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What We Heard

about proposed general regulations under the

Canada National Marine Conservation Areas Act

from **Indigenous peoples** and general **public engagement**

April 2024





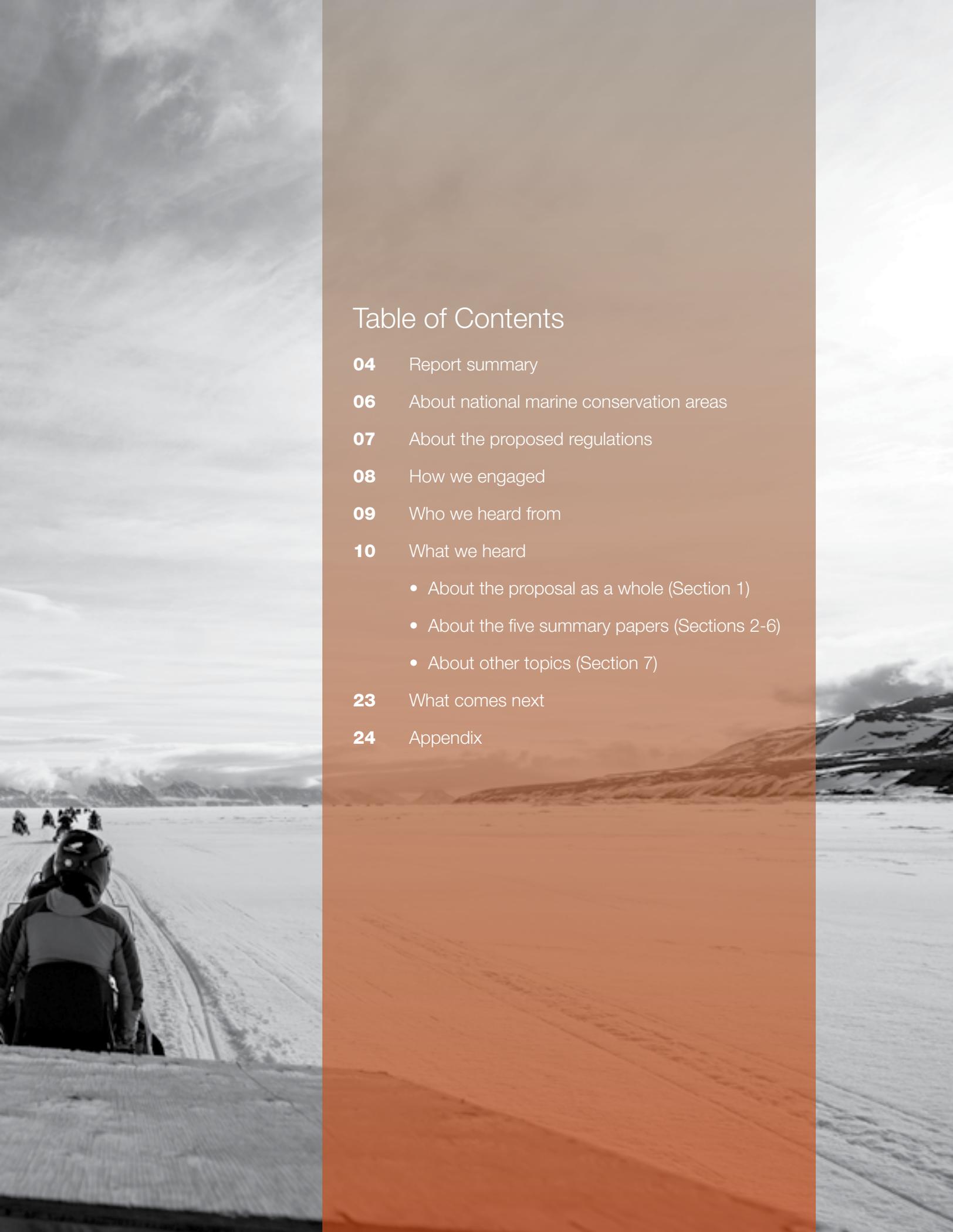


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Report summary

This What We Heard Report provides a summary of feedback Parks Canada received from Indigenous peoples and the general public between April 11 and October 15, 2023, on a proposal to develop new regulations for national marine conservation areas. These regulations will contribute to protecting and managing an expanding network of national marine conservation areas in accordance with the purpose and requirements of the *Canada National Marine Conservation Areas Act* (the Act). The goal of the regulations is to protect ecosystems and cultural, historical, and archaeological resources while helping to ensure sustainable use and enjoyment of national marine conservation areas. This report provides an overview of the engagement process and describes the written feedback we received.

During the engagement period, we heard from Indigenous organizations, provincial and territorial governments, tourism and other commercial operators, environmental groups, and the public. We received feedback from coast to coast and the Great Lakes.

Thank you to all those who participated in the engagement process. We appreciated the opportunity to discuss the regulatory proposal with a wide range of organizations and individuals. We are also grateful to everyone who took the time to put their thoughts and input into writing. The valuable insights you shared will help us refine and strengthen the proposal.

Overall, the feedback recognized the importance of regulations for national marine conservation areas.



We heard that biodiversity, ecosystems, and cultural resources should receive a high level of protection. We heard that any regulations must respect Indigenous rights, treaties, and knowledge. We heard about the importance of sea ice to Arctic ecosystems and to Inuit cultural continuity and livelihoods. And finally, we heard about challenges that could come with regulations.

For example, those who submitted comments talked about the potential for duplicating processes and increasing administrative burden, the need to streamline government processes across agencies and departments where possible, and how adding red tape and extra paperwork could create barriers for certain groups.

We considered the comments we had received as we worked to revise the scope and content of the proposal. The next steps for developing regulations will include a chance to review and comment on the draft text of the proposed regulations. Opportunities for future engagement will be advertised on Parks Canada's website.

Thank you to everyone who took the time to share their perspectives on the initial regulatory proposal.

Please stay connected

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About national marine conservation areas

The Government of Canada is committed to protecting Canada's marine and freshwater environments. It has made international commitments under the Convention of Biological Diversity to establish and effectively manage marine protected areas. Around the world, the creation of marine protected areas for long-term conservation is seen as a nature-based solution to address the challenges of biodiversity loss and climate change.

Parks Canada's mandate is to protect and present nationally significant examples of natural and cultural heritage. National marine conservation areas protect and conserve representative marine areas for the benefit, education, and enjoyment of the people of Canada and the world.

There is a growing network of national marine conservation areas in Canada. As of late 2023, only Gwaii Haanas National Park Reserve, National Marine Conservation Area Reserve and Haida Heritage Site was fully established under the Act. Other sites are in the process of being protected under the Act or are protected under separate legislation.

National marine conservation areas include submerged lands (seafloor) and the water and ice above them. They can also include wetlands, estuaries, islands, and other coastal lands. National marine conservation areas offer enjoyable experiences for visitors, promote awareness and understanding of natural and cultural heritage among Canadians, and provide social and economic benefits for Indigenous peoples and coastal communities.

Within the boundaries of national marine conservation areas, the Act and the future regulations seek to protect ecosystems and cultural, historical, and archeological resources while enabling a range of ecologically sustainable activities and uses. Activities and uses that occur in national marine conservation areas require active

management to ensure that ecosystems and resources are protected for future generations. The proposed regulations will help ensure that activities and uses occurring within these areas are conducted in an ecologically sustainable way. The regulations will provide clarity and transparency to partners and stakeholders exploring the feasibility of establishing national marine conservation areas. They will also help Parks Canada carry out the decisions of management boards for these areas.

The proposed regulations will not apply to activities and uses connected with the rights of Indigenous peoples and Indigenous traditional, spiritual, or ceremonial practices.

Canada has five existing national marine conservation areas and national marine parks:

- Gwaii Haanas National Park Reserve, National Marine Conservation Area Reserve and Haida Heritage Site in the Pacific Ocean
- Tallurutiup Imanga National Marine Conservation Area in the Arctic Ocean
- Lake Superior National Marine Conservation Area and Fathom Five National Marine Park in the Great Lakes
- Saguenay-St. Lawrence Marine Park in the St. Lawrence and Saguenay Rivers*

There are many other proposed sites in the Atlantic, Arctic, and Pacific oceans. At the time of the publication of this report, seven proposed sites across Canada are undergoing an active feasibility assessment.

*Saguenay-St. Lawrence Marine Park is established under separate federal and provincial legislation and has its own regulations.



About the proposed regulations

We developed a series of five summary papers describing the regulatory proposal. These were meant to introduce Indigenous peoples and the general public to early thinking on the themes and topics that could be covered by the regulations. We also developed a background document to provide context for the development of the proposed regulations.

The summary papers cover:

- Visitor experience and public use
- Research and collections
- Protection of natural and cultural heritage
- Commercial activities and special events
- Zoning and area-based management

The summary papers outline activities that could be prohibited, or in some circumstances restricted, within national marine conservation areas. They describe proposed permit requirements and other kinds of authorizations for commercial tourism, research, and other activities. The summary paper on zoning and area-based management outlines proposed regulatory strategies for managing how and where different activities take place in national marine conservation areas.

How we engaged

Direct engagement

We launched the engagement process in early April 2023 by contacting 441 organizations and individuals we thought might have an interest in the proposed regulations. Indigenous engagement took place alongside public and stakeholder engagement. Between early April and October 15, 2023, we hosted 39 meetings about the regulatory proposal.

Engagement process

 **441** Organizations contacted

149  Indigenous organizations

39  Governmental organizations (e.g., provincial, territorial, municipal)

62  Environmental non-governmental organizations

132  Fisheries, navigation, aviation, and tourism organizations

59  Other non-governmental (e.g., recreation, research, youth, management)

39  Meetings

73  Submissions received

20  Indigenous organizations

19  Non-indigenous organizations

Online engagement

Our online engagement began on April 11, 2023. The www.letstalknmcas.ca website provided an opportunity for all Canadians to learn about and offer feedback on the regulatory proposal. The website was published in both official languages as well as the North Baffin dialect of Inuktitut. We posted an online survey asking what people thought about the proposed regulations and requesting their ideas on improving them. The online survey was available until June 8, 2023 (World Oceans Day).

We promoted the engagement opportunity through a social media campaign, which reached more than 500,000 unique accounts. We also shared information about the chance to provide feedback at national and regional conferences, in workshops and meetings, and through newsletters.

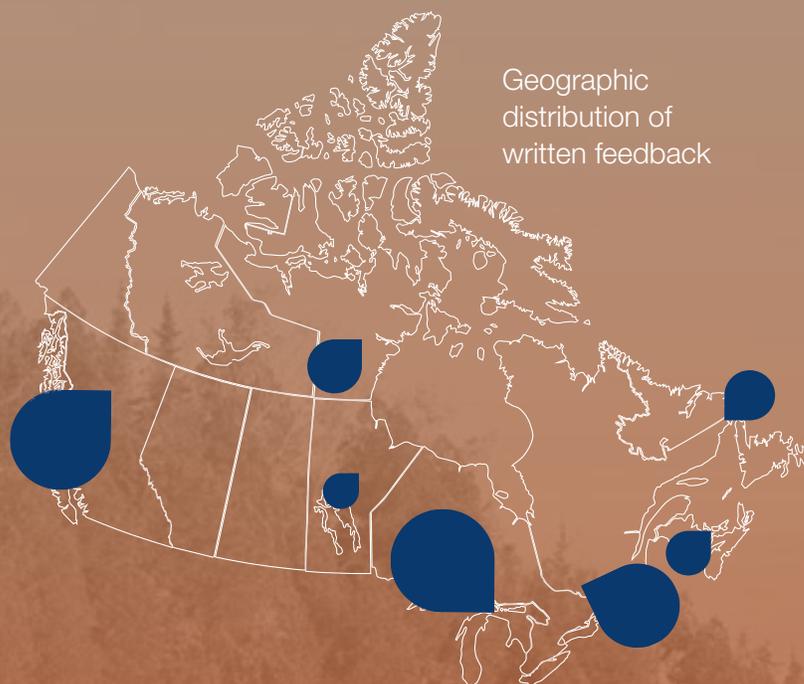


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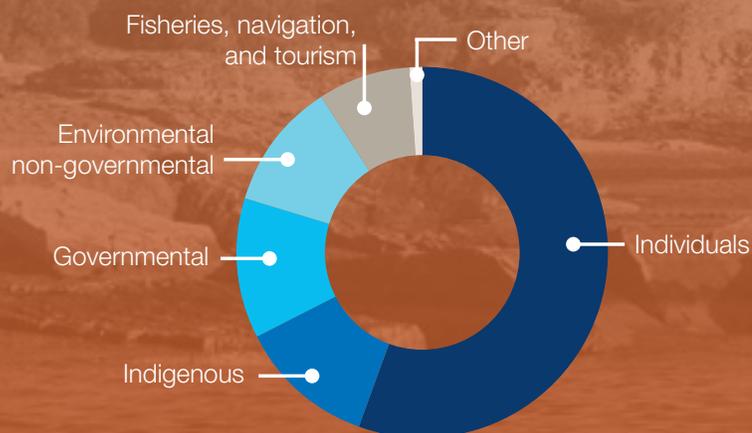
Who we heard from

We received written feedback from 73 organizations and individuals representing most regions of Canada, with most coming from coastal regions and the Great Lakes. We heard from those in a variety of sectors with connections to marine and Great Lakes issues and management.

For a complete list of organizations that provided written feedback, please see the appendix.



Distribution of written feedback based on sector





What We Heard

We received wide-ranging comments and suggestions. Some people provided feedback directly related to the proposed regulations but not necessarily connected to a specific summary paper. We outline this feedback in Section 1. Many of those who submitted comments focused on a particular theme or a specific aspect of the proposal as outlined in the summary papers. You can find a summary of these comments in sections 2 to 6. Comments that were unique to First Nations, Inuit, and Metis individuals and organizations are highlighted in the relevant sections. In some cases, respondents also suggested broadening the scope of the proposed regulations to include additional topics. These ideas are captured in Section 7.

Some of the feedback did not address the proposed regulations but offered ideas about the national marine conservation area program overall. For example, commenters provided their perspectives on the [Policy on the Establishment and Management of National Marine Conservation Areas, the establishment process, and the national zoning framework](#). Others addressed topics related to the operation and management of national marine conservation areas like ecologically sustainable uses and cultural heritage standards and practices.

We also heard about the importance of early and active engagement with Indigenous organizations, provinces and territories, and stakeholders at every step of the process – from the establishment of national marine conservation areas to their day-to-day operation. Since those comments did not pertain directly to the development of the regulations, they will not be addressed in greater depth in this report. However, they contain important feedback and will be taken into consideration for the management of national marine conservation areas.

Section 1.

What we heard broadly about the regulatory proposal

In general, we heard that regulations could help advance important goals for national marine conservation areas and that the approaches we proposed in the summary papers seem appropriate. Respondents identified important goals that could be supported through the development of regulations:

- Biodiversity and nature protection
- Contributing to the well-being of Indigenous peoples and coastal communities
- Supporting tourism activities

Those who provided feedback expressed differing views about how the goals should be prioritized. Some maintained that biodiversity protection and ecosystem conservation should take precedence over all other objectives. Others affirmed that the proposed regulations should seek to balance conservation goals with economic opportunities and sustainable uses and that they should consider impacts on businesses, property owners, and others.

“ We support Parks Canada in its intention to develop regulations that contribute to the well-being of Indigenous peoples and coastal communities. Deep and meaningful consultation with Indigenous groups, communities, organizations, and individuals potentially impacted by these Regulations is required to achieve this goal. ”

We heard the following general messages from Indigenous organizations:

- National marine conservation area regulations and program implementation must respect Aboriginal and treaty rights, along with other foundational documents and principles such as the United Nations Declaration on the Rights of Indigenous Peoples.
- The proposed regulations should not apply to rights-based activities, nor should they apply to modern infrastructure and technologies – like seasonal camps and powerboats – required for the exercise of those activities.
- Co-governance structures and formal Crown agreements should be recognized in regulations. Agreements can provide clarity about Indigenous-led activities that should be exempt from the regulations.
- Indigenous partners must be involved in decisions related to the implementation of regulations. Some partners highlighted their interest in having formal authority for issuing permits and conducting law enforcement delegated to them by the minister.



- Sea ice is an integral part of Arctic ecosystems and essential to Inuit cultural continuity and livelihoods. Therefore,
 - regulations should provide the same level of protection for sea ice as they do for land and water, and
 - activities and infrastructure need to be managed to ensure that the structure and function of sea ice are not compromised.
- Parks Canada should clarify how different pieces of federal legislation, policies, and Indigenous laws interact and work collaboratively with Indigenous partners to address conflicts.

“*Sea ice in Tallurutiup Imanga National Marine Conservation Area is typically present and used by Inuit from early November to late June, meaning that for 2/3 of the year, the sea is effectively “land.” Sea ice is used by a range of users, whether for commercial tourism, outfitting, research, or the exercise of Inuit rights. If a set of regulations is being developed to manage potential use conflicts and adequately protect the environment within this NMCA, the sea ice must be explicitly considered in those regulations.*”

Several non-Indigenous organizations shared similar perspectives about the importance of upholding Aboriginal rights and title, clearly identifying exemptions for rights-based activities, and supporting co-management or co-governance arrangements.

Other respondents also identified several important ideas for us to consider while developing the regulations:

- Ensure decisions to prohibit or restrict activities are based on scientific evidence.
- Build in flexibility to respond to external and internal pressures such as climate change or new fishing methods.
- Work with provincial and territorial governments to explore the potential implications of regulations for the management of lands within or adjacent to national marine conservation areas.
- Recognize that national marine conservation areas in the Great Lakes environments may require different policies and regulations than other marine areas.
- Broaden the application of the proposed regulations to all marine areas administered by Parks Canada, not just national marine conservation areas.
- Provide further engagement opportunities during the regulatory development process.

“ We recognize the work done by Parks Canada staff alongside their counterparts at Fisheries and Oceans Canada, Transport Canada, and Natural Resources Canada to develop the minimum protection standards and the significance of the policy in ensuring that new federally designated protected areas meet a basic level of protection. Officially reflecting the minimum standards in the regulations will ensure that the minimum standards are applied as intended in the long term, regardless of future political contexts. ”

Section 2.

What we heard about the protection of natural and cultural heritage

The summary paper about natural and cultural heritage describes proposed ways of strengthening protections for flora, fauna, and archaeological, historical, and cultural resources within a national marine conservation area. These include both general prohibitions and permit requirements.

Whether respondents were thinking of plants, animals, ecosystems, sea ice, cultural resources, or visitor experiences, the importance of protecting natural and cultural heritage within national marine conservation areas was a major theme. Some of those who commented highlighted the need to support the sustainable use of marine ecosystems and renewable resources.

We heard the following feedback from Indigenous organizations:

- Parks Canada should ensure that general prohibitions to protect natural and cultural heritage do not create barriers to Indigenous peoples' cultural practices.
- Indigenous partners should be notified of any archaeological discoveries and any potential impacts permitted activities might have on archaeological resources.
- A definition of "cultural resources" is needed.

Other commenters made the following points:

- The proposed regulations should not provide too many exceptions, or exceptions that are too general to ensure a high degree of protection for ecosystems and other resources.
- The proposed regulations should be consistent with the protection standard for federal marine protected areas.* For example, they should include prohibitions on bottom-trawl fishing, disposal of substances in the ocean, and operational discharges from vessels.
- Prohibitions on bottom-trawl gear should not be part of the regulations. Instead, they should be assessed on a case-by-case basis based on the conservation objectives of each site.
- The *Fisheries Act* and *Shipping Act* do not provide enough protection from unsustainable fishing and shipping within national marine conservation areas. Additional regulatory tools may be needed.
- Parks Canada should not limit or restrict fishing methods or the harvest of specific species.
- Parks Canada should not regulate shipping or any related activities and infrastructure.
- Some of the terms used to describe the general prohibition against damaging natural heritage would benefit from more description or clarification.
- Increased protection of cultural heritage could decrease visitor access to shipwrecks and other underwater cultural heritage.

*The Federal Marine Protected Areas Protection Standard (<https://www.dfo-mpo.gc.ca/oceans/mpa-zpm/protection-standard-norme-protection-eng.html>) provides clarity and consistency on prohibited activities in federal marine protected areas, including in national marine conservation areas.



“ I am an outfitter and commercial tourism operator affected by these proposals. I am generally in favour of the spirit of these proposals. My general comment is about timelines for approvals of commercial permits. People visiting these places like to plan ahead. If we could have a multi-year permit, secured many months or even years ahead of time, we could plan with confidence. The annual reapplication with uncertain timelines results in a lot of stress for outfitters and tourism operators. **”**

Section 3.

What we heard about commercial activities, special events, and other forms of land use

The summary paper about commercial activities and special events focuses on commercial tourism activities, filming and photography, and special events. It also covers authorizations for commercial facilities that might use or occupy land, including submerged land. Feedback covered ideas for permitting processes, potential exemptions from permit and authorization requirements, and areas where more regulation might be required.

Leases and licences are examples of land use authorizations that Parks Canada might issue for facilities or infrastructure like docks and underwater cables.

All commercial activities related to tourism and visitation, such as boat tours, charters, and shuttle services, would require a commercial activity permit.

Indigenous organizations provided the following feedback:

- The concept of “land use” needs to include sea ice, which is not viewed separately from land in the Inuit understanding of the environment.
- The proposed regulations should cover temporary facilities and infrastructure installed on sea ice.
- The commercial activity permitting process should consider the scale and amount of commercial tourism activity.
- Some Indigenous community events, such as community hunts, commemorative events, and youth learning opportunities, should be exempt from special event permits or commercial activity permits.

Other respondents commented on land use authorizations:

- Some commercial facilities, like industrial-scale aquaculture and commercial renewable energy projects, should be prohibited in national marine conservation areas.
- Land use proposals should be evaluated using the precautionary principle.
- High standards should be applied to assess the environmental impacts of land use proposals, and Parks Canada should oversee the monitoring of approved projects.
- Land use authorization should be compatible with provincial authorization systems to ease the transition to federal ownership and responsibility that accompanies the formal establishment and protection of national marine conservation areas.

Here is what respondents had to say about commercial activity permits:

- Permits for commercial activities should prioritize local, small-scale, and sustainable ventures.
- Commercial activity permitting processes should be designed to provide more certainty for commercial tourism operators.
- Parks Canada should provide commercial activity permits to tourism operators for longer terms than the current one-year standard.
- Parks Canada should review commercial activity permits on a regular schedule.
- Parks Canada should engage with and educate commercial tourism operators to reduce the potential for non-compliance.

What we heard in general about processes for issuing permits and other authorizations

Four of the five summary papers include information about activities or uses that would require a permit or another kind of authorization. We received comments that apply to all the different kinds of permitting or authorization processes that could be implemented in a national marine conservation area.

Overall, we heard that minimizing the cost and administrative burden associated with new requirements will be important when implementing them. We also heard that we should work to streamline future permitting and authorization processes. Participants had the following specific recommendations:

- Provide more information and transparency in permitting and authorization processes and associated fees.
- Simplify application processes and streamline reporting requirements.
- Work with other jurisdictions to coordinate processes. This might involve leveraging other regulatory tools and permitting.
- Explore economic opportunities for Indigenous partners from fees associated with permits.



Section 4.

What we heard about research and collection

The summary paper about research and collection outlines the importance of scientific, display, or educational programs to support the management goals of national marine conservation areas. Many of the comments we received supported the proposed approach.

Here is what we heard from Indigenous organizations:

- Research permitting requirements for Indigenous peoples should be waived.
- The requirements of formal agreements to streamline the permitting process for Indigenous partners should be honoured.
- Researchers should be required to
 - follow the application processes and protocols of Indigenous communities for new proposals,
 - develop agreements or protocols with Indigenous communities concerning research,
 - include community members in research activities, and
 - avoid research and collection activities in sacred sites within national marine conservation areas.

Other respondents said the following:

- Applicants should be allowed to reuse permit information provided to other government organizations or permits issued by those organizations.
- Fisheries surveys and stock assessments mandated by Fisheries and Oceans Canada, including surveys and assessments conducted using contact gear, should be exempt from the research permit requirements.
- Intergovernmental agreements for information or data-sharing should be developed.
- Research related to climate change and national marine conservation area management goals and objectives should be prioritized. Non-extractive, low-impact research methods should be used.
- Permitting processes of other jurisdictions and Indigenous partners should be clearly communicated to applicants.
- Research proposals and results should be made publicly available.

Section 5.

What we heard about visitor experience and public use

The summary paper about visitor experience and public use outlines the proposed intent for managing activities like recreational boating, camping, and diving.

Feedback generally supported the use of national marine conservation areas for recreation, exploration, and access to significant natural and cultural heritage.

Indigenous organizations submitted the following input:

- Regulations should ensure Indigenous harvesting is not disrupted by visitor use.
- Activities that take place on sea ice, like recreational camping and use of motorized vehicles, should be treated in the same way as activities on dry or submerged lands and in the water column.

Here is what we heard from other respondents:

- Visitors should not require permits or bookings to camp in national marine conservation areas.
- Parks Canada can help visitors follow rules by using visitor education programs, public notices, and stricter fines. It will also be helpful if the regulations at national marine conservation areas are the same as the rules at other protected areas.

“ Acknowledging that fully protected areas yield better biodiversity outcomes, the regulation should reflect an intention towards the highest protection level possible. The language employed in the regulations must more explicitly state that visitor experience and sustainable use shall not supersede the importance of environmental protection and conservation. While exceptions must be present for well-being and cultural/traditional use, conservation shall be maintained as the priority. ”



“ We are pleased to note that [in the summary papers] there is the inclusion of temporary closures, restrictions, and prohibitions rather than relying only on static, permanent measures. The marine environment is constantly moving and shifting, especially as a result of climate change, which requires the need for flexible, dynamic approaches to conservation efforts. **”**



Section 6.

What we heard about zoning and area-based management

The summary paper about zoning and other area-based management outlines ways of prohibiting or restricting activities and uses within defined spaces in national marine conservation areas. The three measures include zoning, special management areas, and temporary closures.

Feedback common to all three measures emphasized the potential for social and economic impacts on communities and other sectors such as tourism and fishing.

We received the following feedback about zoning:

- The majority, or all, of a national marine conservation area should be placed in a fully protected zone. This long-term policy target should be entrenched in regulations.
- Parks Canada should support the sustainable use of marine ecosystems for activities such as fishing and hunting through zoning.
- Regulations can be used to strengthen protection in ecologically sustainable use zones, through, for example, prohibitions on anchoring and restrictions on certain types of infrastructure.
- The potential negative social and economic impacts of full protection zones might be avoided or mitigated by supporting community-based projects such as community science and habitat restoration, tourism, and other ecologically sustainable activities.
- More information about how zoning regulations will interact with the management planning process at sites is necessary.

ZONING

Zoning is the process of dividing a national marine conservation area into different areas in order to delineate where certain activities can and cannot take place. Zoning plans are developed and reviewed on a ten-year cycle.

SPECIAL MANAGEMENT AREAS

Special management areas are shorter-term measures used to respond to conservation and management challenges that require customized prohibitions or restrictions within a specific part of a national marine conservation area.

TEMPORARY CLOSURES

Temporary closures, restrictions, and prohibitions would be used to quickly respond to emergencies or other pressing issues that require immediate attention. This authority would be limited to a 30-day period.

Here is what respondents had to say about special management areas and temporary closures:

We heard from Indigenous organizations that Indigenous partners should be involved at the earliest stages of creating special management areas. Both Indigenous organizations and other respondents also indicated that more information is needed about the process for identifying and consulting on special management areas and their potential uses, including adaptive management and facilitating Indigenous harvesting.

We received general support from other respondents for the use of special management areas and temporary closures as appropriate responses to conservation challenges and public safety in dynamic marine environments. We also heard that special management areas should be used to add additional protections to an area and not to remove prohibitions or to circumvent the zoning process.

Section 7.

What we heard about other topics

Some respondents advocated for broadening or revisiting the scope of the regulations to do the following things:

- Address national and international commitments to reduce carbon emissions, minimize biodiversity loss, and manage waste.
- Ensure the cumulative effects of activities and the carrying capacities of local communities and national marine conservation areas are considered in decision-making.
- Cover emerging activities that may need to be regulated in the future, like floating homes.
- Include mandatory standards for tourism operators, including training and operating requirements such as waste and carbon emissions reduction.
- Re-evaluate certain activities or uses identified in the summary papers, including drones and the harvesting of marine plants and invertebrates, to ensure the regulations will adequately cover all aspects of those activities and their potential impacts.



What comes next

We appreciate the contributions of everyone who has participated in the engagement process so far. The next opportunity for Indigenous and public comment will take place when the draft regulations are published in [Canada Gazette Part 1](#).



Parks Canada is committed to conserving marine and freshwater environments and has a responsibility to Canada and the world to protect and share examples of marine cultural and natural heritage. The revised *Policy for Establishment and Management of National Marine Conservation Areas* (2023) and the development of regulations under the *Canada National Marine Conservation Areas Act* will help ensure that representative examples of marine heritage in Canada are protected and conserved today, and for future generations.



Appendix

The following organizations provided written feedback to the backgrounder and five summary papers describing the regulatory proposal. Parks Canada received the comments between April and October 2023. This list does not include individual submissions to the website.

Assembly of First Nations

Association of Arctic Expedition Cruise Operators

Atlantic Healthy Oceans Initiative

Baffinland Iron Mines

BC Seafood Alliance

Bingwi Neyaashi Anishinaabek

Canadian Parks and Wilderness Society

Chamber of Shipping

Ecology Action Centre

Epekwitnewaq Mi'kmaq

Fisheries Council of Canada

Government of British Columbia

Government of Newfoundland and Labrador

Government of Nunavut

Government of Ontario

Green Party of Canada

Jackfish Métis Association

Maa-Nulth Treaty Society

Métis National Council

Nature Canada

Ontario Commercial Fisheries' Association

Ontario Federation of Anglers and Hunters

Owen Sound Transportation Company

Qikiqtani Inuit Association

Red Sky Métis Independent Nation

SeaBlue Canada

West Coast Environmental Law