

## Summary Assessment of Provincial Legislative Framework NEWFOUNDLAND and LABRADOR

Overall, the strength of Newfoundland and Labrador’s legislative framework for protecting farmland is **moderate**. The strongest aspect of the framework is its integration across jurisdictions, primarily through a required review of all local planning documents, and its use of different mechanisms to protect farmland, primarily Agricultural Development Areas (ADAs). A profile of the provincial legislative framework is provided at the end.

### Strength of Provincial Legislative Framework: Summary Assessment

|                                  | Maximise stability | Integrate across jurisdictions | Minimise uncertainty | Accommodate flexibility |
|----------------------------------|--------------------|--------------------------------|----------------------|-------------------------|
| <b>Newfoundland and Labrador</b> | **                 | ***                            | **                   | ***                     |

\* = Very weak, \*\*\*\*\* = Very strong

#### Maximise stability

Newfoundland and Labrador does not have provincial land use policies or statements of provincial interest to protect farmland directly. However, there are mechanisms within the legislative framework that have been used to establish protected agricultural zones within two ADAs.

The primary legislation for land use planning is the *Urban and Rural Planning Act* (URPA). The URPA enables municipalities to adopt Municipal Plans and for the Province to establish regional areas. Under the requirements for municipal plans (s.13(2)(h)), a plan “shall” “provide for the protection, use and development of natural resources and for the prevention of natural resource development with incompatible negative impacts. Presumably, natural resources include agricultural lands. A council or regional authority can also adopt Development Schemes (s.29(1)), for the purpose of, among other things, make land available for agricultural uses. In areas outside of a municipality, the Province can also establish a local planning area or protected area (s31(1). It appears that some or all of these mechanisms could support farmland protection, if desired.

Agricultural Development Areas (ADAs) are established under Section 59 of the *Lands Act* (1991) (previously through the now-repealed Development Areas Lands Act), which covers “Prohibition against conveying.” The Act enables the Lieutenant-Governor in Council to, by regulation, control the development of lands. Between 1976 and 1983, 20 potential ADAs were identified based on a variety of factors, including, among other things, present land use, land ownership, land capability, and pressures for conflicting land use.<sup>1</sup> To date, only the Wooddale ADA and St. John's Urban Region ADA have been approved through provincial regulations. Both of these ADAs establish agricultural zones, in addition to establishing policies to control development and topsoil removal.

Although protecting agriculture is not included among legislation documents, this provincial interest is supported by the Forestry and Agrifoods Agency. The mandate of the Agency<sup>2</sup> includes the

<sup>1</sup> Ramsey, R. D. (1993). *Land competition Issue. Affecting Agriculture in Newfoundland and Labrador*. Master’s thesis. Memorial University.

<sup>2</sup> Department of Natural Resources (n.d.). Strategic Plan: 2014-17. On-line: [http://www.nr.gov.nl.ca/nr/publications/pdf/Department\\_of\\_Natural\\_Resources\\_2014-17StrategicPlan\\_%28Tabled%29.pdf](http://www.nr.gov.nl.ca/nr/publications/pdf/Department_of_Natural_Resources_2014-17StrategicPlan_%28Tabled%29.pdf)

supervision, control and direction of all matters relating to, among other things, the use, protection, and development of agricultural land. The Agency's Land Use Program also supports protecting farmland. As stated, the Land Use Program "was designed in recognition that the limited amount of arable land in the province must be carefully developed and protected to ensure its availability for agricultural use over the long term."<sup>3</sup> This goal is pursued through ADAs as well as the Land Consolidation Program<sup>4</sup>, which purchases land in the St. John's Agriculture Zone as a means of protecting the agricultural land base and providing land to farmers. The aim of the Land Consolidation Program is to increase the productive land base available for agricultural activities, thereby helping to sustain current operations and make farming more feasible for new entrants.

#### Integrate public priorities across jurisdictions

The primary mechanism to ensure provincial interests are reflected in municipal and regional plans is through the required review process. Section 15 of the URPA states that local authorities shall submit a proposed plan and development regulations to the Province for review. The department "shall determine provincial and other government agency interests and may consult with departments and agencies of the province with respect to those plans and regulations" (s15(2)). The URPA (s24(1)) also states that the minister shall review a plan and development regulations "to determine if they are contrary to law or a policy of the government." The local planning authority must make necessary changes in order to comply.

#### Minimise uncertainty

The use of ADAs has been the primary means to minimise uncertainty, whereby the province has used sections within the legislative framework to establish restricted agricultural zones. Uncertainty is also reduced through programs of the Forestry and Agrifoods Agency, including education and outreach in order to increase awareness of the value of the agricultural sector.

#### Accommodate flexibility

The ADAs serve as important mechanisms to accommodate flexibility, although none have been established recently. Rather than having a province-wide agricultural zone, legislating agricultural zones through separate ADAs provides a greater level of flexibility in order to accommodate regional interests and conditions. Although similar, the Wooddale and St. John's ADAs have important differences that reflect the needs of each area. Similarly, there are different means within the URPA that the Province can use to establish planning areas in order to meet particular needs. Other mechanisms used to accommodate flexibility are the aspirational policies and programs of the Forestry and Agrifoods Agency, including the Land Use Program and the Land Consolidation Program.

The Interdepartmental Land Use Committee (ILUC)<sup>5</sup> is a provincial-level governance mechanism that can be used to accommodate flexibility. Created to support integrated resource management, the ILUC is mandated as the body that co-ordinates the resource development activities. Whereby, any legislation, regulation, policy, or plan – including municipal or regional plans – involving the use of Crown or public lands, must be referred to ILUC in order to "ensure that public sector policies and decisions on land use and resource management are related and complementary."

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<sup>3</sup> [http://www.faa.gov.nl.ca/agrifoods/land/land\\_use/index.html](http://www.faa.gov.nl.ca/agrifoods/land/land_use/index.html)

<sup>4</sup> [http://www.faa.gov.nl.ca/agrifoods/land/land\\_use/consolidation.html](http://www.faa.gov.nl.ca/agrifoods/land/land_use/consolidation.html)

<sup>5</sup> [http://www.env.gov.nl.ca/env/wildlife/environmental\\_review/land\\_use\\_committee.html](http://www.env.gov.nl.ca/env/wildlife/environmental_review/land_use_committee.html)

Summary Assessment of Provincial Legislative Framework: Newfoundland and Labrador

Legislative Framework for Newfoundland and Labrador

|                             | <b>POLICY</b>  | <b>LEGISLATION</b>  | <b>GOVERNANCE</b>   |
|-----------------------------|--|---|---|
| <b>PROVINCIAL</b>           | <p>Land Use Program</p> <p>Building Agricultural Capacity in Newfoundland and Labrador</p> <p>Department of Natural Resources Strategic Plan 2014-17</p>   | <p><i>Urban and Rural Planning Act</i></p> <p><i>Lands Act</i><br/><b>(Agricultural Development Area)</b></p> <p><i>Farm Practices Protection Act</i></p> | <p>Interdepartmental Land Use Committee</p> <p>Agricultural Land Consolidation Review Committee</p> <p>Farm Industry Review Board</p> |
| <b>REQUIRED INTEGRATION</b> | <p><i>URPA 15. Review of plan</i><br/>                     (2) A council and a regional authority shall, in the required form, submit a proposed plan and development regulations to the department for review.<br/>                     (3) Upon receipt of a proposed plan and development regulations submitted under subsection (2), the department shall review the plan and regulations to determine provincial and other government agency interests and may consult with departments and agencies of the province with respect to those plans and regulations.</p> <p><i>URPA 24 Government policy review and plan registration</i><br/>                     (1) The minister shall review a plan, development regulations and other documents submitted under subsection 23(4) to determine if they are contrary to law or a policy of the government of the province and where not contrary to law or a policy shall register the plan and development regulations in the planning registry that the minister shall establish in the department for that purpose.<br/>                     (4) Where the minister, does not register a plan and development regulations, he or she shall return the plan and development regulations to the council or regional authority together with reasons for their unacceptability and the council or regional authority shall make the requested changes and resubmit the plan and development regulations to the minister and subsections (1) to (3) and section 23 shall apply to that plan and those regulations.</p> |   |   |
| <b>REGIONAL</b>             |  | <p><i>Regional Plan</i></p> <p><i>Agricultural Development Area</i></p>   | <p>Regional authority</p>   |
| <b>LOCAL</b>                |  | <p><i>Municipal Plan</i><br/>(Development Scheme)</p> <p>Local Area Plan</p> <p><b>Zoning Bylaw</b></p>   | <p>Commissioner</p>   |

*Acts (provincial laws), bylaws (local government laws, e.g., official municipal plan) [italicised]*

**Enforceable policy, regulations pursuant to acts [bold]**

Aspirational policy at all levels [plain text]