

Coastal Protection Act Regulations Survey – EAC’s Response

Monday, Oct. 16, 2023

Nova Scotia has been waiting too long for the Coastal Protection Act (CPA).

Earlier this month, the N.S. government [released a survey](#) seeking input on the CPA regulations. The broad and high-level questions and language used in this survey may have been appropriate in 2019 at the start of the regulation development process, but are wholly regressive and inappropriate for late 2023. The Ecology Action Centre (EAC) believes very strongly in public consultation, and this process is a mockery of it.

We’re letting the province know that this continued delay is unacceptable. **Amplify this message by [making your own submission to the survey](#) by Tuesday, Nov. 7.** Let the government know that Nova Scotians and their families won’t stand for delay tactics and a lack of ambition when it comes to protecting our coasts.

We have shared the EAC’s responses to key questions to the survey, highlighted below in yellow. We have not answered demographic questions or those specific to a coastal property.

Background:

The legislation under the Coastal Protection Act passed with full support from all parties in 2019. During the 2021 election, in the 2022 Climate Plan, and in the aftermath of Hurricane Fiona, the current government promised that they would complete and implement the Coastal Protection Act Regulations. As of August 2023, the regulations have been delayed until at least July 2025. This represents a complete disregard for the safety of Nova Scotians, and irresponsibility for failing to take the very first step in coastal climate adaptation; stop building in known risk areas.

The province has not released any further clarity or information regarding the proposed Coastal Protection Act regulations since 2021. The current survey is a missed opportunity to consult with coastal property owners on the details of the regulations, which, as far as the EAC is concerned, were completed in March 2023. In addition, the decision to focus so much effort on coastal property owners ignores the fact that the vast majority of coastal users are not property owners. All Nova Scotians will feel the impacts and pay the costs resulting from the continued delays to the implementation of strong, comprehensive coastal development regulations.

Many other jurisdictions, nationally and internationally, have proven that comprehensive coastal development regulations are not only possible now, but have been for decades. Examples include California’s 1972 *Coastal Act*, Maine’s 1990 *Mandatory Shoreland Zoning Act*, and PEI’s 2022 commitment (post-Fiona) to develop coastal development regulations, with a building moratorium effective until the regulations are in place.

Coastal Protection Act Regulations Survey – Coastal Property Owners' Version

Please note that for the purposes of this survey, we define a coastal property as being located along the ocean, directly touching salt water (not freshwater bodies such as lakes or rivers). These properties include homes, cottages, businesses, or undeveloped land. Please consider this definition when answering the questions. Your participation in this consultation is completely voluntary.

SCREENER

S1. What age category are you in?

- 01 Under 13: [redirect to a separate page stating “We welcome your input for the Coastal Protection Consultation. Because you are under 13, you are encouraged to share your feedback with the Department of Environment and Climate Change at coastalconsultation@novascotia.ca or by mail.]
- 02 13-17
- 03 18-24
- 04 25-34
- 05 35-44
- 06 45-54
- 07 55-64
- 08 65-74
- 09 75+

S2. Do you currently own property in Nova Scotia that touches the ocean?

- 01 Yes [redirect to Section A1]
- 02 No, I do not own property in Nova Scotia that touches the ocean [redirect to Section A2]
- 03 No, but I plan on buying property in Nova Scotia within next 5 years that touches the ocean [redirect to Section A2]
- 04 I live near the ocean or have an ocean view, but NOT directly on the coast [redirect to Section A2]

Please read these definitions before you answer the questions and keep them in mind as you answer all questions.

- a. **Coastal erosion:** when we lose parts of our land, beaches, dunes, cliffs, or other coastal areas because of storms, waves, tides, currents, wind, ice, or other causes.
- b. **Temporary coastal flooding (storms):** short-term flooding on land near the ocean caused by storm surge from things like hurricanes, heavy rain, storms.
- c. **Permanent coastal flooding (sea level rise):** permanent loss of land along the coast caused by rising sea levels.
- d. **Damage to environment and ecosystems:** damage to our land and water, wildlife/fish/birds, trees, forests, plants, and other parts of natural areas/nature.
- e. **Natural areas:** places like beaches, the shoreline along the ocean, streams, brooks, ponds, bogs, places where wildlife/birds/fish live, other parts of the natural environment.

SECTION A1:

For Section A, please answer the questions thinking about the property or properties you own in Nova Scotia that are directly on the ocean.

A1. ^(OBJ)What does coastal protection mean to you?

Coastal protection means recognizing the crucial role of our coasts in protecting us from the impacts of the climate crisis. Healthy coastal ecosystems buffer us from storm surge and erosion. At this point we need to rapidly adapt our communities and infrastructure using nature-based solutions, stop building in known risk areas through regulations to support the Coastal Protection Act, and protect what remains of our critical ecosystems like wetlands, old-growth forests, and dunes. These ecosystems perform billions of dollars' worth of climate impact mitigation annually and cannot be effectively imitated or easily replaced once destroyed.

A2 (a). ^(OBJ)Thinking about your coastal property, do you think Nova Scotia needs new laws or rules (also called regulations) to make sure any new buildings or big renovations are protected from coastal erosion, coastal flooding and rising sea levels? [Add hover over definitions for these 3 terms] For example, having to build your home/cottages/other building or structure further back from the ocean or higher up. Why or why not?

Undeniably yes. These regulations have been in development since the Coastal Protection Act was passed in 2019. It's time for action. The very first step in adapting to our changing climate and coastlines has to be preventing further development in known flood-risk and high erosion areas by implementing the Coastal Protection Act Regulations immediately.

A2 (b). If there were new coastal protection rules/regulations to protect buildings on your coastal property, your land, and the natural areas/environment on or near your property from things like coastal erosion, coastal flooding and rising sea levels, who should decide what these new rules/regulations would be (for example, the property owner, insurance industry, local municipal governments, the provincial government, other)?

In 2018, the Nova Scotia Department of Environment and Climate Change provided funding support in the form of a grant to East Coast Environmental Law to conduct an independent jurisdictional scan for coastal protection legislation. ECEL produced a report that compared how key jurisdictions have protected their coasts: for more information, see [Protecting the Coast: A Multi-Jurisdictional Legislative Review](#).

The provincial government has already completed multiple rounds of consultation in June 2018, 2019, and summer 2021 with landowners, professionals, and other stakeholders to develop the current draft regulations. This type of regulation fits best at the provincial level for development and enforcement – we must regulate our coasts in a comprehensive manner rather than by downloading onto individual municipal units.

Further, the use of “if” is misleading. An application for access to information under the Freedom of Information and Protection of Privacy Act (FOIPOP) request #2023-00597-ECC received on May 1, 2023, regarding “All records related to the Coastal Protection Act, including briefing notes, memos, presentations and emails (at the executive director level and above). (Date Range for Record Search: From 02/28/2023 To 03/29/2023)” shows that the province had every intention of releasing the regulations by the end of March 2023, before the indefinite delay was announced on March 29, 2023. The full document is available at the following link: <https://openinformation.novascotia.ca/FOI-Requests/2023-00597-ECC/taxu-gb9g>
See below for examples:

- From Page 15, an email from Terri Aker (Client Services – Project Management at Communications Nova Scotia) sent March 14, following up on an earlier request for awareness and educational materials for the launch of the CPA regulations. The original email states: “We are expecting the Coastal Protection Act (CPA) to be proclaimed before end of fiscal.” This means that the government's own communications staff had been notified of the release intended for before March 31st.
- From Pages 23-28, dated March 20, an email chain and attached draft document outlining the sequence of who is to be contacted and by what method once the CPA regulations are rolled out. The final email in the chain is John Somers (then Executive Lead, Coastal Protection Act) forwarding the “Draft Text for CPA Stakeholders” and the roll-out sequence to Charlett Brine for the approval of the Minister and Deputy Minister.

A2 (c). If there are new coastal protection rules/regulations, how would you feel if you were told where and how you could and could not build on your land by the ocean?

Land use regulations have been in place for decades at the municipal and provincial level, wherein developers are already told where and how they could and could not build on their land. The Coastal Protection Act regulations are simply a consolidated approach to comprehensive coastal development regulations.

Furthermore, this is a safety issue. Unsafe construction has been occurring unregulated for decades and must stop. The government effectively regulates many other unsafe practices that effect individuals, communities, and ecosystems – reckless coastal development should not be treated any differently.

A2 (d). If rules or regulations are not in place, what do you think is the best way to protect new buildings on private coastal property (land) in Nova Scotia as well as protect people like your family and neighbours who will live and work there from coastal erosion, coastal flooding and rising sea levels? [Add hover over definitions for these 3 terms]

Rules have already been developed and need to be put in place. The government shouldn't abdicate its responsibility to protect its citizens and ecosystems. If we cannot trust the government to take appropriate action on straightforward issues, such as preventing new unsafe development in known flood risk and high erosion areas, how can we trust government with more complicated and difficult situations resulting from climate change going forward?

Questions A3 –A10 are specific to coastal property owners, regarding storm impacts, damage prevention actions, and information sources.

SECTION B

B1. If a person who owns property along the ocean in Nova Scotia has access to tools and information to know the risks of coastal erosion, coastal flooding and rising sea levels, [Add hover over definitions for these 3 terms] and still chooses to build their home/cottage/business in a high-risk area, who do you think should be responsible to pay for:

-damages to the homes or other buildings on that property from those events or near their property

- 01 Local (municipal) Governments
- 02 Nova Scotia provincial Government
- 03 Federal Government
- 04 Property owner
- 05 Insurance
- 06 Other
- 07 I don't know

-paying to fix damage to natural areas that is directly caused by where the house, cottage/other building was built [put in order of priority]

- 1 Local (municipal) Governments
- 2 Nova Scotia provincial Government
- 3 Federal Government
- 4 Property owner
- 5 Insurance
- 6 Other
- 7 I don't know

B2. If a person who owns property along the ocean in Nova Scotia knows and understands the risks of coastal erosion, coastal flooding and rising sea levels, [Add hover over definitions for these 3 terms] and still chooses to build their home/cottage/business in the high-risk area, should they have to pay more for insurance or more taxes to help pay for potential impacts?

This question is misleading. Land cannot be insured against damages from coastal erosion, and a vast majority of homes cannot be insured against flooding or storm damage.

More taxes will not protect sensitive coastal ecosystems from irreparable damage from damaged septic systems, building debris, and oil tank ruptures following flooding and storm events.

SECTION C – COASTAL PROTECTION ACT

C1. In 2019, the Government of Nova Scotia created (but did not put into effect) the Coastal Protection Act, which is legislation (also known as a set of laws) to protect both private property from things like coastal erosion, coastal flooding and rising sea levels. [Add hover over definitions for these 3 terms] The legislation will tell private property owners:

--where buildings can be built or changed on private coastal property to protect that property from coastal erosion, coastal flooding and rising sea levels [Add hover over definitions for these 3 terms]

--and where on the property building can take place to protect that property from coastal erosion, coastal flooding and rising sea levels [Add hover over definitions for these 3 terms]

The Coastal Protection Act was also created to protect natural areas and the environment along the ocean from development.

The Act would not apply to:

- the building of or changes to buildings used by businesses that need direct access to the ocean for their work
- commercial fishing, aquaculture, harvesting or processing activity
- structures like dykes that protect agricultural activity on marshlands designated under the *Agricultural Marshland Conservation Act*

Before participating in this consultation, had you heard of the Coastal Protection Act?

- 01 Yes
- 02 No

C2 (a). The Nova Scotia Coastal Protection Act creates a new Coastal Protection Zone in which rules (also called regulations) for building new homes/cottages/other buildings on the property or renovating/expanding homes/cottages/other buildings that are already there can be developed.

This goal of this Zone would be to:

- keep people who live or work along the coast safer from coastal flooding, coastal erosion and rising sea levels
- make sure new homes/cottages/other buildings built where they are less likely to be damaged by coastal erosion, coastal flooding and sea level rise [Add hover over definitions for these 3 terms]
- limit damage to sensitive natural areas along the coast from development.

Do you think Nova Scotia needs this Zone? Why or why not?

Absolutely. The regulations need to be able to control development within a wide area of our province's coastline. The Coastal Protection Zone and the proposed regulations which were ready to be rolled out have been designed to enable an individualized, site-specific approach. Rather than a blanket exclusion zone, the Zone is simply a designated area that says that if you plan to build in that Zone, you will need an assessment from a designated professional under the act to ensure that the site is safe to develop. If it's not safe, the answer will be no. If it is safe, due to an assessment of your unique site, you will be able to build, enabling some development in the Zone, but only if the conditions are safe – i.e. if the elevation, soil conditions, risk of erosion, etc. allow that.

This is a far more development positive approach than a blanket exclusion zone, as has been implemented in other jurisdictions. The wording in this survey leaves all of these details out and implies that the Zone is an exclusion zone – it is an area of control and jurisdictional boundary.

C2 (b). Would you support creating this Zone in Nova Scotia if it kept insurance and provincial disaster relief costs lower for all Nova Scotians by reducing claims for property damage from coastal erosion and coastal flooding? [Add hover over definitions for these 3 terms] Why or why not?

This question is misleading. Per our answer to B2, insurance is not applicable in these situations and therefore would not be affected by the creation of the Coastal Zone or the implementation of the Coastal Protection Act Regulations.

Whether or not it would reduce provincial disaster relief costs in future is not a matter of opinion. Fewer houses constructed in known flood-risk and high erosion areas means less repair and rescue costs.

C3. The Coastal Protection proposes to create rules (regulations) about:

- where new buildings and other new structures can be built, inside the Zone and where they can be located
- how existing buildings can be renovated
- infilling in the Zone
- which parts of the coastal natural areas inside the Zone can be changed or removed in the Zone
- things that can be used to protect homes and other buildings in the Zone from coastal erosion, for example armour stone
- only allowing a municipal building permit to be given to the property owner after an expert (like an engineer) has verified that all rules can be followed when building inside the Zone

Do you agree or disagree with this approach? Why or why not?

We absolutely agree with this approach. In the future, this should also include further regulations on the location of on-site septic systems and wells. It is also critical that we develop effective restrictions preventing the continued use of armour rock and infilling.

C4. Please share any additional thoughts that you have on coastal protection.

Nova Scotia already has 1000's of properties experiencing rapid erosion and regular flooding from high-tides and storm events. As part of our response, we are sending many photos of existing buildings already at risk from coastal flooding and erosion to the consultation email.

SECTION D: DEMOGRAPHICS

Section D is focused on demographics and coastal property. We encourage you to complete this section!