




Consultation on the proposed
Coastal Protection Act
Regulations



What We Heard



Report of public input received during
the summer 2021 consultation period

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Consultation on the Proposed Coastal Protection Act Regulations: What We Heard

Department of Environment and Climate Change

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Minister's Message

As Minister of Environment and Climate Change, I am pleased to share the results of public consultation on the proposed regulations for the Nova Scotia *Coastal Protection Act*.

Nova Scotians are coastal people, and for generations our communities, economy, culture and well-being have been connected to the ocean and our coastal way of life. The ocean and the coastline, in many ways, define us as a people – strong, resilient, diverse.

We are experiencing the impacts of climate change every day in Nova Scotia – and nowhere are the impacts more evident than along our coast with more severe storms, sea level rise, storm surges and increased coastal flooding.

Our Government has committed to taking meaningful action on climate change. The *Environmental Goals and Climate Change Reduction Act* (EGCCRA) is our roadmap and includes commitments to reduce greenhouse gas emissions, a primary cause of climate change. However, even with reduced emissions, our coastline will increasingly face climate-change related risks in the coming decades, including sea level rise and more frequent and intense weather events. These risks combined with continuing development in coastal areas mean it is more important than ever to take meaningful action to prepare for, and adapt to, climate change. Failure to do so could result in devastating impacts to our coastal communities and ecosystems in the coming decades.

On February 28, 2022, the United Nations Intergovernmental Panel on Climate Change (IPCC) released its latest report on the consequences of inaction to the climate change crisis. The report is a reminder that we must work together – governments, the private sector and Nova Scotians – with increased resolve to take action which will ensure a sustainable and prosperous future for our province.

The Nova Scotia *Coastal Protection Act* is one of the ways we are taking the required action to prepare for the impacts of climate change. The Act will help ensure new development along our coast happens where it is less vulnerable to coastal flooding and erosion. At the same time, it will help avoid unnecessary interference with the dynamic nature of our coast and coastal ecosystems which Nova Scotians value for the habitat and natural protection they provide. While the Act provides the general framework for addressing these challenges, it is the regulations that will provide detailed and clear rules for what can be built on our coast and where.

Our consultation on the general content of the proposed regulations confirms that Nova Scotians hold a wide diversity of perspectives on how best to avoid increasing climate-related risks on our coasts. Our intent with this report is not to answer every question or directly address every comment we received. Instead, this report attempts to summarize and reflect the range of perspectives we heard. The submissions, questions we received and the discussions we had with all groups will be useful in helping us refine and finalize the regulations.

I would like to express my sincere thanks to all stakeholders and rights holders who took the time to share their thoughts with us.

The Honourable Timothy Halman

Minister
Nova Scotia Environment and Climate Change



Executive Summary

The *Coastal Protection Act* (the Act), passed by the Nova Scotia Legislature in 2019, aims to restrict development in places where it will put Nova Scotians and their property at risk from coastal erosion, sea level rise and coastal flooding in the coming decades, or where it will damage our valuable coastal ecosystems. Regulations will provide the detailed rules for implementation of the Act, and the Act will take effect once regulations are finalized.

To inform development of the regulations, the Province held a public consultation period during the summer and early fall of 2021, led by the Department of Environment and Climate Change (the Department). During this period, the Department received comments from the public, municipalities, professional associations, and organizations representing specific sectors and interest groups, and undertook consultation with the Mi'kmaq of Nova Scotia under the *Terms of Reference for a Mi'kmaq-Nova Scotia-Canada Consultation Process*. Department staff also met with Mi'kmaq organizations with an environmental focus, separate from the Terms of Reference Process. The Department posted information materials online that outlined the proposed content of the regulations and provided probing questions for respondents to consider. Comments were received through written submissions and during online meetings with various groups.

More than 250 individuals and organizations provided input on the proposed regulations. Input included suggestions, statements of support or concern, and questions or requests for more detail. Comments addressed five different elements of the regulations: effectiveness; the scope of activities regulated; the approach applied; the roles and responsibilities assigned to different actors; and other issues relating to rollout and implementation. The purpose of this report is to provide an overview of the input received.

Effectiveness

Most respondents felt the proposed regulations would be effective in achieving the aims of the Act. While some respondents felt that the regulations would place too many restrictions on development along the coast, others felt that the regulations were not restrictive enough and that, in particular, they could go further to protect coastal ecosystems. Some municipalities questioned the impact the proposed regulations would have on development in their area and the resulting impact on property values, assessments, and taxes. Common themes related to effectiveness included the need to protect sensitive ecosystems, the regulation of activities below the ordinary high-water mark, the importance of enforcement, and the protection of existing structures. Mi'kmaq organizations with an environmental focus sought more clarity on how the regulations would affect projects in coastal areas designed to restore or increase coastal ecosystems and questioned whether the regulations should require off-sets or alterations to coastal ecosystems.

The question of how the Act would interact with other federal and provincial legislation with related goals was raised as an issue requiring clarification.

Scope

Most comments regarding the proposed scope of the regulations were related to the structures and activities that would be exempt from the Act's requirements. Members of the general public who responded, in particular, felt that there were too many exemptions proposed and full exemptions should be limited wherever possible. Other common themes related to scope included how existing structures, shoreline structures, nature-based solutions and Crown land would be treated under the Act.

Approach

Nova Scotians expressed widespread support for the site-specific, science-based approach to regulation. The proposed regulations are intended to consider the expected the amount of sea level rise and erosion that Nova Scotia could experience over the next 80 years. This 80-year planning horizon was highlighted by many as a strength of the proposed regulations, as well as the site-specific process for determining horizontal development setbacks. Most who commented on the width of the Coastal Protection Zone (the band of coastline where the regulations would apply) thought the proposed width of 80–100 meters is reasonable, given the risks posed by coastal flooding and erosion, and many cited 100 meters as a minimum acceptable width. We also heard the importance of clearly delineating the zone and clarifying the high-water mark reference point. Though most respondents supported the proposed design of the Coastal Protection Zone, a few, including some municipalities, thought the zone was too wide or that a province-wide uniform width was not the right approach. We also heard that there was the need to increase public awareness of the purpose of the Coastal Protection Zone and its relationship to development setbacks.

Regarding the Coastal Erosion Risk Factor Assessment Standard, the proposed tool for assessing coastal erosion risk under the Act, much of the input came from organizations whose members are being considered as “designated professionals” – the individuals who would be authorized to use this tool to determine the horizontal setback for a specific site. Common themes included accuracy of measurement, training, record-keeping, and professional responsibility, the potential for liability and insurance. A primary concern was what version of the high-water mark the Province will use in delineating the Coastal Protection Zone. Respondents wanted to ensure the Province understood the importance of accurate measurement of this reference point.

Roles and Responsibilities

Municipalities provided much of the feedback regarding roles and responsibilities. While acknowledging the importance of adapting to climate change, some felt that the protection of coastal ecosystems was a provincial issue and related permitting and approvals should be issued at the provincial level. They sought clarification on the proposed role of municipal officials and expressed concern about available municipal capacity to incorporate modifications into existing permitting and compliance processes. Sector organizations and the general public also commented on the role of municipalities in implementing the Act and stressed the importance of clearly assigned enforcement roles and responsibilities. From professional organizations, comments centred on the types of professionals who would be designated under the Act and what specific qualifications would be required, what professions would be best qualified to locate the high-water mark, and the division of responsibilities related to training and certification.

Implementation

Transparent implementation of the Act, effective enforcement and strong compliance mechanisms were highlighted by many general public respondents as areas of concern. Respondents across all groups wanted to know when the Act would come into effect and many stressed that the regulations should be finalized as soon as possible. Other common themes across groups included the supply of designated professionals available to perform erosion risk assessments in a timely manner, implementation support for municipalities, integration with existing processes, and education and awareness-building surrounding the Act's requirements.



Introduction

About the Coastal Protection Act and the Proposed Regulations

Much of Nova Scotia’s 13,000 kilometers of coast is vulnerable to the harmful impacts of climate change. With current sea level rise projections and the increasing frequency and intensity of weather events, it is becoming more important for Nova Scotians to build in areas where their homes and businesses will be less likely to experience coastal flooding in the years ahead. Many parts of our coast are already experiencing serious erosion problems with the result that homes, cottages and other structures face the risk of serious damage. At the same time, the expensive actions we are then forced to take to defend structures built too close to the water – such as infilling and shoreline armouring – may actually accelerate the erosion process and reduces the natural resiliency of our coastline and its ability to shift and adapt.

To help prepare for climate change-related risks, the Government of Nova Scotia proposed legislation to help ensure development occurs where it will be safer from sea level rise and coastal erosion while reducing unnecessary interference with the dynamic nature of the coast and its valuable ecosystems. Public consultations in 2018 helped shape the Coastal Protection Act, which was passed by the Nova Scotia Legislature in 2019 and was an important step in fulfilling this commitment. The Act will help ensure development and construction occurs in locations where unnecessary disruption of coastal ecosystems and risks to homes and businesses from coastal flooding and erosion can be avoided. The Act will come into effect once regulations, which spell out the details of how the Act will work, are finalized and approved by Executive Council.

As proposed, the regulations will create a Coastal Protection Zone, a narrow band surrounding the province’s coast where rules will apply that determine where construction can occur within this zone. The regulations are not intended to stop responsible development along the coast. Instead, they are intended to ensure construction is located at a safer height and distance from coastal shorelines in order to reduce risks from sea level rise, coastal flooding, and coastal erosion in the coming decades. To help avoid these higher risk areas, two types of setbacks will apply to municipal building permits approvals. The first is a system of vertical setbacks which will be called minimum building elevations. This will be the minimum height above mean sea level for new construction and will be different for various areas along the coast because of differences in tides and storm surge risks. The second type of setback proposed will be a horizontal setback designed to help avoid future erosion risks. This type of setback will be determined by a designated professional in a specific manner, as outlined in the regulations. Landowners will need to hire a designated professional to determine the appropriate setback distance and submit the designated professional’s

report when applying for a building permit. Municipalities will be responsible for ensuring the proposed construction is consistent with both the minimum building elevation and the horizontal setback determined by the designated professional before approving a building permit. Repair and maintenance of existing structures will not be affected by the regulations unless the existing size of the structure increases.

The regulations will also affect the design, and in some cases, the location of structures along the shoreline that have the potential to interfere with the way our coast adapts its shape to natural ocean forces or otherwise damage coastal ecosystems. The focus here is on what happens on submerged Provincial Crown lands where permits issued by the Department of Natural Resources and Renewables are normally required for construction. The proposed regulations will prohibit the use of toxic materials in the water, ensure wharfs and similar structures are designed to minimize disruption of natural processes, and will restrict new shoreline stabilization to cases where it is necessary to protect existing structures against coastal erosion.



About the Public Consultation

The public consultation took place during the Summer and Fall of 2021. Two consultation documents, including an overview and a more detailed guide to the proposed content of the regulations, were posted online at www.novascotia.ca/coast. The documents included questions to help spur discussion.

The Province issued a press release and undertook supporting public communication activities to raise public awareness about the opportunity to participate. The public was invited to submit written comments by mail or email, through a dedicated email address. Department staff held online meetings with municipalities, environmental groups, and professional associations and invited other sector organizations to provide comment.

The Department engaged in consultation with the Mi'kmaq of Nova Scotia under the *Terms of Reference for a Mi'kmaq-Nova Scotia-Canada Consultation Process* as ratified on August 31, 2010. At the beginning of the public consultation, the Department notified the Assembly of Nova Scotia Mi'kmaw Chiefs, represented by the Kwilmu'kw Maw-Klusuaqn Negotiation Office (Mi'kmaq Rights Initiative), the Millbrook First Nation, and the Sipekne'katik First Nation of the consultation process. Terms of Reference consultation was ongoing at the time this report was made public, consequently input from this process is not included in this report.

Department staff also met with representatives of three Mi'kmaq groups as a part of the public engagement process outside of the Terms of Reference process. Input from this discussion is included in this report.

Written submissions

The Department received a total of 234 written submissions providing feedback on the proposed regulations. This included 206 submissions from individual members of the general public, 15 from municipalities, ten from organizations representing various interest groups (referred to here as "Sector Organizations") sectors, and three from associations representing potential designated professionals.

Table 1 – Written submissions received

Target Audience	Number of submissions
Individuals	206
Municipalities	<p>15</p> <p>Respondents:</p> <ul style="list-style-type: none"> • Municipality of the County of Antigonish • Municipality of the District of Argyle • Cape Breton Regional Municipality • Municipality of Chester • Municipality of Colchester • Municipality of the County of Cumberland • Municipality of East Hants • Halifax Regional Municipality • Eastern District Planning Commission • Municipality of the County of Richmond • Municipality of the District of Saint Mary's • Shelburne County (representing the Municipality of Barrington, Municipality of Shelburne, Town of Shelburne, Town of Lockport, Town of Clark's Harbour) • Municipality of the County of Victoria • West Hants Regional Municipality • Municipality of the Town of Yarmouth
Sector organizations	<p>10</p> <p>Respondents:</p> <ul style="list-style-type: none"> • Canoe Kayak Nova Scotia • Clean Foundation • CPAWS-NS • East Coast Environmental Law • Ecology Action Centre • Hike Nova Scotia • Insurance Bureau of Canada • Irving Shipbuilding • REALTORS Nova Scotia • Yarmouth Environmental Think Tank

Designated professional groups	3 Respondents: <ul style="list-style-type: none"> • Association of Nova Scotia Land Surveyors • Engineers Nova Scotia • Geoscientists Nova Scotia
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Consultation sessions

Between July 15th and September 30th, 2021, a total of 14 consultation sessions were held with municipalities, designated professional associations, Mi'kmaq organizations and other groups on a request basis. Sessions were hosted by the Department of Environment and Climate Change and held online, via the Microsoft Teams platform.

Table 2 - Consultation sessions hosted

Target Audience		Number of sessions	Number of participants
Municipalities		8	70
Designated Professions	Engineers Nova Scotia	1	11
	Association of Nova Scotia Land Surveyors	1	75
	Geoscientists Nova Scotia	1	20
Mi'kmaq organizations		1	
	Confederacy of Mainland Mi'kmaq		1
	Atlantic Policy Congress of First Nations Chiefs Secretariat		3
	Kwilmu'kw Maw-klusuaqn Negotiation Office (KMKNO)		1
Other	Inner Bay of Fundy Initiative	1	44 invited
	Fisheries and Oceans Canada	1	4
Total		14	Over 200

Table 3 – Municipalities registered for consultation sessions

Municipalities registered for consultation sessions:		
West: <ul style="list-style-type: none"> • Queens • Kings • Argyle • Barrington • Digby (Town) • Digby (District) • Yarmouth (Town) • Yarmouth (District) • Lockeport • Wolfville • Shelburne (District) • Shelburne (Town) 	Central: <ul style="list-style-type: none"> • HRM • Colchester • Cumberland • Chester • Amherst (Town) • Bridgewater • Oxford • Lunenburg (District) • Lunenburg (Town) • West Hants 	East: <ul style="list-style-type: none"> • CBRM • Victoria • Antigonish (County) • Richmond • Guysborough • St. Mary's • Eastern District Planning Commission (represents the Counties of Antigonish, Inverness, Richmond, Victoria and the Towns of Port Hawkesbury and Antigonish) • Port Hawkesbury • Inverness (County) • Pictou (District) • Pictou (Town) • New Glasgow
= 34 municipalities representing 71% of those invited		

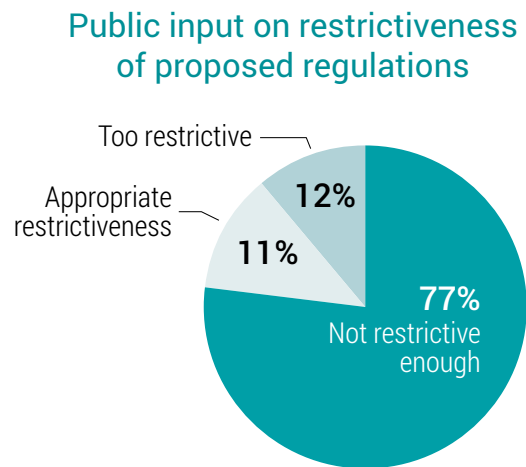
What We Heard

Effectiveness

The proposed regulations are intended to provide additional protection for coastal ecosystems and prevent development where it will be at risk from sea level rise and coastal erosion. The public was invited to provide input on whether the proposed regulations will achieve these two objectives.

Of the respondents that commented on effectiveness, most felt that the proposed regulations would meet the objective to prevent development where it would be at risk and built infrastructure would be adequately protected. However, respondents highlighted septic systems, wells, mobile homes, and existing structures as types of infrastructure potentially still at-risk and requiring additional attention.

A significant number of respondents expressed concern regarding the exemption of modifications to existing structures (including buildings and other built structures such as wharves, decks, and gazebos), and some suggested conditions be put in place for modifications to help ensure protection against sea level rise and coastal erosion. Less common, though heard from multiple individuals, was the suggestion to not exempt existing structures and instead require these be modified to meet regulatory standards to ensure they are protected. A small number of individuals, representing just under three per cent of all respondents, expressed concern that a landowner's freedom to develop their coastal land as they choose would be restricted. More common was concern around how the value of coastal real estate would be impacted by the regulations. About one quarter of the responding municipalities felt the regulations would restrict development too much, with most of these municipalities emphasizing the potential effects on development activity and property values.



Most respondents agreed that the regulations would provide additional protection for coastal ecosystems, though many – particularly respondents representing sector organizations and the general public – questioned whether the regulations go far enough to achieve this objective. A common concern was whether sensitive ecosystems such as wetlands, salt marshes and estuaries would be adequately protected. Many called for additional detail to ensure this, for example, clear definitions, criteria, and processes for determining sensitive areas, and some called for stricter development restrictions in certain sensitive areas. The need to protect the riparian zone was mentioned as an issue

requiring attention and some respondents called for the addition of a no-development, vegetative buffer zone along the shoreline edge of the Coastal Protection Zone to further protect coastal ecosystems. Another common concern raised by those who felt ecosystems may not be adequately protected was the need to regulate activities more strictly below the high-water mark, including infilling, armouring and shoreline stabilization, which pose special risk to coastal ecosystems and their ability to adapt to changing climate conditions. Respondents from all groups highlighted the need for effective enforcement to ensure coastal ecosystems are protected in practice.

Of those who provided written comments on the restrictiveness of the regulations, 77 per cent felt that the regulations were not restrictive enough and that they could go further to protect coastal ecosystems. Twelve per cent felt that the regulations were of appropriate restrictiveness, and 11 per cent felt that they were too restrictive and placed too many limitations on landowners.

Mi'kmaw organizations commented that clarification was needed on how the regulations might affect projects that are intended to restore or protect coastal ecosystems. As an example, one organization cited work undertaken with Ducks Unlimited. While these and similar projects could involve alterations to the natural shoreline, they are designed to enhance, rather than diminish coastal ecosystems. Other input questioned if scenarios had been considered that could trigger offsets for alteration of habitat.

Other topics relating to effectiveness included how the regulations would interact with other legislation governing ecosystem protection and infrastructure development, for example the Nova Scotia Beaches Act, the federal Species at Risk Act, and municipal building codes. Some respondents shared concerns about the potential complexity of overlapping Acts and sought reassurance that coastal protection would be regulated by other instruments where the CPA didn't apply. A few, particularly those representing municipalities, also commented on the level of government at which the regulations would be administered and enforced, and whether it is the best approach to achieve the regulatory objectives. These comments are discussed in the Roles and Responsibilities section of this report.

Sample Comments from Respondents:

- “We support the N.S. Coastal Protection Act and its twin objectives of protecting the coast from Nova Scotians and Nova Scotians from the forces of the coast.”
– *Sector organization*
- “We recognize the need to address the potential effects of climate change and coastal erosion and see the need to regulate development in high-risk coastal properties.”
– *Municipality*

- "The proposed regulations for building and maintaining shoreline structures seem thorough and not overly restrictive." – *Individual*
- "The regulation speaks about the procedures to prevent loss of land and infrastructure, but only minorly mentions the processes used to determine which sites have high ecological value and how those functions are going to be retained." – *Individual*
- "I support the new regulations. It's about time our waterfronts and ecology are better protected." – *Individual*
- "The purpose is to protect coastal ecosystems and structures, I'm happy to see both included." – *Individual*
- "Despite being one of the two main goals of the CPA, the current regulations favour development and protecting residential buildings from coastal impacts while not adequately providing protection for coastal ecosystems..." – *Municipality*
- "Council is concerned with how these regulations would affect the economic development of nearby rural communities." – *Municipality*

Scope

Most respondents commented on the scope of the regulations – for example, what development activities should be regulated and where. As proposed, the regulations would apply to new structures built on private land within a designated Coastal Protection Zone.

The majority of general public respondents and sector organizations thought that the scope of the regulations should be expanded, and a broader range of structures and activities should face development restrictions. Many emphasized the need to further restrict development activities below the ordinary high-water mark, such as shoreline armoring and infilling, and called for the scope of the regulations to include private water lots and tidal and submerged Crown land. Other respondents called for stricter regulation of shoreline structures above the high-water mark on private land. Septic systems and golf courses were mentioned across many general public submissions, especially, as development activities that should face development restrictions if proposed within the Coastal Protection Zone.

Municipalities sought more clarity as to how municipal parks, public roads, active transportation projects and undersized coastal lots would be treated. Respondents across all groups expressed a desire for the regulations to clearly support and encourage the use of natural shoreline armoring and other nature-based infrastructure approaches while discouraging the use of hard, built infrastructure approaches.

Many general public respondents and sector organizations felt there were too many exemptions proposed and that full exemptions should be limited wherever possible. Most of these respondents called for the regulations to apply to all private dwellings, including mobile homes and trailers, and many expressed concern over the exemption of modifications to existing structures. Some municipalities, however, were concerned the regulations placed too many restrictions on modifications to existing residential buildings and stressed that they should enable modifications that do not increase the structure's land footprint.

Some respondents suggested that, instead of exempting certain activities altogether, the regulations instead outline conditions that must be met when undertaking those activities. Instead of exempting modifications to existing structures, for example, the regulations could impose conditions that must be met when modifying a structure to bolster the structure's resilience and encourage nature-based solutions. Public infrastructure and commercial or industrial operations that need direct access to the water were other types of activities noted as potentially suitable for conditions instead of full exemption. Others, however, supported these exemptions and the flexibility provided for economic activity along the coast. Respondents requested clarification as to what constitutes a "developed downtown waterfront", with some municipalities expressing concern that the term may be too limiting. Though not within the scope of the Act, the need to ensure public access to the shoreline was raised in numerous submissions.

Sample Comments from Respondents:

- "Exemptions or modified requirements should also be available for municipal parks along the coastline." – *Municipality*
- "I encourage you to discover a way to include [public, commercial, and industrial operations that need direct access to water] in the regulations that recognize their operations while at the same time maintaining protections." – *Individual*
- "Working waterfronts require special consideration, but the focus should be on the working aspect of the waterfront." – *Individual*
- "Stronger measures are needed to minimize the hardening and armoring of the coast" – *Individual*
- "The proposed construction setback exemptions and modifications must be narrowed." – *Sector organization*
- "The regulations as proposed do not address coastal issues related to shoreline stabilization of private property and this matter must be addressed to effectively protect our coast. We must govern infilling, rock walls and seawalls and other forms of destruction to protect coastal ecosystems." – *Sector organization*

Approach

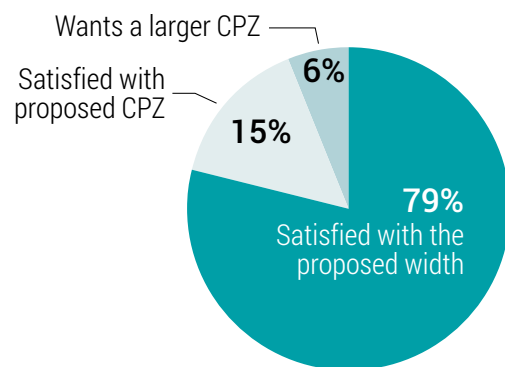
In general, respondents expressed support for the science-based approach of the proposed regulations. The proposed regulations are intended to consider the expected the amount of sea level rise and erosion that Nova Scotia could experience over the next 80 years. The 80-year planning horizon was highlighted by many as a strength of the regulatory approach, as was the site-specific process for determining horizontal setbacks.

The Coastal Protection Zone

Most respondents thought the Coastal Protection Zone should be no less than 100 meters wide. Of those that commented on the width of the zone, 79 per cent thought the proposed 80–100m was adequate, 6 per cent thought it should be wider and none thought it should be less than what was proposed. Fifteen per cent suggested a different approach; all of these respondents wanted a more context-specific, granular approach to determining the area where development restrictions would apply. Some municipalities in particular were concerned that a single, province-wide zone width was too much of a “one-size-fits-all” approach and suggested the width be determined locally and informed by studies done at the municipal level. A few others suggested the zone be extended landward until the minimum building elevation is met to allow for the setbacks in vulnerable areas further than 100 meters inland from the high-water mark.

A common point of feedback from respondents was the need for the regulations to provide clear direction on how to locate the ordinary high-water mark, which was proposed as a possible reference line for delineating the Coastal Protection Zone. Respondents sought clarification on how the zone would be measured in certain geographical contexts, for example where barrier beaches or dunes and other water control structures exist, and whether the width of the zone would be adjusted in the future. Many stressed the need for clear Coastal Protection Zone boundaries that accurately reflect the transition of estuaries and other continuous coastal ecosystems to inland areas and for these areas to be adequately considered in the zone demarcation. Overall, input highlighted the need to improve public awareness of the purpose of the zone and its relationship to development setbacks.

Public input on the proposed width of the Coastal Protection Zone



Development Setbacks

Under the Act, horizontal development setbacks will be determined through a site assessment conducted by a designated professional using methods and tools prescribed by regulation. A variety of individuals and professional associations representing these potential designated professions (e.g., engineering, geoscience, surveying) provided input focused primarily on the approach to determining horizontal setbacks, as laid out in the proposed Coastal Erosion Risk Factor Assessment (CERFA) Standard.

Overall, designated professional associations and individuals showed strong support for the CERFA Standard and applauded the technical soundness of its design considerations. Some, however, recommended further review and validation prior to implementation. Designated professionals were especially concerned with ensuring consistency and accuracy of application of the standard and we received many comments from this group regarding which professions are best suited to apply the standard and conduct a site assessment, considering their mandate, technical skills, and expertise. Demarcation of the Coastal Protection Zone and ordinary high-water mark was the most common point of discussion, and the timing of the assessment was raised as a factor that could influence results.

Professional liability and responsibility related to site assessments was also a common theme. Designated professionals emphasized the need for the Province to clarify record-keeping and insurance requirements. Some individuals expressed concerns with the implications of landowners or developers commissioning multiple site assessments to find the least restrictive report and suggested a process be put in place to support designated professionals in determining whether an assessment already exists for a proposed building location.

In terms of the approach to determining horizontal setbacks, municipalities were most concerned with the format of the resulting site assessment reports, the municipality's role in reviewing and approving these reports (discussed further in the "Roles and Responsibilities" section below), and associated records management practices including retention schedules.

A few municipalities raised concerns about the impact of the Act on property values in cases where land could not be developed under the CPA because too much of the property lay below the minimum building elevation or the designated professional's erosion risk factor assessment resulted in a large horizontal setback distance. A specific concern raised related to situations where a person may have borrowed to finance such a land purchase, and the potential for a lender to foreclose because of a decline in the land value securing the loan.

Sector organizations and the general public showed strong support for the general approach of requiring a customized site assessment conducted by a designated professional. They stressed the need for transparency in this process, however, and the majority of respondents in these groups called for site assessment reports and associated building permits to be easily accessible by the public. The most common issues raised by these groups relating to the methods for determining horizontal setbacks were the need to ensure clear definition of the ordinary high-water mark and criteria for determining it (to ensure consistent application of the standard) and the need to ensure strong consideration of ecology, ecosystem protection and the latest climate projections when determining setbacks.

Across all groups, fewer comments were received on the approach to vertical setbacks (i.e., minimum building elevations). We received questions on how the determination of a vertical setback would be influenced by certain conditions, for example where artificial infilling or berms exist, and received questions and suggestions regarding storm surge and reference tide calculations.

Sample Comments from Respondents:

- "I think that the drafting of the assessment tools is quite comprehensive in recognizing the fact that different areas of the coast are extremely different." – *Individual*
- "It will be essential that the province implements a consistent measure for the high-water mark that is transparent and accessible." – *Sector organization*
- "I am encouraged by the "customized" way of assessing building permit applications dependent on the varied coastlines of our province." – *Individual*
- "I am pleased to see a science-based approach adopted in the proposed regulations." – *Individual*
- "Clear boundaries for the transition of coast to inland in estuaries must be provided." – *Individual*
- "The one size fits all approach to a [CPZ] is inappropriate if a study with more detailed information has been prepared for a coastline." – *Municipality*
- "It is not clear in the regulations how the current provincial permitting process for shoreline structures will prioritize natural shorelines over hard armouring. Prohibiting shoreline armouring in a buffer zone around Nova Scotia could be a suitable approach to better protecting critical coastal ecosystems." – *Municipality*

Roles and Responsibilities

Comments related to the roles and responsibilities assigned by the regulations came primarily from municipalities and individuals and associations representing potential designated professions.

From a municipality perspective, a common point of feedback was that the regulations represent a downloading of provincial responsibility to the municipal level. Many felt that the protection of coastal ecosystems was a provincial issue and related permitting and approvals should be issued at the provincial level. Municipalities also expressed concern regarding available capacity and expertise to implement their proposed responsibilities, especially related to the role of municipal-level building officials and development officers in reviewing and approving site assessment reports prepared by designated professionals. Specific points of concern included location certificate verification, liability and available capacity.

Designated professionals were primarily concerned with the division of roles and responsibilities between members of different professions – specifically, engineering, geoscience and surveying. Respondents had different perspectives, emphasizing the mandate of each profession and the related skills and expertise of its practicing members. This group also emphasized the need for clear criteria for what constitutes a designated professional under the Act and for clarity around the role of professional associations, if any, and who will carry the responsibility and liability for the training of designated professionals. Designated professional groups shared positive feedback regarding the Province’s willingness to work with professional associations on these issues.

A few respondents from the general public and sector organizations highlighted the need for designated professionals to maintain independence from developers in order to prevent a conflict of interest and enable actions in the public interest. Some respondents from these groups also felt that the role of ecologist or environmental assessment practitioner was missing in the process for determining development setbacks.

Finally, the division of roles and responsibilities associated with enforcement was an issue discussed in submissions across different groups. Municipalities, especially, sought clarification regarding their expected role in enforcement and how it may fit with existing processes at the municipal level, and whether the Province would be responsible for any aspects of enforcement and implementation.

Sample Comments from Respondents:

- “A clear statement of the acceptable Nova Scotia professional associations would provide clarity to all stakeholders with respect to who may be considered acceptable as the designated professional.” – *Designated profession group*

Implementation

Respondents across all groups emphasized the importance of effective and timely implementation of the regulations. Timing was a common point of feedback, with many general public respondents calling for the regulations to be implemented as soon as possible and most sector organizations stressing the need to have the regulations in place by the 2022 building season. The importance of consulting with the Mi'kmaq of Nova Scotia on the proposed regulations prior to their implementation was highlighted by many respondents. Members of the general public also emphasized the importance of clear, effective enforcement mechanisms and the availability of enforcement capacity. Some questioned the capacity of municipalities to undertake the additional burden associated with administering and enforcing the regulations and some stressed the need to monitor municipalities to ensure the regulations are adequately implemented and enforced. The question of when and how often the regulations and CERFA Standard would be reviewed and updated was also raised in a number of consultation sessions, along with the process for managing and documenting earlier versions of the CERFA tool.

Along with enforcement, compliance and transparency were also particularly important to the general public as well as sector organizations. These groups want to be sure that compliance mechanisms are sufficient to deter noncompliance, and that the public has ready access to decisions made under the Act and regulations – for example, publicly available site assessment reports and associated building permit approvals. Some sector organizations called for clarity on the process for submitting a complaint where a member of the public believes there may be a violation.

Sector organizations and the general public also emphasized the need for public education to support effective rollout of the regulations. Respondents flagged the need for education on: the requirements and zones imposed by the regulations (including amongst municipalities and actors involved in property development and sale); the importance of coastal ecosystem protection; the risks to development posed by climate change; and acceptable practices for shoreline protection. They also noted the resources required to sufficiently support sector professionals in learning about the regulations, and some recommended the Province provide information packages, maps and other tools to help real estate professionals communicate the information and to help municipalities implement the regulations. Municipalities stressed the need for clear and useful maps, including maps downscaled to the parcel-level for harmonization with municipal land-use bylaws.

Municipalities were primarily concerned with two things regarding implementation: (1) the burden on municipalities associated with administering and enforcing the regulations, including capacity and expertise to undertake these obligations and the cost implications; and (2) the availability of designated professionals and the cost of their services. Many municipalities, especially those representing more rural areas of Nova Scotia, noted already limited access to designated professionals such as engineers

and expressed concern that this new service requirement would further limit supply of services and create bottlenecks resulting in the delay of other permitting processes. The majority of municipalities that provided input also mentioned the need for effective education to support rollout, particularly education of municipal officials (supported by GIS maps and other tools) and real estate and building professionals. In particular, the need to communicate implications relating to the subdivision of land early in the subdivision application process was flagged. Other issues raised by municipalities included implementation timeline, whether there will be a defined appeals process for denied building permits, impact of the regulations on property values, and the rationale behind the two-year limit on existing building permits.

Individuals and associations representing professionals potentially designated under the regulations shared common concerns related to implementation. They wanted to ensure adequate training for designated professionals (on their role and the methods and processes for determining horizontal setbacks as prescribed under the CERFA Standard); training for other impacted stakeholder groups on the CERFA Standard; and caution around the potential for there to be too few designated professionals to meet added demand as well as the implications of allowing multiple site assessments to be conducted by different designated professionals for one site.

Finally, respondents across different groups drew attention to the possible opportunity to amend other regulations and legislation to support implementation of the new requirements, including municipal land-use bylaws, the Planning Act, the Municipal Government Act and the Subdivision Regulations. Some municipalities showed support for integrating the regulations into municipal-level building permits and related rules, including subdivision processes, to ensure harmonization and effective interaction.

Sample Comments from Respondents:

- “This will require a carefully planned and substantial public education campaign involving many communications channels.” – *Individual*
- “For these regulations to be effective, there must be an enforcement component.” – *Individual*
- “The CPA will largely be implemented and enforced by municipalities and will require integration into many municipal processes, policies, and plans.” – *Municipality*

Conclusion

The Coastal Protection Act will have a positive impact on the long-term resilience of Nova Scotia's coast and those who live and work near it. Building on earlier consultation, the current consultation provided government with a diverse range of perspectives on the proposed regulations. The input gained through this consultation will help ensure the regulations reduce risks to coastal ecosystems on behalf of all Nova Scotians and help ensure buildings and homes are built high enough above, and far enough back from coastal waters to make them less vulnerable to the effects of climate change over the coming decades.

At the same time, the consultation has reinforced the need to keep additional regulatory and administrative burden on landowners and municipalities to the minimum possible level. Many stakeholders and government officials will need helpful, easy-to-understand information on where and how the regulations apply. Members of designated professions performing coastal erosion risk assessments for landowners, and the municipal officials receiving them will need clearly defined roles and training supports. We also need to ensure the regulations do not unintentionally interfere with legitimate efforts focused on the restoration or protection of coastal ecosystems that are so important to biodiversity and the ecological health of our province.



Next Steps

Government's next steps include refining the proposed content of the regulations and drafting the actual text that form the regulations. The proposed regulations are then submitted to Cabinet for approval.

Environment and Climate Change will continue dialogue with the Mi'kmaq of Nova Scotia through the Terms of Reference process.

Development of technical and administrative supports necessary for effective implementation of the regulations is ongoing. This includes making modifications to the coastal erosion risk assessment process and developing a training program to ensure designated professionals clearly understand their role, know how to use the assessment tool, and how to report the resulting horizontal setback to the landowner.

Materials and a training program will also be developed for municipal officials who will receive the erosion risk factor assessment reports as a part of a building permit or development permit application.

Work will continue on the digital mapping required to create accessible maps for landowners, municipal officials, and other stakeholders. Our goal is to ensure these maps are easy to access and help people determine whether any part of their property is located within the zone and, if so, whether any part of their property lies below the minimum building elevation.

While we have already had a considerable amount of discussion with municipal officials and professional associations, the consultations confirm there is a need for more dialogue to ensure the final version of the proposed regulations work as intended. Environment and Climate Change staff are currently exploring ways for government to seek further input as they refine some of the ideas shared in the consultation documents.

Finally, as we move closer to finalizing the regulations, we will develop our communications plans to build awareness of the requirements of the Coastal Protection act among the wide range of stakeholders who will play a part in this important step in preparing Nova Scotia for climate change.