



Fulfilling the Promise

Recommendations of the
Ontario Parks Board of
Directors Regarding

It's in **Our Nature**

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FULFILLING THE PROMISE RECOMMENDATIONS OF THE ONTARIO PARKS BOARD OF DIRECTORS REGARDING IT'S IN OUR NATURE

Introduction

The *Provincial Park Planning and Management Policies* approved in 1978 made Ontario a leader and a model for protected area policy and legislation in North America. However, much has changed in conservation science since that time, and Ontario no longer leads. This review of parks and protected areas legislation is an opportunity for Ontario to recapture its former position of leadership – to develop protected areas legislation that is a model for Canada and the world. As a basis for new protected areas legislation the eight legislative proposals set out in *It's in Our Nature* go a great distance towards achieving that goal.

The Board endorses the legislative proposals, but makes a number of suggestions for improved clarity and effectiveness. In particular, the Board recommends additions to promote the effective application of ecological integrity as the guiding principle for the planning and management of provincial parks and conservation reserves.

This report includes: a summary of the Board's Recommendations; sections describing the background for the legislative review and the methodology the Board used to develop its recommendations; and ten Board Recommendations.

Summary of Board Recommendations

Key recommendations are summarized as follows:

- Conservation reserves should be retained as distinct and separate from provincial parks, and these important differences guaranteed in one comprehensive act entitled *The Ontario Provincial Parks and Conservation Reserves Act*;
- Ecological integrity should be imbedded in the new Act and its application made manifest by including: a dedication; a purpose; a definition; an objective; a management principle, indicators and consideration in government decisions about lands near protected areas.
- Enhanced administrative and enforcement powers should be provided to optimize efficiency and enable protection of ecological integrity.
- Application of "Areas of Concern" and other flexible approaches to protection should be emphasized for conservation reserves, but the power to apply natural area zoning policies should be retained.

- The scientific and education role of protected areas should be recognized, and the tourism objectives should apply to conservation reserves, as well as provincial parks.
- Recognizing the abundance of water in Ontario, an aquatic class of provincial park should be recognized in legislation
- The Wilderness Areas Act is redundant and should be rescinded. But first, the 10 areas under this act should be evaluated through a consultation process, then regulated as provincial parks, or conservation reserves, or revert to Crown land.
- “Management Direction” should be required for all protected areas, with legislation providing an appropriate balance between rigour and flexibility, using public reporting as a tool to promote accountability.
- The Board supports the prohibitions on industrial activity in MNR’s legislative proposals and proposed exceptions for essential access roads and utility corridors, but guidance should be included as to where these roads and corridors may be allowed.
- Other “permitted uses” should be addressed in regulations or policy, as appropriate;
- The current approach to hunting should be continued whereby hunting is prohibited except where allowed by regulation in provincial parks, and allowed in conservation reserves, except where prohibited by regulation (with consideration for public safety and ecological integrity).
- Algonquin Provincial Park is unique, faces exceptional challenges and is too complex to be addressed through this legislative review. The Board recommends that the Minister initiate an independent review of Algonquin Provincial Park within one year, with the review considering the park’s role in the protected areas network, park management practices, and the park’s legislative and governance framework.
- The Act should respect aboriginal rights and interests and MNR should seek opportunities to reflect that respect through policy and program initiatives.

Background

The current Provincial Parks Act dates from 1954. While it has been amended over time, the Act does not reflect the leadership that Ontario assumed in the 1970s. The conservation reserve protected area designation established through a regulation under the Public Lands Act in 1994 provided a flexible and popular new way to protect land with low intensity use and management. However, the Public Lands Act does not provide a sound legislative basis for ensuring protection, a concern that has grown with the number of conservation reserves.

Since the ground breaking *Provincial Park Planning and Management Policies* were approved in 1978 – with a park system planning framework, defined park classification and zoning, and uses policies – there have been advances in conservation science. There is broader understanding and appreciation of the role protected areas play in conserving biodiversity, mitigating climate change, and acting as ecological benchmarks in the broader landscape. In particular, the importance of size, connections between protected areas and ecological integrity have been recognized. We know that “islands of green” are not sustainable. In southern Ontario the natural landscape has become fragmented and stressed by urban and rural development. In northern Ontario, continued resource development poses challenges.

Public and stakeholder understanding and support of protected areas, eco-tourism and the demand for recreation have increased, while wilderness has become rarer. Protected areas are often seen as bastions of peace and tranquility in an increasingly hectic world. Too, the health benefits of outdoor recreation are now widely recognized. The challenge for Ontario’s protected areas legislation is to recognize these realities and strike the right balance.

The Board commissioned a review of the best legislative practices of other jurisdictions. This research revealed that many jurisdictions are addressing the same issues but none, including Canada with the new National Parks Act, has drafted a model of legislation that sets the new standard. This legislative review offers an opportunity for Ontario to reassert its leadership and develop legislation that will ensure our provincial parks and conservation reserves are protected effectively for decades to come. The Board urges the Minister to consider our recommendations and seize this opportunity.

Methodology

The Ontario Parks Board of Directors is a public advisory committee established by the Minister of Natural Resources under authority of an Order in Council. The Board consists of a Chair and eleven members who come from different geographical regions of Ontario, and have a range of backgrounds and interests. The Board provides advice to the Minister about Ontario’s parks and protected areas. The Minister requested the Board to provide advice about legislative proposals used as a basis for a review of Ontario’s parks and protected areas legislation. In developing recommendations the Board:

- Met seven times and held three telephone conference calls;
- Invited provincial treaty organizations and provincial stakeholders to make presentations to the Board at meetings held in Toronto on October 14 and 15, 2004 and Thunder Bay on November 25 and 26, 2004 (refer to Appendix 1 for a list of those who presented to the Board);

- Ensured that Board members attended each of the nine open houses the Ministry of Natural Resources held during its 60-day consultation period;
- Was provided with copies of all input received by the Ministry of Natural Resources during consultation;
- Commissioned a report about “best practices” found in the protected areas legislation of other jurisdictions.

In developing its recommendations the Board learned much about Ontario’s protected areas network, its legislative foundation and the role these protected areas play. It heard from a number of stakeholders with a diversity of views about how protected areas should be managed and what should be included in legislation. Through discussions and exploration of options the Board’s views evolved. A consensus developed that protection of ecological integrity should be the main priority and cannot be accomplished exclusively within protected area boundaries.

Board Recommendation 1 - Structure of Protected Areas Legislation

The Board recommends that:

- Conservation reserves should be retained as distinct and separate from provincial parks, and these important differences guaranteed in one comprehensive act entitled *The Ontario Provincial Parks and Conservation Reserves Act*;
- *The Wilderness Areas Act should be rescinded once the 10 areas that are outside provincial parks or conservation reserves are evaluated and, through public consultation, a determination is made to regulate them as provincial parks or conservation reserves, or let them revert to Crown land (see Board Recommendation 4);*
- *The Kawartha Highlands Signature Site Park Act, Algonquin Provincial Park Extension Act and the Algonquin Forestry Authority Act should continue as separate acts with appropriate linkages or references to the Ontario Provincial Parks and Conservation Reserves Act.*

Commentary

In making this recommendation the Board is cognizant of concerns expressed by some stakeholders that conservation reserves should not become de facto provincial parks. These stakeholders believe and the Board agrees the more flexible approach to permitted uses in conservation reserves should be maintained. The Board believes that the differentiation between provincial parks

and conservation reserves can and should be maintained effectively within the scope of one act. One act for all provincially managed protected areas will emphasize that together provincial parks and conservation reserves constitute a protected areas network. It will also bring clarity for the public and managers and eliminate duplication. The alternative – separate acts for provincial parks and conservation reserves – would be more cumbersome and not provide the same level of understanding and clarity.

Board Recommendation 2 – Guiding Principles and Objectives

The Board supports Legislative Proposals 1 and 2 but recommends that the Act be organized to include a dedication statement, purpose statement, objectives, a management principle and a definition of ecological integrity, as follows:

Dedication Statement

Ontario’s provincial parks and conservation reserves are hereby dedicated to the people of Ontario for their benefit, inspiration, education, health, and enjoyment, and they shall be managed and maintained so as to sustain their ecological integrity and leave them unimpaired for future generations.

Purposes of the Act

The purposes of the Act are to:

- *Protect provincially significant natural and cultural features and habitats in a network of provincial parks and conservation reserves that is representative of all of Ontario’s ecosystems;*
- *Provide a variety of compatible, ecologically sustainable outdoor recreation opportunities.*

The Act should have a specific provision requiring that policies for and management of protected areas should be consistent with the Dedication and Purpose.

MNR Legislative Proposal 1 (Principles)

Include in legislation fundamental principles to guide the management of protected areas:

- *Protected areas are dedicated to the people of Ontario.*
- *Protection and maintenance of ecological integrity comes first.*
- *Protected areas will provide compatible recreation for the health and enjoyment of Ontarians and visitors to the province.*
- *A network of protected areas will provide for the permanent protection of representative ecosystems and significant natural and cultural elements and habitats.*

Commentary

The Board believes that the dedication and purpose should have the force of law so that they will help Courts interpret the Act, should this be necessary.

Objectives

1. *An additional objective recognizing scientific/research benefits should be included for provincial parks and conservation reserves, as follows:*

”To provide a living laboratory for environmental understanding and ecological research, and a benchmark against which to monitor ecological change on surrounding lands.”

2. *For provincial parks the recreation objective should be revised to read:*

”To provide compatible, ecologically sustainable outdoor recreation opportunities.”

For conservation reserves the recreation objective should be revised to read:

”To provided opportunities for compatible, ecologically sustainable land use activities including outdoor recreation

3. *Education and tourism objectives should apply to conservation reserves, as well as provincial parks, because conservation reserves should and do provide education and tourism benefits;*
4. *There should be a protection objective for both provincial parks and conservation reserves that references conservation of biodiversity and maintenance of ecological integrity;*

MNR Legislative Proposal 2 (Objectives)

Include the following objectives in legislation for provincial parks:

- *To protect representative and provincially significant elements of the natural and cultural landscape of Ontario.*
- *To provide compatible outdoor recreation opportunities ranging from high-intensity day-use to low-intensity wilderness experiences.*
- *To provide opportunities for exploration and appreciation of the outdoor natural and cultural heritage of Ontario.*
- *To provide Ontario residents and out-of-province visitors with opportunities to discover and experience the distinctive regions of the province.*

State the following objectives in legislation for conservation reserves:

- *To protect representative and provincially significant natural heritage values on public lands.*
- *To provide opportunities for compatible land use activities including outdoor recreation.*

Commentary

Increasingly protected areas are valued for the scientific benefits they provide. They are havens for biodiversity. Because they are relatively undisturbed they can be used as benchmarks to study how the broader landscape is changing. In

a sense they are living laboratories. Consequently, the Board believes this important role should be recognized in legislation as an objective.

Ecological Integrity as a Guiding Management Principle

Maintenance of ecological integrity of provincial parks and conservation reserves, through protection of natural features, systems and functions, shall be the first priority when making decisions about all aspects of provincial park and conservation reserve management. Restoration of ecological integrity shall be a priority where feasible.

Definition of Ecological Integrity

Ecological integrity means, with respect to provincial parks and conservation reserves, a condition that is characteristic of its eco-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. A state of ecological integrity includes, but is not limited to, the following elements:

- 1. Healthy viable well-distributed populations of all endemic native species and the maintenance of the habitats on which they depend;*
- 2. Recovery of species at risk through habitat management and other measures;*
- 3. Maintenance of natural ecological processes;*
- 4. High levels of water and air quality consistent with ecological integrity, conservation of biodiversity and recreational enjoyment.*

Commentary

The Board agrees that maintenance of ecological integrity should be the primary principle motivating protected area management. To ensure implementation of this important principle, the Board recommends the inclusion of a section recognizing it as the main (but not exclusive) management principle. A similar section is found in Canada's National Parks Act. Consideration was given to recommending that "restoration" of ecological integrity should also be an overriding priority (as it is in the National Parks Act). However, Ontario has a wide variety of protected areas, including some (e.g. recreation class provincial parks, which have no parallel amongst national parks) that are intended primarily to provide recreational opportunities. It is not realistic to expect that ecological integrity can or should be restored in all protected areas. Thus, the Board has recommended that restoration of ecological integrity should be a priority "where feasible".

The definition of ecological integrity is based on one recommended by the Panel on the Ecological Integrity of Canada's National Parks. This was used in the *It's in Our Nature* document. The Board supports this definition, but feels the addition of the elements of ecological integrity will assist in the application of the definition to management practices.

Ecological Integrity and Greater Park Ecosystems

The Board recommends that:

- 1. The Act should require that provincial authorities, in approving or carrying out undertakings or land use changes or planning on lands in the vicinity of provincial parks or conservation reserves, shall ensure that the ecological integrity of provincial parks or conservation reserves is not impaired ;*
- 2. Provincial authorities (those with authority to approve undertakings under other legislation) should be required to consult with the Minister before undertaking initiatives or approving projects that have the potential to affect ecological integrity of a provincial park or conservation reserve, or the Minister may identify projects which should be subject to consultation;*
- 3. The Act should authorize and encourage provincial park and conservation reserve managers to engage actively in land use issues on surrounding lands to sustain the ecological integrity of the protected areas they manage;*
- 4. Authority should be provided for the Minister to enter into agreements or purchase easements with adjacent landowners and municipalities to promote stewardship and land management practices that support the ecological integrity of protected areas, and those who enter into such agreements should receive property tax relief;*
- 5. The Provincial Policy Statement under the Planning Act should be amended to include provincial parks, conservation reserves and other protected areas on the list of provincially significant lands (which currently includes significant woodlots, wetlands, etc.) in order to avoid incompatible development on adjacent lands and to protect the ecological integrity of the protected areas (per Board letter to Minister of Natural Resources dated 2004.12.21);*
- 6. A concurrent amendment to the Planning Act should be made at the time of passage of this Act to provide upper tier and single tier municipalities with discretionary powers to establish policies in their Official Plans that would serve to protect representative ecosystems, and natural features of provincial and regional significance.*

Commentary

Many protected areas are of small size and do not contain complete ecosystems. Their ecological integrity cannot be sustained effectively unless surrounding lands are managed in ways that respect protected areas' ecological integrity. The Board is aware that this issue must be approached carefully and it acknowledges the concerns of stakeholders who are concerned about any possible restrictions on development around protected areas. However, the Board also believes that some specific provision is required if ecological integrity of protected areas is to be sustained, and that such a provision can be made to work through implementation of progressive approaches to decision-making.

The board has carefully considered this issue. It has reviewed precedents in other laws and policies requiring special management in areas around environmentally important sites, such as wetlands, nesting trees, riparian zones, etc. It has considered an array of options, ranging from mandatory buffer zones around protected areas (recommended by many, but which the board rejected as too restrictive) to non-binding policy (which the board rejected as too weak). The Board's recommended approach is modeled on the Ontario Planning Act, which specifies that development adjacent to environmentally important lands must not compromise those lands. The Planning Act does not apply to the Crown lands around most protected areas (it applies only to densely populated parts of the province), so a similar provision is required in the Ontario Provincial Parks and Conservation Reserves Act. The Board's recommended approach would apply only to provincial government decisions and actions (whereas the Planning Act applies to all public and private activities). The proposed approach would not restrict responsible, sustainable land use around protected areas. It only requires that such development (where carried out or approved by government) be done in a way that does not undermine the ecological integrity of a neighbouring protected areas. This approach has not proven to be problematic in the Planning Act, and the Board does not expect that its proposal (which is less broad than the Planning Act requirement) will prove problematic.

The Board's goal is to strike a balance between allowing normal development outside parks, while ensuring that government actions on neighbouring lands do not undermine the ecological integrity of a park. This is one of the most important issues in park management worldwide; if Ontario wants to show leadership with this legislation, addressing this issue in the Act will be a significant step in that direction.

In southern Ontario, where most land is privately owned, it will not be possible to achieve representation objectives within provincial parks and conservation reserves alone. Mechanisms are needed to encourage through municipal planning protection of significant natural or cultural areas found on private land. As well, tools are needed to promote stewardship and an approach to land

management that is consistent with protected areas values. Points 4 and 6 above are intended to address these needs.

Board Recommendation 3 – Classes and Zones

The Board supports MNR's legislative proposal regarding classes and zones and recommends that:

- 1. The park classes and objectives should be identified in the Act;*
- 2. An Aquatic Class of provincial parks and an appropriate objective should be identified in the Act;*
- 3. The authority to establish new park classes should reside with the Legislature;*
- 4. The authority for the Minister to develop zoning policies for conservation reserves where needed should be maintained;*
- 5. The Act should enable the Minister to develop policies for Areas of Concern intended to provide a flexible planning tool and complement zoning in provincial parks and conservation reserves.*

MNR Legislative Proposal 3 (Classes and Zones)

Recognize the following provincial park classifications and associated objectives:

- Wilderness Class – Protect large areas where nature can exist freely, and visitors travel by non-mechanized means while practising low-impact camping to experience solitude, challenge and personal integration with nature.*
- Nature Reserve Class – Represent the distinctive natural habitats and landforms of the province, and protect these for research and as gene pools to benefit present and future generations.*
- Historical Class – Represent the distinctive historical resources of the province in open space settings, and protect these for interpretive, educational and research purposes.*
- Natural Environment Class – Protect outstanding recreational landscapes with representative natural features and historical resources to provide high quality recreational and education experiences.*
- Waterway Class - Incorporate outstanding recreational water routes with representative natural features and historical resources to provide high quality recreational and educational experiences.*
- Recreation Class – Support a wide variety of compatible outdoor recreation opportunities for a large number of people in attractive natural surroundings.*

Provide authority for the Minister of Natural Resources to establish additional park classes and zoning policies for provincial parks.

Provide authority for the Minister of Natural Resources to establish zoning policies for conservation reserves.

Commentary

The Board believes that park classes should only be established by legislative amendment. However, the Board also believes that Ontario should begin identifying and protecting representative aquatic ecosystems (similar to federal efforts to establish a system of marine conservation areas), given the abundance of water in this province. As a first step an aquatic park class should be established in legislation now. Development of policies and a systems planning framework for aquatic class provincial parks can be initiated once the new Act is in place, subject to workload priorities. Once this work is complete, MNR will have the opportunity to begin identifying representative areas for protection, through a land use planning process involving appropriate public consultation.

Some who provided input to the Board and MNR suggested that zoning policies were not necessary for conservation reserves. The Board recognizes that zoning is a fundamental planning tool that has worked well in provincial parks, and indeed for municipalities, and will be useful in some places for conservation reserve planners and managers. A form of zoning is currently recognized in the Public Lands Act. Thus, the Board supports allowing but not requiring zoning for conservation reserves. The Board also recognizes the “Area of Concern” (AOC) approach used as a tool in land use in forest management planning may be useful either on its own or to complement zoning in provincial parks and conservation reserves.

The concept of an “aboriginal class” provincial park was proposed to the Board. While the Board is interested in this concept it is not clear what an aboriginal class provincial park might be. This is an area that MNR may explore with aboriginal communities in the future.

Board Recommendation 4 – Wilderness Areas

The Board supports Legislative Proposal 4 and recommends that if any of the existing wilderness areas do not have natural or cultural values that warrant designation as a provincial park or conservation reserve, then they should revert to a Crown land designation.

MNR Legislative Proposal 4 (Wilderness Areas)

Evaluate the 10 wilderness areas that are outside provincial parks and conservation reserves. Where natural values justify protection, regulate the areas through a public consultation process as provincial parks or conservation reserves, whichever is most appropriate.

The Board also recommends that once the 10 wilderness areas are dealt with the Wilderness Areas Act will be redundant and should be rescinded.

Board Recommendation 5 – Planning and State of Protected Areas Reporting

The Board generally supports Legislative Proposal 5 and makes the following recommendations:

1. *Management Direction should be defined in legislation with two levels being management statement and management plan. A management plan would require more thorough inventory, a more rigorous planning process, and more extensive consultation. The concepts of multiple-area management direction, and comprehensive planning involving both protected areas and adjacent/intervening Crown land, should be explicitly recognized in the Act.*
2. *Management plans should be required before capital development or active resource management are undertaken, with provision for emergency action where required;*
3. *The Act should call for: periodic review and public reporting regarding the status of management direction for each protected area; the need to undertake a comprehensive or focused review of the management direction for each area; and the need to upgrade from a basic level of management direction (management statement) to a higher level (management plan);*
4. *Consultation with aboriginal communities regarding development of management direction should at a minimum meet all current legal requirements and be undertaken independently of consultation with the general public, stakeholders and adjacent landowners;*
5. *A public appeal mechanism similar to that mandated by the Provincial Parks and Conservation Reserves Class Environmental Assessment should be recognized in policy;*
6. *The Act should specify that MNR is required to prepare and consult within a specified timeframe about an updated, inclusive management planning manual or guideline, and that this manual or guideline should specify:*
 - a. *Content and format of management direction;*

MNR Legislative Proposal 5 (Planning and Reporting)

Require that:

- *Management direction shall be approved for each protected area within a specified timeframe after passage of the legislation or establishment of the area.*
- *Appropriate consultation is carried out regarding development of management direction.*

Public reporting on the state of protected areas to be prepared at five-year intervals.

- b. *Criteria for determining whether a management statement or management plan should be prepared for a specific area, and when a comprehensive or focused review is appropriate;*
 - c. *Zoning categories and permitted uses in each zone;*
 - d. *Guidelines for application of areas of concern;*
 - e. *Systems planning policies;*
 - f. *Approaches for dealing with land tenure;*
 - g. *Measures for ensuring management is consistent with ecological integrity.*
7. *The Act should specify that State of Protected Areas reporting should include objectives for and indicators of ecological integrity and ecosystem health. These objectives and indicators should be developed within a specified timeframe, monitored and reported for the protected areas system as a whole and on the basis of individual protected areas or groupings of protected areas in all of Ontario's eco-regions and eco-districts, and should include indicators and objectives to assess:*
- a. *Degree to which earth and life science representation targets have been achieved;*
 - b. *Biodiversity (i.e. Indicator species that are sensitive to the uses and stresses to which protected areas are subject and/or focal species and related habitat);*
 - c. *Ecosystem functions;*
 - d. *Species at risk;*
 - e. *Species that depend on greater park ecosystems for their needs;*
 - f. *Stressors on ecological integrity and biological diversity.*

The Board considered more stringent planning requirements, including possibly a prescriptive planning regime similar to that in place for forest management planning. Such an approach was recommended by some stakeholders and individuals. However, given the large number of protected areas in Ontario, and the fact that many of these are not subject to significant levels of use or development pressures, it was felt that a prescriptive planning regime may not be required. As well, the high cost of such a regime is daunting, and would tend to monopolize funding and staff to the detriment of park operations, research and

resource management. Instead, the Board has recommended that key planning requirements be included in legislation, with others to be dealt with as a matter of policy.

Board Recommendation 6 – Industrial Use Prohibitions and Exceptions

The Board generally supports Legislative Proposal 6 subject to the following recommendations:

1. *While prospecting should be prohibited by the Act, there should be provisions for non-intrusive geological research to be conducted, provided this has no impact on park values and subject to prevailing policies for approval of research proposals;*
2. *Rather than allow waterpower development only for remote, off grid aboriginal communities, the Act should allow such development for both aboriginal and non-aboriginal communities that are remote and do not have opportunities to obtain electrical power from the grid. Such development should only be permitted where it is consistent with ecological integrity, there are no reasonable alternatives, and all feasible mitigation measures are adopted.*
3. *Where a proposal is made to consider in a provincial park or conservation reserve a utility corridor, resource access road, or road to a remote community, the Act should include evaluation criteria including:*
 - a. *Proposals must be considered under the terms of the Provincial Parks and Conservation Reserves Class Environmental Assessment;*
 - b. *Lowest cost should not be a sole or overriding justification for building a road or utility corridor through a protected area;*

MNR Legislative Proposal 6 (Industrial Uses)

Prohibit major industrial uses:

- *Commercial logging (with the exception of the recreation/utilization zone of Algonquin Provincial Park)*
- *Mineral exploration and mining*
- *Aggregate and peat extraction*
- *Electric power development (hydro, wind, solar, etc.)*

Exceptions:

- *Electric power development for park or First Nation use (e.g., a wind turbine to provide power for a park office; a micro-hydro installation to supply an off-grid First Nation community where no economically feasible alternative exists;) existing hydro-electric power facilities; and commitments made for new facilities prior to protected areas being established.*
- *Resource access roads and public utility corridors. As is currently the case, these uses could be considered on a case-by-case basis in accordance with policy and consistent with the Environmental Assessment Act.*
- *Existing, approved pits (e.g., sand/gravel) established for public purposes, which will be permitted to continue. No new pits or quarries would be permitted.*
- *Felling of trees or removal of plant materials for approved projects and research, such as campground or road development, public safety, seed collection, collection of scientific specimens, development of utility corridors or resource access roads in accordance with management plans.*

- c. *The process for evaluating options should make provision for appropriate consultation;*
- d. *Proposals must be consistent with protection and maintenance of ecological integrity;*
- e. *The implications of public use of such roads or corridors and need for enforcement to limit access must be considered;*
- f. *Any approval may have conditions and should require adoption of all feasible mitigation measures, and closure and rehabilitation if and when the road/corridor is no longer required;*
- g. *There are no other reasonable alternatives;*
- h. *They will not be permitted in wilderness, nature reserve or natural environment class parks or wilderness, nature reserve, natural environment or historical zones of any park class.*

Commentary

The Board recognizes that many communities, especially in northern Ontario, seek economic benefits from the land, including protected areas. Yet, protected areas cannot be all things to all people – their primary purpose must be protection of ecological integrity. The balance of Crown land is available for a wider range of uses, including resource extraction. Thus, it is appropriate that industrial land uses be prohibited in protected areas, with narrowly scoped exceptions.

Board Recommendation 7 – Other Permitted Uses

The Board supports Legislative Proposal 7, including continuation of the status quo with regard to hunting in provincial parks and conservation reserves, and recommends that public safety and ecological integrity should be primary considerations in determining where hunting may or may not occur.

Commentary

Some stakeholders and individuals believe that legislation should prohibit activities such as hunting, fur harvest and motorized use in protected areas. Use of ATVs, snowmobiles and personal watercraft was a particular concern. Conversely, stakeholder and individuals who practice these activities have

**MNR Legislative Proposal 7
(Other Permitted Uses)**

Continue to address non-industrial uses (such as hunting, motorized use, commercial fur harvest and bait fishing) through regulations or policy rather than in legislation.

suggested that legislation should explicitly endorse these uses. The Board's view is that some of these activities may be appropriate in certain limited circumstances, for example snowmobiles on a formally established multiple-use trail. Consequently, they are best dealt with as matters of policy or regulation. This approach provides some flexibility, but ultimately does allow prohibitions or restrictions if necessary.

Roads and trails can have significant deleterious impacts on protected areas. Construction brings direct impacts through cutting of trees and alteration or fragmentation of habitats. As well, roads and trails have indirect impacts by creating pathways for introduction of invasive species and litter. Motorized use of roads, trails and waterways contributes to air, water and soil contamination. Uncontrolled access makes enforcement difficult. Consequently, power to restrict or limit use of protected areas is essential if ecological integrity is to be protected and maintained. There must be regulatory authority to restrict use of motorboats, personal watercraft, ATVs, etc. such as currently exists under the Provincial Parks Act.

Hunting in protected areas is a particularly emotional issue. The Board endorses the current approach that allows hunting in provincial parks only by exception, while allowing it to continue in conservation reserves in most cases. For some stakeholders and the public, especially in northern Ontario, this difference between provincial parks and conservation reserves is a fundamental one. It should be recognized in legislation. The Board noted that there is a general public expectation that, whereas Crown land is generally open for hunting, protected areas are not. Consequently, public safety, as well as ecological integrity, should be paramount considerations in determining where hunting may or may not be permitted in each area.

Board Recommendation 8 – Administration and Enforcement

The Board generally endorses Legislative Proposal 8 and makes the following recommendations:

- 1. While protected area boundaries should generally be established and amended by regulation, any boundary amendment that results in the net area of a provincial park or conservation reserve being reduced by more than 100 hectares or 2% of the total area, whichever is less, should require a legislative amendment; land exchanges should be allowed provided there is net gain in area protected and no loss of ecological integrity;*
- 2. The Act should make provision for the Minister to enter into long-term agreements with consenting landowners for private, municipal or conservation authority lands to be regulated as a provincial park or conservation reserve,*

with provision for property tax relief for the regulated lands;

3. *Lease, land disposition fees and service fees should be established under authority of the Act and should reflect the real market value;*
4. *The Act should not empower the Minister to issue land tenure for private purposes;*
5. *As is currently the case for provincial parks, the Act should specify that municipal road allowances within provincial parks and conservation reserves will be closed and become part of the regulated area;*
6. *The Act should provide effective enforcement powers for provincial parks and conservation reserves and should set fines that will provide a high degree of deterrence to activities that have potential to threaten ecological integrity;*
7. *The Act should provide, in association with the Ontario Parks Special Purpose Account, special authorities for administration, procurement and human resources management consistent with operating in a business-like way in remote locations across Ontario. This should include: a provision exempting Ontario Parks from paying Provincial Sales Tax (given that most money spent on park operations is derived from fees, on which Provincial Sales Tax is not paid); and provisions that all revenues collected by the Province in provincial parks will be credited to the Ontario Parks Special Purpose Account;*
8. *The Act should allow the Minister to set fees for conservation reserves as is currently the case in some instances (non-resident camping fees, etc.).*

**MNR Legislative Proposal 8
(Administration and Enforcement)**

Update administrative and enforcement provisions by:

- Retaining existing authority for provincial park revenues to be deposited in an Ontario Parks Special Purpose Account dedicated to spending for provincial park purposes.
- Considering provision of new authorities to facilitate and encourage gifts, donations and bequests in support of specific purposes, such as programs to support protected areas research, monitoring, education, and other related purposes.
- Including a range of land administration provisions to support establishment of protected areas, effective management of lands, and administration of tenure, including: continue to establish or amend protected areas boundaries by regulation; grant and administer leases, rights of way, easements, land use permits and work permits; set and charge fees for land tenure of various types; establish regulations relating to leases, rights of way, etc.
- Providing authority for the Minister of Natural Resources to undertake or enter into agreements to support: stewardship; marketing and promotion; education; research; other protected areas objectives
- Providing an up-to-date enforcement framework in accordance with the Provincial Offences Act, consistent with the priority placed on protection of natural values: powers of Minister of Natural Resources to make regulations with approval of Cabinet; updated fines and penalties (upper limits will be set out in legislation); appropriate enforcement powers for officers.

Commentary

The Board believes that strong enforcement powers are needed to effectively manage provincial parks and conservation reserves to maintain ecological integrity. There are currently issues in this regard, especially with conservation reserves now managed under the Public Lands Act.

A particular issue with conservation reserves is that in organized municipalities road allowances are not closed, such that there are ribbons of unregulated land where MNR cannot effectively control access or use. This is not consistent with long term protection of ecological integrity.

Those who undertake enforcement in protected areas need appropriate tools. Included are powers of arrest, search and seizure, the concept that a permit holder is responsible for the behaviour of all members of his/her party, and the concept that it is the responsibility of the public to ascertain whether or not they are within the boundaries of a protected area.

Some stakeholders and individuals would like to see a legislative provision that would allow protected areas to be reduced in size only through a legislative amendment, as is the case for national parks. This does give a high level of permanency to protected areas. However, given the large number of protected areas in Ontario (more than 600) this would not be practical. There must be a less arduous process in place for “housekeeping” amendments that are necessary from time to time. Consequently, the Board has recommended a provision that would allow Cabinet to establish boundaries (as is currently the case) and delete relatively small parcels of land, but would require a legislative amendment to rescind a protected area entirely or delete a significant portion.

Currently there is some private use of land in provincial parks and conservation reserves. The Board sees this as a form of “non-conforming use”. Protected areas should be reserved for public use, not subject to private land tenure. While the need to honour existing tenure is recognized, new private tenure should not be permitted, nor should any existing tenure be extended beyond its current term. New commercial tenure, for example for lodges and outpost camps, can support public use of protected areas and may be appropriate in some instances, subject to an approved management plan. The matter of privately owned lands within the boundaries of protected areas was also discussed. Generally these properties are not regulated as part of the protected area. The Board believes that wherever possible these properties should be purchased from the owners on a willing seller/willing buyer basis and regulated as part of the protected areas.

Currently fees are not generally charged in conservation reserves. Nor, under the legislative proposals, would a Special Purpose Account be established for conservation reserves. However, some forms of user fees may be required at some time in the future as part of broader government initiatives to value

resources appropriately. Indeed the Board understands that fees are charged in some instances for non-resident Crown land camping and use of some roads or access points. Thus, the Board believes fees should be enabled for conservation reserves, but does not recommend establishment of a Special Purpose Account for conservation reserves.

The Board believes that a commitment to ecological integrity will require more spending on the parks and protected areas program. Consequently, it is appropriate that all provincial revenues collected in provincial parks be deposited in the Ontario Parks Special Purpose Account. Such revenues could include, for example, provincial sales taxes collected in provincial parks.

Board Recommendation 9 - Algonquin Provincial Park

The Minister should commission an independent review of Algonquin Provincial Park including the park's role in the protected areas network, the management and goals of the park, and the park's legislative and governance framework. The Board recommends this review be initiated within one year in light of current pressures on the park.

Commentary

Algonquin is one of Ontario's pre-eminent protected areas and assuredly the best known. Indeed, for many Ontarians and visitors Algonquin is "the" provincial park. As the population of southern and central Ontario increases Algonquin will become even more important, while pressures on the park will increase. The park is unique in many ways, including the presence of logging managed by a Crown corporation under the Algonquin Forestry Authority Act, the existence of private cottage leases and commercial leases for lodges and youth camps, and the extensive, varied recreational use it receives. As well, the park is subject to an aboriginal land claim.

Through presentations to the Board and MNR's formal consultation process some organizations and individuals have called for an end to logging in Algonquin. Conversely, local interests, industry and some individuals favoured continuation of logging. The Board does not believe the legislative review is the proper context to address the complex issues associated with Algonquin. There are significant environmental, economic, social values that must be carefully considered. A review should consider how the park is managed, its role in the regional economy, how park values are protected, and the park's legislative/governance framework. In initiating such a review, Ontario will have to be cognizant of aboriginal interests in the park, particularly with regard to the current land claim.

Board Recommendation 10 - Concerns of Aboriginal Communities

The Board recommends that the Act should respect aboriginal interests in protected areas, and that MNR should actively seek opportunities to address through policy and program initiatives aboriginal community concerns about identification and management of protected areas.

Commentary

While the Board received limited input from aboriginal communities, it did gain an understanding of some of their concerns and issues. Due to legal complexities and uncertainties associated with the interpretation of aboriginal and treaty rights, and land claims, it may be most practical to address aboriginal community concerns primarily through policy and program initiatives, rather than through specific legislative provisions. However, the Board believes that it may be possible to recognize in legislation aboriginal interests in protected areas. As well, the Board recognizes that consultation with aboriginal communities on protected areas planning should meet all legal requirements (see Board Recommendation 5)."

APPENDIX 1 – ORGANIZATIONS AND INDIVIDUALS WHO MADE PRESENTATION TO THE ONTARIO PARKS BOARD OF DIRECTORS

- Ontario Fur Managers Association (Howard Noseworthy, Executive Director; and Stewart Frerotte, Director)
- Algonquin Forestry Authority (Carl Corbett, General Manager)
- Ontario Forest Industry Association (Jamie Lim, President and CEO; Mark Holmes, Manager, Public Affairs; and Scott Jackson, Manager, Forest Policy)
- Ontario Waterpower Association (Paul Norris)
- Ontario Federation of Anglers and Hunters (Terry Quinney, Provincial Manager Fish and Wildlife Services; and Robert Pineo, Forestry and Wildlife Specialist/Biologist)
- Ontario Lumber Manufacturers' Association (Dave Milton)
- Professor Paul Eagles, Professor, University of Waterloo
- Wildlands League (Janet Summer, Executive Director; Evan Ferrari, Director, Parks and Protected Areas; Albert Koehl, Project Lawyer, Sierra Legal Defence Fund)
- Earthroots (Melissa Tkachyk)
- Peaceful Parks Coalition (Anna-Marie Valastro)
- Protected Areas Working Group (Julie Boan, Jill Entwistle, Ron LeeKam and representatives of Pikangikum, Eabametoong and Mishkeegogamang First Nations)
- Northwestern Ontario Municipal Association (Mayor Dennis Brown and Ken Tanawa)
- Ontario Bait Association (Ken Bernier)
- Ontario Nature (Gregor Beck)
- Whitewater First Nation (Arleen Slipperjack)
- Pikangikum First Nation (Alex Peters and Andrew Chapeskie)
- Paddling Ontario Alliance (Todd Lucier)
- Northern Ontario Tourism Outfitters (Doug Reynolds and Al Harrington)
- Northern Ontario Association of Chambers of Commerce (Bob Hancherow)

**APPENDIX 2 - ONTARIO PARKS BOARD OF DIRECTORS
LIST OF MEMBERS**

Ron Vrancart, Toronto (Chair)

Ric Symmes, Orillia (Vice Chair)

Lynn Arnold-Cox, Pickle Lake

Sylvia Barnard, Sudbury

Lorraine Brown, Leith

Bill Calvert, Huntsville

Tannis Drysdale, Fort Frances

David Earthy, Toronto

Jennifer East, Killarney

Dave Edgar, Sault Ste. Marie

Stewart Elgie, Ottawa

Gerald Killan, London