in its natural state.⁹⁶¹ Before creating the Reserve, it must provide opportunities for public participation.⁹⁶²

The Minister can purchase or acquire land to create or increase the size of an Ecological Reserve.⁹⁶³

Cabinet can only decrease the area of or cancel an Ecological Reserve if the Legislative Assembly approves of this decision.⁹⁶⁴

⁹⁵⁴ [Parks and Land Certainty Act, RSY 2002, c 165](#), s 1.

⁹⁵⁵ *Ibid*, ss 2, 11.

⁹⁵⁶ *Ibid*, c 165, s 10.

⁹⁵⁷ *Ibid*, s 14.

⁹⁵⁸ *Ibid*, s 17.

⁹⁵⁹ *Ibid*, ss 19, 21.

⁹⁶⁰ *Ibid*, s 28.

⁹⁶¹ *Ibid*, ss 2, 11.

⁹⁶² *Ibid*, s 10.

⁹⁶³ *Ibid*, s 14.

⁹⁶⁴ *Ibid*, s 17.

The Minister must prepare a management plan for each Ecological Reserve and provide opportunities for public participation in this process.⁹⁶⁵ The Minister is responsible for managing the Reserve in a manner consistent with this plan.⁹⁶⁶

Wilderness Preserve

By Order in Council, Cabinet can create a Wilderness Preserve to protect a natural area by conserving its biodiversity and ecological value.⁹⁶⁷

Before creating the Preserve, it must provide opportunities for public participation.⁹⁶⁸

The Minister can purchase or acquire land to create or increase the size of a Wilderness Preserve.⁹⁶⁹ Cabinet can only decrease the area of or cancel a Wilderness Preserve if the Legislative Assembly approves of this decision.⁹⁷⁰

The Minister must prepare a management plan for each Wilderness Preserve and provide opportunities for public participation in this process.⁹⁷¹ The Minister is responsible for managing the Preserve in a manner consistent with this plan.⁹⁷²

Agreements

The Minister can enter into an agreement with Yukon First Nations to support the management of park lands, including Natural Environment Parks, Ecological Reserves, and Wilderness Preserves.⁹⁷³

Yukon Parks notes that “[t]erritorial parks are managed by the Department of Environment’s Parks Branch in collaboration with First Nations and Inuvialuit. [They] work directly with First Nations and Inuvialuit to write park management plans that guide the management of individual parks and...oversee park management together through joint committees.”⁹⁷⁴

Other Protected Areas

Historic Resources Act

By ministerial order, the Minister of Tourism and Culture (“the Minister”) can create a Historic Site. Historic Sites are created to ensure the protection of areas that illustrate the historic or prehistoric development of Yukon or the natural history of Yukon.⁹⁷⁵

⁹⁶⁵ [Parks and Land Certainty Act, RSY 2002, c 165](#), ss 19, 21.

⁹⁶⁶ *Ibid*, s 28.

⁹⁶⁷ *Ibid*, ss 2, 11.

⁹⁶⁸ *Ibid*, s 10.

⁹⁶⁹ *Ibid*, s 14.

⁹⁷⁰ *Ibid*, s 17.

⁹⁷¹ *Ibid*, ss 19, 21.

⁹⁷² *Ibid*, s 28.

⁹⁷³ *Ibid*, s 65.

⁹⁷⁴ “[Yukon Parks Strategy \(2020-2030\)](#)” (2020) at 4, online (pdf): *Government of Yukon*.

⁹⁷⁵ [Historic Resources Act, RSY 2002, c 109](#), s 15.

Any person or group can nominate a site for protection.⁹⁷⁶ This nomination will be referred to the Yukon Heritage Resources Board, which advises the Minister on creating and protecting Historic Sites. At least half of the members of the Yukon Heritage Resources Board must be nominated by governing bodies of Yukon First Nations.⁹⁷⁷

Once a Historic Site is protected, no one can significantly alter its character without the Minister's permission.⁹⁷⁸

⁹⁷⁶ [Historic Resources Act, RSY 2002, c 109](#), s 15(2).

⁹⁷⁷ *Ibid*, ss 4, 15(3).

⁹⁷⁸ *Ibid*, s 25.

Appendix I: Definitions

Cabinet:

The Cabinet is made up of Ministers who set Crown governments' priorities and make important policy decisions. Federal, provincial, and territorial governments each have their own cabinet (provincial Cabinets are sometimes referred to as Executive Councils). The Cabinet is chaired by the Prime Minister, or in the case of provinces and territories, the Premier.

Through legislation, the Cabinet is also granted the power to make important decisions on specific issues, such as the creation of new national parks. Whenever legislation refers to a decision being made by the "Governor in Council" (federal), "Lieutenant Governor in Council" (provincial) or "Commissioner in Executive Council" (territorial), in practice, the decision is made by Cabinet.⁹⁷⁹

Delegation:

For the purposes of this document, the term 'delegation' refers to the act of transferring statutory power to another individual or body. For example, a Minister may delegate some of their management duties granted by a provincial park statute to a Superintendent. The Superintendent is then legally able to exercise those powers within the boundaries set by the Minister.⁹⁸⁰

Executive Commissioner in Council:

See Governor in Council.

Governor General:

The Governor General represents the British monarch in the Canadian government. They perform a variety of roles, most of which are ceremonial. The Governor General gives Royal Assent to legislation, opens and closes Parliamentary sessions, and approves Orders in Council. In performing these duties, the Governor General acts on the advice of Cabinet.

At the provincial level, the Lieutenant Governor General plays a similar role to the Governor General. At the territorial level is the Commissioner. (The Commissioner is not a representative of the British monarch, but rather a representative of the federal government from which territorial governments derive their powers. However, the Commissioner performs the same role as the Governor General and Lieutenant Governor General.)

⁹⁷⁹ See e.g. "[Key Functions and Roles of Members](#)" (last visited 12 May 2022), online: *House of Commons Canada*.

⁹⁸⁰ See e.g. Black's Law Dictionary Free, "[What is Delegation](#)" (last visited 12 May 2022), online: *The Law Dictionary*.

Governor in Council:

The 'Governor in Council' refers to the Governor General acting on the advice of Cabinet. In practice, when legislation states that a decision can be made or a power can be exercised by the Governor in Council, the Cabinet makes the decision.⁹⁸¹

At the provincial level, the Lieutenant Governor in Council represent this role. At the territorial level is the Executive Commissioner in Council.⁹⁸² In practice, when provincial or territorial legislation grants decision-making power to these individuals, decisions lie with the provincial or territorial Cabinet.

Legislative Assembly:

The Legislative Assembly is the law-making body of each province and territory. It is made up of elected Members of the Legislative Assembly (MLAs), or in Ontario, Members of Provincial Parliament (MPPs).

Lieutenant Governor General:

See Governor General.

Lieutenant Governor in Council:

See Governor in Council

Ministerial Order:

A Ministerial Order is an order created by a Minister exercising the power granted to them by a statute. Using an order, a Minister can establish certain types of parks or protected areas in some provinces. It depends on the statute what exactly a Ministerial Order can do.

Unlike Orders in Council, Ministerial Orders do not require the approval of Cabinet, which can make them easier to issue.

⁹⁸¹ See e.g. "[Governor in Council](#)" (last visited 2 May 2023), online: *Centre for Constitutional Studies*

⁹⁸² See e.g. "[The Lieutenant Governor](#)" (last visited 2 May 2023), online: *Legislative Assembly of British Columbia*
"[What does the term 'Lieutenant Governor in Council' refer to?](#)" (last visited 12 May 2022), online: *Lieutenant Governor of Ontario*
"[Glossary](#)" (last visited 12 May 2022), online: *Government of Yukon*.

Order in Council:

An Order in Council (sometimes abbreviated to OIC) is an order created by Cabinet exercising a power granted to them by a statute.⁹⁸³ Using an Order in Council, Cabinet can establish certain types of parks or protected areas. Orders in Council are also used for other important legal and administrative tasks, such as creating boards and agencies, appointing officials, and determining the responsibilities of individual Ministers. It depends on the statute what exactly an Order in Council can do.⁹⁸⁴

Unlike Ministerial orders, Orders-in-Council require the approval of Cabinet and may be reviewed by other government committees.

Parliament:

Parliament is the law-making body of the Canadian government, where elected officials debate and pass laws. Federally, Parliament is made up of the House of Commons and the Senate. Provincially and territorially, there is no Senate, and Parliament is made up of elected officials in the Legislative Assembly.

Regulation:

A regulation is a type of law that is created by a Minister or Cabinet using the power granted to them by a statute. A regulation may be used to create a park or protected area, lay out the rules for managing it, or prohibit certain kinds of activities within a park. Regulations are often detailed lists of rules and standards and may include technical guidelines. It depends on the statute what exactly a regulation can do.

Regulations are like laws, but unlike statutes, they do not need to pass through a federal or provincial Legislature or be voted on by members of the Legislature. Instead, statutes dictate which areas or topics a Minister or Cabinet can make regulations for.⁹⁸⁵

Since they are enforceable by law, regulations have a detailed approval process. Not all regulations need formal approval from Cabinet, but this does not mean they are easier to pass than Orders-in-Council. Regulations go through a comprehensive drafting process and may have a consultation period.

⁹⁸³ Technically, OICs can also be made pursuant to the royal prerogative, but this use of OICs is not relevant to this document.

⁹⁸⁴ See e.g. "[Orders in Council: Everything you need to know about Orders in Council](#)" (last modified 24 November 2021). Government of Ontario.

⁹⁸⁵ See e.g. "[List of Regulations](#)" (last updated 2 January 2019), online: Government of Canada. "[Statutes and Regulations](#)" (last visited 2 May 2023), online: Law Central Alberta.

Statute and Statutory Power:

A statute is a written law that has been passed by federal Parliament or a provincial or territorial Legislative Assembly. All Acts referred to in this document are statutes. Statutes may grant power to Ministers, Directors, or to Cabinet to make regulations or orders. These powers are collectively referred to as 'statutory powers.'

Appendix II: IUCN Protected Area Categories

The International Union for Conservation of Nature (IUCN)'s Protected Area Management Categories classify protected areas based on their management objectives. These categories are recognized by international bodies and many national governments as setting the global standard for recognizing and defining protected areas.⁹⁸⁶

Ia Strict Nature Reserve⁹⁸⁷

Definition:

- “Category Ia are strictly protected areas set aside to protect biodiversity...where human visitation, use and impacts are strictly controlled and limited to ensure protection of the conservation values.”

Primary Objective:

- To conserve sensitive ecosystems and species

Additional Objectives:

- Protect ecosystems and species in as natural a state as possible
- To support environmental monitoring and research
- To minimise disturbance
- To conserve cultural and spiritual values associated with nature

Ib Wilderness Area⁹⁸⁸

Definition:

- “Category Ib protected areas are usually large unmodified or slightly modified areas, retaining their natural character and influence, without permanent or significant human habitation, which are protected and managed so as to preserve their natural condition.”

Primary Objective:

- To protect ecological integrity of undisturbed natural areas for present and future generations

Additional Objectives:

- To provide public access in a manner consistent with maintaining wilderness character for present and future generations
- To support Indigenous communities in maintaining traditional lifestyles and customs

⁹⁸⁶ Nigel Dudley (ed.) “[Guidelines for Applying Protected Area Management Categories](#)” (last visited 18 April 2023), at x, online (pdf): *IUCN*

⁹⁸⁷ *Ibid*, at 13

⁹⁸⁸ *Ibid*, at 14

- To protect cultural and spiritual values and non-material benefits of wilderness
- To support low-impact educational and scientific activities

II National Park⁹⁸⁹

Definition:

- “Category II protected areas are large natural or near natural areas set aside to protect large-scale ecological processes, along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible spiritual, scientific, educational, recreational and visitor opportunities.”

Primary Objective:

- To protect biodiversity while promoting education and recreation

Additional Objectives:

- To protect representative ecosystems in as natural a state as possible
- To support native species and ecosystem integrity
- To conserve wide-ranging species
- To manage visitor use to allow for inspirational, educational, cultural, and recreational benefits while preventing significant degradation
- To account for the needs of Indigenous people and local communities, provided these do not adversely affect the primary objective
- To contribute to local economies through tourism

III Natural Monument or Feature⁹⁹⁰

Definition:

- “Category III protected areas are set aside to protect a specific natural monument, which can be a landform, sea mount, submarine cavern, geological feature such as a cave or even a living feature such as an ancient grove. They are generally quite small...and often have high visitor value.” (p.17)

Primary Objective:

- To protect natural features and associated biodiversity

⁹⁸⁹ Nigel Dudley (ed.) “[Guidelines for Applying Protected Area Management Categories](#)” (last visited 18 April 2023), at 16, online (pdf): *IUCN*

⁹⁹⁰ *Ibid*, at 17.

Additional Objectives:

- To protect biodiversity
- To protect specific natural sites with spiritual, cultural, and biodiversity values

IV Habitat/Species Management Area⁹⁹¹

Definition:

- “Category IV protected areas aim to protect particular species or habitats... Many...will need regular, active interventions to address the requirements of particular species or to maintain habitats, but this is not a requirement...”

Primary Objective:

- To protect and restore species and habitats

Additional Objectives:

- To protect biological features
- To protect habitat fragments to support landscape-scale conservation
- To support public education and appreciation of the species and habitats protected
- To provide urban residents with opportunities for regular contact with nature

V Protected Landscape/Seascape⁹⁹²

Definition:

- “A protected area where the interaction of people and nature over time has produced an area of distinct character with significant ecological, biological, cultural and scenic value; and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values.”

Primary Objective:

- To protect landscapes/seascapes and their associated values created through traditional management practices

Additional Objectives:

- To support balanced interactions between nature and culture by protecting landscapes/seascapes and associated traditional management approaches
- To support species associated with cultural landscapes
- To provide opportunities for recreation and tourism

⁹⁹¹ Nigel Dudley (ed.) “[Guidelines for Applying Protected Area Management Categories](#)” (last visited 18 April 2023), at 19 online (pdf): *IUCN*

⁹⁹² *Ibid*, at 20.

- To provide natural products and environmental services
- To support active community involvement in landscape/seascape management
- To provide models of sustainability for educational purposes

VI Protected area with sustainable use of natural resources⁹⁹³

Definition:

- “Category VI protected areas conserve ecosystems and habitats, together with associated cultural values and traditional natural resource management systems. They are generally large, with most of the area in a natural condition, where a proportion is under sustainable natural resource management and where low-level non-industrial use of natural resources compatible with nature conservation is seen as one of the main aims of the area.”

Primary Objective:

- To protect ecosystems and use natural resources sustainably

Additional Objectives:

- To promote the sustainable use of natural resources
- To provide local social and economic benefits
- To support intergenerational security
- To integrate cultural approaches, belief systems, and worldviews in conservation
- To work towards developing a more balanced relationship between humans and nature
- To support sustainable development
- To facilitate scientific research and environmental monitoring
- To support recreation and small-scale tourism

⁹⁹³ Nigel Dudley (ed.) “[Guidelines for Applying Protected Area Management Categories](#)” (last visited 18 April 2023), at 22, online (pdf): *IUCN*

Appendix III: Relevant UNDRIP Provisions⁹⁹⁴

Article 11

1. Indigenous peoples have the right to practise and revitalise their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites [...] [and] ceremonies [...]

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies [and] the right to maintain, protect, and have access in privacy to their religious and cultural sites [...]

Article 13

1. Indigenous peoples have the right to revitalise, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings [...]

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that can affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

⁹⁹⁴ [United Nations Declaration on the Rights of Indigenous Peoples](#), GA Res 61/295, UNGAOR, 61st Sess, Supp No 49 (2007).

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use [...]
3. States shall give legal recognition and protection to these lands, territories and resources [...]

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Appendix IV: Relevant Kunming-Montreal Global Biodiversity Framework Targets⁹⁹⁵

TARGET 1

Ensure that all areas are under participatory, integrated and biodiversity inclusive spatial planning and/or effective management processes addressing land- and sea-use change, to bring the loss of areas of high biodiversity importance, including ecosystems of high ecological integrity, close to zero by 2030, while respecting the rights of indigenous peoples and local communities.

TARGET 3

Ensure and enable that by 2030 at least 30 per cent of terrestrial and inland water areas, and of marine and coastal areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed through ecologically representative, well-connected and equitably governed systems of protected areas and other effective area-based conservation measures, recognizing indigenous and traditional territories, where applicable, and integrated into wider landscapes, seascapes and the ocean, while ensuring that any sustainable use, where appropriate in such areas, is fully consistent with conservation outcomes, recognizing and respecting the rights of indigenous peoples and local communities, including over their traditional territories.

TARGET 5

Ensure that the use, harvesting and trade of wild species is sustainable, safe and legal, preventing overexploitation, minimizing impacts on non-target species and ecosystems, and reducing the risk of pathogen spillover, applying the ecosystem approach, while respecting and protecting customary sustainable use by indigenous peoples and local communities.

TARGET 7

Reduce pollution risks and the negative impact of pollution from all sources by 2030, to levels that are not harmful to biodiversity and ecosystem functions and services, considering cumulative effects, including: (a) by reducing excess nutrients lost to the environment by at least half, including through more efficient nutrient cycling and use; (b) by reducing the overall risk from pesticides and highly hazardous chemicals by at least half, including through integrated pest management, based on science, taking into account food security and livelihoods; and (c) by preventing, reducing, and working towards eliminating plastic pollution.

⁹⁹⁵ Conference of the Parties to the Convention on Biological Diversity. [Kunming-Montreal Global biodiversity framework](#). December 15, 2022.

TARGET 9

Ensure that the management and use of wild species are sustainable, thereby providing social, economic and environmental benefits for people, especially those in vulnerable situations and those most dependent on biodiversity, including through sustainable biodiversity-based activities, products and services that enhance biodiversity, and protecting and encouraging customary sustainable use by indigenous peoples and local communities.

TARGET 21

Ensure that the best available data, information and knowledge are accessible to decision makers, practitioners and the public to guide effective and equitable governance, integrated and participatory management of biodiversity, and to strengthen communication, awareness-raising, education, monitoring, research and knowledge management and, also in this context, traditional knowledge, innovations, practices and technologies of indigenous peoples and local communities should only be accessed with their free, prior and informed consent,[2] in accordance with national laws.

TARGET 22

Ensure the full, equitable, inclusive, effective and gender-responsive representation and participation in decision-making, and access to justice and information related to biodiversity by indigenous peoples and local communities, respecting their cultures and their rights over lands, territories, resources, and traditional knowledge, as well as by women and girls, children and youth, and persons with disabilities and ensure the full protection of environmental human rights defenders.