

An Act to Amend Chapter 114 of the Revised Statutes, 1989, the Crown Lands Act - Bill 9

Submission to Law Amendments Committee

Respectfully submitted by Karen Beazley, Halifax, NS, B3H 4P5

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Thank you for the opportunity to comment on Bill 9.

I fully acknowledge the need to update the Purpose section to expand the scope of the Crown Lands Act. It is long overdue and necessary to implementing the recommendations of the 2018 Lahey report, which the Province has committed to implement.

Consistent with Lahey's (2018) recommendations, amendments to the Crown Lands Act are needed. Changes are needed that make it clear the Act is "inclusive of all the values and objectives for which the management of public lands should be concerned in today's society" (Lahey, 2018, p. ix); and these changes should provide "a framework that gives priority to the protection and enhancement of ecosystems and biodiversity" (Lahey 2018, p. 10).

As such, I support the broadening of the Crown Lands Act and its Purpose statement. As written, however, the amended Purpose statement contains internal and other inconsistencies. Further, while an updated purpose statement is necessary, it is insufficient. Other sections of the act must be updated to reflect and provide for implementation of the updated purpose. I will briefly address both of these aspects.

Purpose statement

Although the intent of the updated purpose statement is appreciated and warranted, the purpose statement itself requires further revision 1) for internal consistency between parts 'a' and 'b' and 2) for consistency with the recommendations of the Lahey report.

First, the inclusion of part 'b' in its present form is inconsistent with part 'a'. Part 'a' opens up and broadens the scope and focus of the act. Part 'b' speaks exclusively to forestry, counter to the stated broadened scope of the act. It ignores wilderness conservation, recreation, tourism and other sectors, community development, and cultural, social and aesthetic aspects. To be consistent with part 'a', part 'b' should be removed, and if necessary and relevant, incorporated into the Forests Act. Alternatively, many other purposes could be added to part b (or as parts c to z), to similarly highlight provisions relevant to the numerous other management practices and policies associated with the other aims and sectors. However, this alternative would seem overly cumbersome and complex, and likely to miss important aspects. As such, simply removing part b may be efficacious.

Second, the inclusion of part b as written retains the entrenched focus on and privileging of forestry that the Lahey recommendations aim to change. Lahey's recommendations are unambiguous: "the Crown Lands Act should be amended to make it clear that the objectives of the management of those lands is broader than forestry and inclusive of all the values and objectives for which the management of public lands should be concerned in today's society" (Lahey, 2018, ix). If a part b is to be retained, it should be amended to highlight, consistent with Lahey's aims, that it seeks to "balance environmental, social, and economic interests within a framework that gives priority to the protection and enhancement of ecosystems and biodiversity".

Lahey is clear that ‘a framework that gives priority to the protection and enhancement of ecosystems and biodiversity’ would not simply provide for environmental objectives. Rather, it is economic and social.

As such, amendments to part ‘b’ of the Purpose statement should be consistent in representing and embodying a shift in paradigm in the direction of this broader understanding of the public interest, including ecological forestry, but also extending beyond it. The Crown Lands act should explicitly provide for “the dual societal mandate of protecting ecological systems and biodiversity and sustaining a productive and profitable ... industry” (Lahey, 2018, 13). Accordingly, Lahey explicitly calls for “... amending the Crown Lands Act to ensure that its stated purposes encompass and give equal weight to the full range of the values (and uses) relevant to the management of Crown land, thereby eliminating the preference the act’s current statement of purpose gives to timber production objectives” (recommendation 34, p. 33).

In its current form, retaining part ‘b’ of the Purpose Statement would not serve to “give equal weight to the full range of the values”, nor to eliminate the perception of preference given to timber production.

Beyond the Purpose Statement

I state my presumption that the revised purpose statement is merely the first step, crucial to establishing the mandate to make further necessary revisions, beyond the purpose statement. Further amendments are required throughout the act to support and align with the amended scope and purpose.

These changes should include, for example, “ensuring, as an immediate priority, that the Endangered Species Act is fully implemented on Crown land” (Lahey, 2018, recommendation 74, p. 32). Certainly, other changes are needed to allow for implementation of the triad approach and ecological forestry, but no doubt there are other provisions required to encompass the many other uses and objectives of Crown Land, beyond forestry purposes. With the broadened purpose, provisions will be needed for land use and conservation planning, such as to establish zoning for various aims and objectives, spanning from biodiversity conservation, to the three legs of the ecological forestry triad approach, to recreational and tourism zones, and to other sustainable uses. I will not go on to detail them, here, as they are not proposed at this time.

Summary statement

I support amendments to the Purpose statement with changes to the wording such as those proposed by Dale Smith in his written submission to the Committee, dated March 28, 2021.

I concur with the statements provided in submissions by Dale Smith and the Ecology Action Centre.

I close with Lahey’s recommendation 76, which hits the nail squarely on the head with respect to the need for amendments to the Crown Land Act:

The rationale for the proposed amendments to the Crown Lands Act derives from the fact that this statute is the source of authority for DNR officials who manage Crown land and, specifically, for the licensing of forestry on Crown land. Currently, it defines its purposes in a way that conveys a powerful message that Crown land should be managed for forestry. Changing the governing legislation to make it clear that Crown land should be

managed for multiple objectives, including but not limited to forestry, will not by itself ensure that it is managed accordingly. But it will help to ensure that Crown land is managed for a wider array of values, and it will make it clear that managing Crown lands solely or primarily for forestry or without sufficient regard for other values, interests, and objectives is wrong (Lahey, 2018, p. 33).

Reference:

Lahey, W. 2018. An Independent Review of Forest Practices in Nova Scotia. Executive Summary Conclusions and Recommendations. Halifax, Nova Scotia. 70 pp.+ Available: https://novascotia.ca/natr/forestry/forest_review/Lahey_FP_Review_Report_ExecSummary.pdf