ASSESSMENT



CORVUSCENTRE
for Conservation Policy

Designating Private Area-Based Conservation Sites

A Decision-Support Guide for Canadian Land Trusts



Prepared by **Guy Greenaway** | 2026

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A Decision-Support Guide for Canadian Land Trusts

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October 2026

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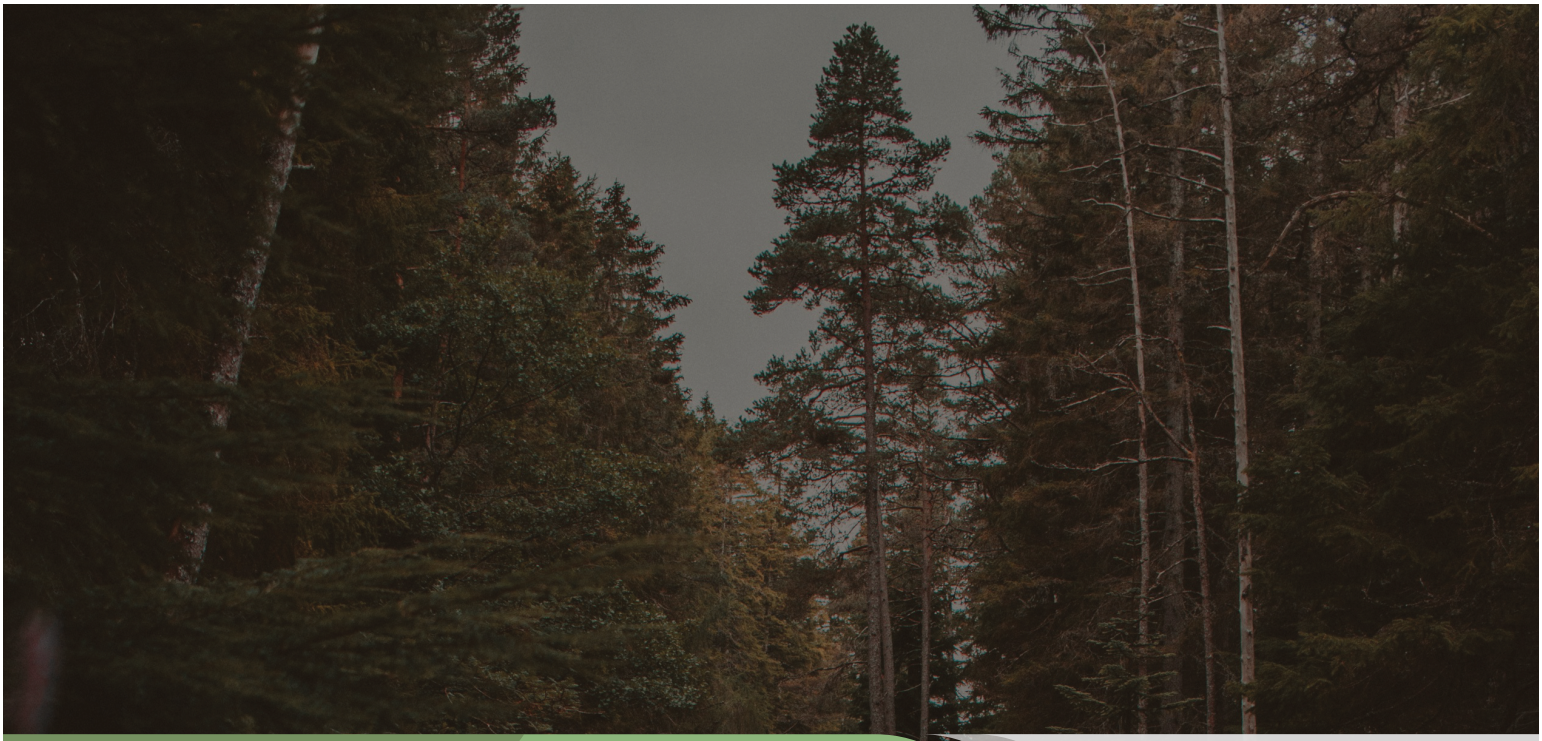
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Executive Summary



Executive Summary

ToC

Land trusts wanting to report to the national or international 'area-based conservation' databases must determine if a project satisfies the definition of at least one type of 'area-based conservation': a *Protected Area* (PA) or an *Other Effective Area-based Conservation Measure* (OECM). The assessment process is detailed, but direction for land trust projects is sparse. This guide attempts to fill that gap.

This document gives Canadian land trusts voluntary guidance on how to assess private-land area-based conservation projects, explaining how to establish rationale and provide evidence to support an assessment.

The first section begins with common land trust tools, defining each in general terms, and showing through examples of how they might be a 'PA', 'OECM' (or neither). Guidance is provided for *Fee-simple acquisition*, C*onservation easements – Perpetual*, *Conservation easements – Temporary*, *Servitudes and covenants*, *Nature reserves*, and *Stewardship tools*.

The second section takes the *International Union for the Protection of Nature* (IUCN) definitions for both Protected Areas (PAs) and Other Effective Area-based Conservation Measures (OECMs) and breaks them into their component parts: Geographic Definition, Protected Area or OECM, Recognition, Dedication, Governance, Management, Protective Mechanism, Effectiveness, Enduring, Conservation, Ecosystem Services, and Culture. For each component, existing guidance is collected and interpreted for land trusts.

Where a deeper dive is needed to understand a specific assessment point, appendices provide additional explanation and guidance on topics such as assessing enduring conservation, the nature of servitudes and easements in Canada, addressing other rights and tenures, showing primacy of biodiversity conservation, and establishing *in situ* biodiversity conservation.

Final direction includes reminders that most land trust projects would be *Privately Protected Areas*, keeping the assessment as simple as possible, and viewing this document in context with the whole series, including the previous Primer document and the subsequent Reporting guide (see the series on the Corvus Centre's web site)



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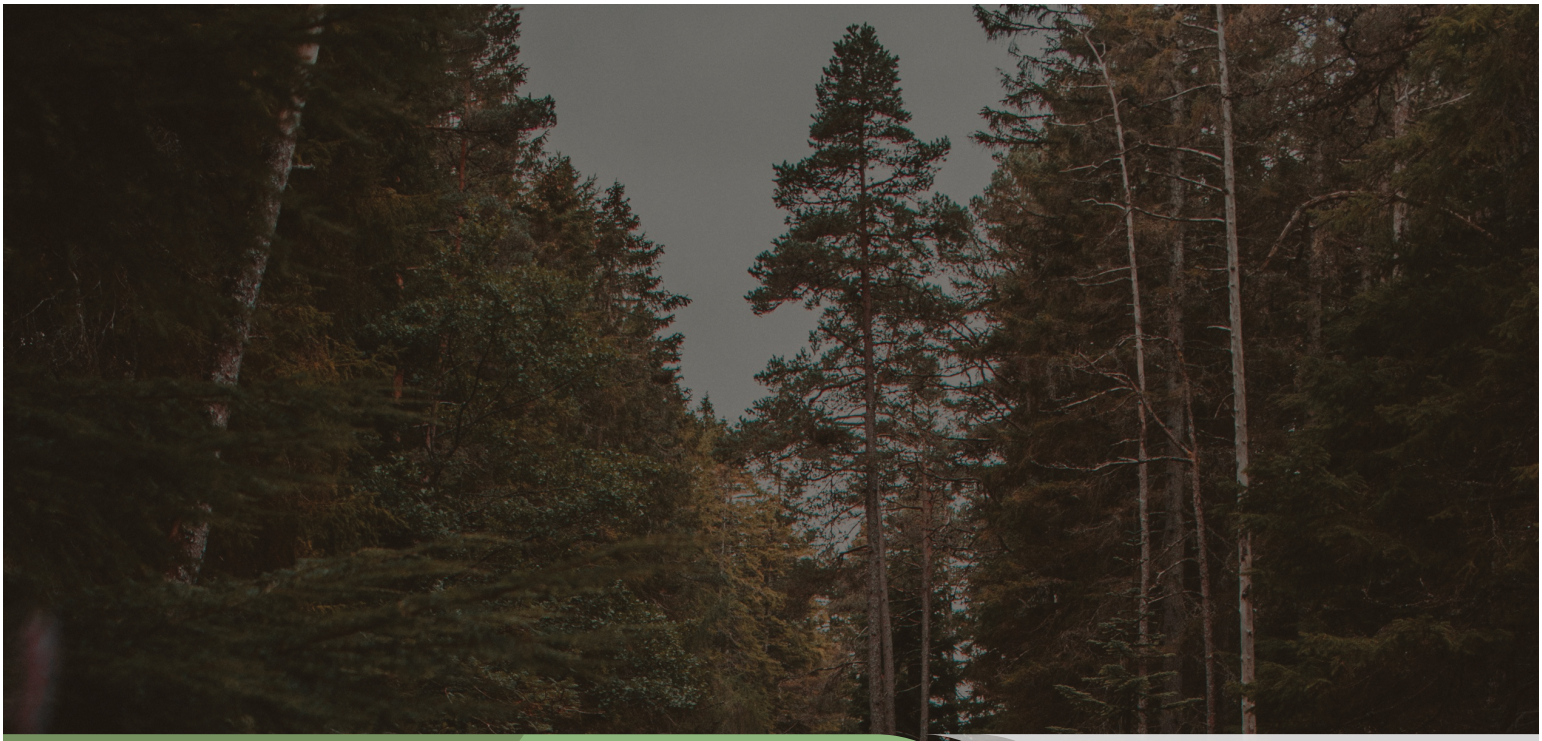
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CHAPTER 1:

Introduction



Introduction

ToC

If a land trust decides to report a conservation project to the relevant national or international 'area-based conservation' databases, a critical question is whether the project actually constitutes "area-based conservation", and if so, which type it is, *Protected Area* or *Other Effective Area-based Conservation Measure* (OECM).

Underlying that simple question ("Protected Area", "OECM" or "Neither"), is a very specific assessment process, one that is detailed at the national and international level, but primarily for public-protected areas. Direction for land trust projects is sparse, and often created based on tweaks of public-land conservation guidance.

This guide attempts to fill that gap, by drawing from the resources created by international bodies, as well as the pan-Canadian efforts, and applying that guidance specifically to land trusts in Canada. It begins with the area-based conservation tools that land trusts use, and references the governance structures and circumstances unique to the land trust sector.

Note that this guide is number two in a three-part series, the other two of which cover:

- *Area-Based Conservation Designations: A Primer for Canadian Land Trusts* addresses the questions of what these databases are and why a land trust might want to report to them.
- *Reporting Private Area-Based Conservation Sites: A Guide to the Databases for Canadian Land Trusts* covers the specifics of how to report a project to the national database (*Canadian Protected and Conserved Areas Database*) or the international database (*World Database on Protected and Conserved Areas*).

Area-based Conservation[1]

Conserving nature takes many approaches. The Global Biodiversity Framework makes this patently clear by identifying 5 goals and 23 separate targets to guide the work of addressing the biodiversity crisis (CBD 2022).

One of the most important approaches is 'area-based conservation', where a geographic area is demarcated, and specific enduring measures put in place to safeguard the area's natural features and systems.

These areas represent the 'core,' both biologically and strategically, of the effort to conserve *in situ* biodiversity.

However, an area being biodiverse does not constitute *area-based conservation* when there is no mechanism in place to 'conserve' it. This leads to the pragmatic challenge of identifying whether the mechanism can truly be said to conserve nature.

The Convention on Biological Diversity has identified two categories of 'area-based conservation', first in their 2010-2020 strategic plan (CBD 2010), and again in their 2020-2030 plan (CBD 2022). These are: ***Protected Areas*** (PAs) and **Other Effective Area-based Conservation Measures** (OECMs). The IUCN has been working for some time on defining and characterizing Protected Areas (Phillips 2007, Dudley 2008), and more recently on defining OECMs[2] (IUCN-WCPA 2019, Jonas et al 2024).

The databases set up to account for global and national progress on area-based conservation must therefore assess potential areas and determine if they are 1) a Protected Area, 2) an OECM, or 3) neither. And to be clear, 'neither' does not suggest no contribution to nature conservation, just that the mechanism is not an area-based conservation approach.

Area-based Conservation on Private Land

In general, efforts to answer the "PA/OECM/neither" question are focused on publicly-protected lands (i.e., protective measures instituted by governments on public or state-owned land). More recently, the IUCN has devoted significant attention to *Privately Protected Areas*[3] (or PPAs), and to a lesser degree OECMs under private governance (Mitchell et al 2018, Bingham et al 2020).

Regardless, it remains challenging to answer this question with regard to the private land conservation

1 For definitions of this term and the other jargon laced through this document, see *Appendix 1: Terminology*.

2 International and national protected areas personnel are increasingly referring to OECMs as 'Conserved Areas'. This document will stick with the OECM terminology, in order to prevent confusion arising from both Protected Areas and OECMs being 'area-based conservation measures.'

3 A Privately Protected Area is an area-based conservation project that meets the IUCN definition of a Protected Area, AND whose governance type is Private Governance.

work of land trusts[4]. Guidance tools produced at both the international and national level are of limited utility, as the evaluation rubrics only tangentially reference the primary tools that land trusts use, namely fee-simple land acquisition and securement of conservation easements[5].

Private Land Conservation vs the Work of Land Trusts

When viewing the guidance contained herein for Privately Protected Areas, it is important for land trusts to recognize the difference between their work and the larger realm of private land conservation - i.e., the guidance being provided nationally and internationally for privately-conserved parcels is for more than just land trusts.

'Private' land conservation is simply that – land conserved for biodiversity that is under private governance. This takes into account what the IUCN refers to as "private governance" and includes:

> *"individuals and groups of individuals; non-governmental organisations; corporations – both existing commercial companies and sometimes corporations set up by groups of private owners to manage groups of PPAs; for-profit owners; research entities or religious entities."* (Bingham 2020)

For *Privately Protected Areas* then, the guidance has to span for-profit, extractive-industry companies who generate profits off the property, as well as not-for-profit charities conserving a property's biodiversity on behalf of Canadians. For example, there is repeated reference to "private individuals, organisations or companies" – an impossibly wide spectrum of legal structures, liability profiles, responsibilities, and accountabilities.

For these reasons, the existing guidance may at times seem obvious or even patronizing, when applied to organizations established for the express purpose of conserving biodiversity.

ToC

Role of this Guidebook

The role of this guidebook is to give Canadian land trusts voluntary guidance on how to assess private-land area-based conservation projects; i.e., to determine if they are Protected Areas, OECMs, or neither. In general, this exercise is one of establishing rationale and providing evidence, and this guidebook helps land trusts do both.

The document has two main sections.

The **first section** begins with common land trust tools. The use of these tools varies dramatically between organizations, and between provincial/territorial jurisdictions. Therefore each is defined in general terms, followed by examples of how they might be a PA/OECM/neither given different circumstances.

The **second section** takes the IUCN definitions for both *Protected Areas* (PAs) and *Other Effective Area-based Conservation Measures* (OECMs) and breaks them apart (as several IUCN documents have done previously). For each component, existing guidance is collected[6], and then interpreted for land trusts by providing a brief explanation, a land-trust-sector-based assessment, and suggestions for potential evidence and support.

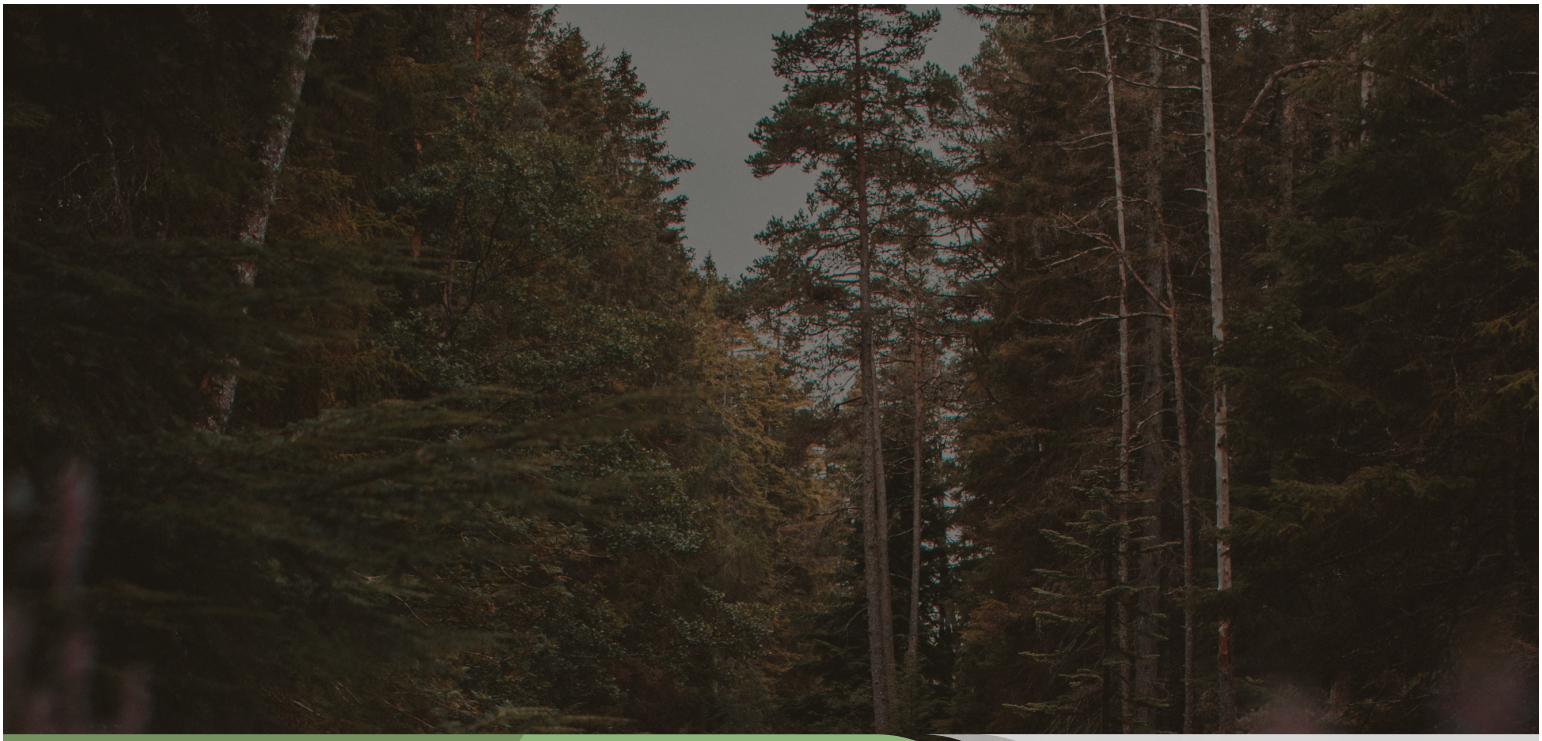
Where a deeper dive is needed to understand a specific assessment point, appendices provide additional explanation and guidance.



4 'Land trust' is a generic term for not-for-profit, registered charities with a mandate to conserve biodiversity (or other values) on privately held lands. These may be local, regional, provincial, or national, and may use the phrase 'land trust' or 'conservancy' or neither in their name. Most land trusts focus on biodiversity conservation, but many focus on agricultural, Indigenous culture, recreation, scenery, etc., or even a mix of these. This document uses the term 'land trust' to refer to all such organizations, and focuses on land trusts with a biodiversity conservation mandate.

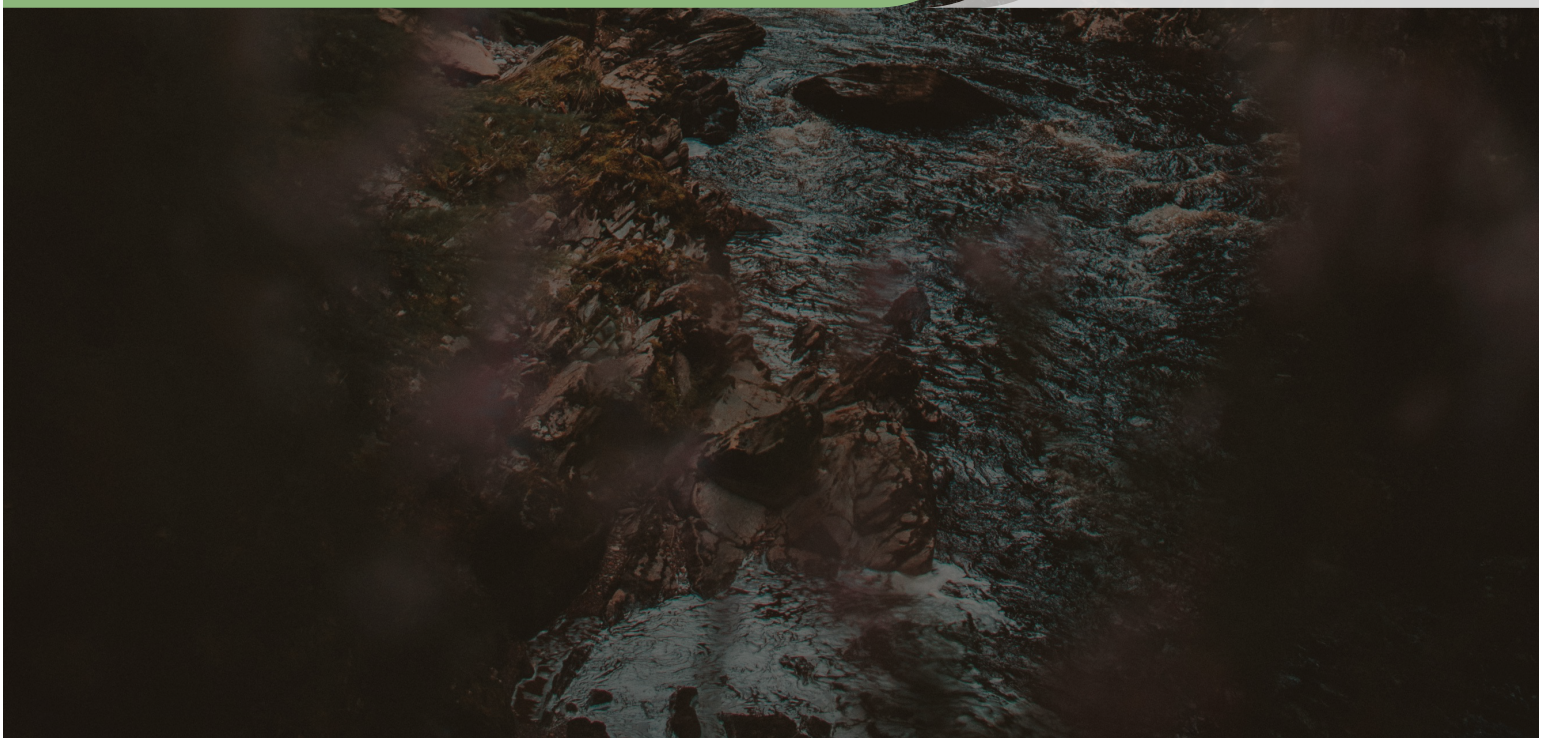
5 In this document, the term Conservation Easement is used to refer to legislatively-enabled private-property easements and covenants that apply positive and/or negative requirements on the owner of a property in favour of protecting the identified conservation values of a property. Canadian provincial and territorial law enabling this tool may refer to these as Conservation Easements, Conservation Covenants, and/or Conservation Agreements.

6 From the Convention on Biological Diversity, International Union for the Protection of Nature, World Conservation Monitoring Centre, and Canada's Pan-Canadian Conservation Initiative



CHAPTER 2:

Applying Area-based Conservation Designations to Land Trust Tools – A Summary



Applying Area-Based Designations to Land Trust Tools - A Summary

Currently, the application of area-based conservation designations to land trusts' projects usually starts in a different world. Guidance offered to land trusts generally just adds 'private sector' to existing guidance for publicly-protected lands. Guidance on *Privately* Protected Areas usually places the work of public-interest, not-for-profit, non-government, charitable land trusts in the same category as for-profit, private-interest corporations (a truly impressive stretch).

This section provides a summary that operates in reverse – starting with the tools that land trusts actual use. It provides the shortened version of how these tools should be designated in an area-based conservation assessment, and also who is responsible both for verifying and for reporting these projects to the national and international databases. The tools included are:

- Fee-simple acquisition
- Conservation easements – Perpetual
- Conservation easements – Temporary
- Servitudes and covenants
- Nature reserves
- Stewardship Tools

A Note About Quebec

The privately-conserved lands in Québec contribute tremendously to the cross-Canada efforts to conserve biodiversity. However, the tools, legal context, and reporting process are different. As noted in more detail below, Quebec's civil-law legal system means different tools are used versus those in the other provinces' common-law toolbox.

As well, Québec's privately-conserved lands are catalogued in *Le Répetoire des sites conservation voluntaire du Québec* (The *Répetoire*) a database of private land conservation activity in the province maintained by *Le Regroupement des organismes de conservation du Québec* (ROCQ), Québec's land trust alliance. The ROCQ and the Government of Québec have a developed a reporting and database relationship that parallels, but is separate from, the Canadian Protected and Conserved Areas Database (CPCAD).

Fee-simple acquisition

ToC

What the tool is

'Fee-simple Acquisition' in the context of land trusts refers to projects where a not-for-profit conservation charity acquires full title to a property, and then manages it to sustain its conservation values. These properties may be acquired by purchase or donation, some may be accompanied by a donor intent letter, and most have an associated management plan. There is no legal protection for the conservation values of the property, and perpetual conservation relies on the reputation of the conservation organization.

How it should be designated

The area-based conservation designation (Privately Protected Area or Private OECM) depends on the management intent. If the property is acquired and managed with the primary intent to protect the natural systems and biodiversity, it is designated as a *Private Protected Area*. Conversely, if the property is acquired and managed to maintain other conservation values (e.g., agriculture, recreation, culture), but in the process maintains the natural systems and biodiversity, it is designated as an *Other Effective Area-based Conservation Measure* (OECM). Finally, if it is acquired and managed to maintain other conservation values (e.g., agriculture, recreation, culture), but those protections do not provide protection for the natural systems and biodiversity, then it is ineligible for inclusion in either the Canadian Protected and Conserved Areas Database (CPCAD) or the World Database on Protected and Conserved Areas (WDPCA).

Who is responsible for reporting and verification

The owner of the property (the land trust) is solely responsible for reporting the data, and it can only be submitted to national or international databases by them, or with their express permission. The conservation organization can submit to the World Database of Protected and Conserved Areas (WDPCA) via submission to the Canadian Protected and Conserved Areas Database (CPCAD), or they can submit directly to the WDPCA. The conservation organization can seek either "government verification" or "expert verification."

ToC

Conservation easements – Perpetual

What the tool is

A conservation easement involves the acquisition, through donation or sale, of an interest in a property for the purposes of conservation by an eligible conservation organization[7]. The original landowner retains all rights and opportunities except those explicitly identified and prohibited / limited by the agreement. Conservation easements are enabled in law by a provincial or territorial government, and the agreements represent legally-binding protection of the identified conservation values. Agreements may or may not include a management plan(s), but the conservation-focused restrictions / prescriptions for land use are laid out in detail. In Canada, these agreements are sometimes called 'conservation covenants' or 'conservation agreements.' A 'perpetual' conservation easement means the term of the agreement has no stated end.

How it should be designated

Designation as an area-based conservation project (PPA or OECM) depends on the stated purpose, identified conservation values, and associated restrictions. A perpetual conservation easement granted for the purpose of maintaining natural systems and biodiversity, with identified conservation values that represent the desire to maintain the site's *in situ* biodiversity, and restrictions tied directly to those purposes/values, is deemed by the IUCN to be a *Private Protected Area*, and must be registered as such. A perpetual conservation easement where the purposes and conservation values are targeted at non-biodiversity conservation (e.g., agriculture, recreation, culture), but the restrictions will *de facto* conserve the *in situ* biodiversity, should be categorized as an *Other Effective Area-based Conservation Measure*. A perpetual conservation easement where the purposes and conservation values are targeted at non-biodiversity conservation, and the restrictions do not protect *in situ* biodiversity, would be ineligible for inclusion in either the Canadian Protected and Conserved Areas Database (CPCAD) nor the World Database on Protected and Conserved Areas (WDPCA).

Who is responsible for reporting and verification

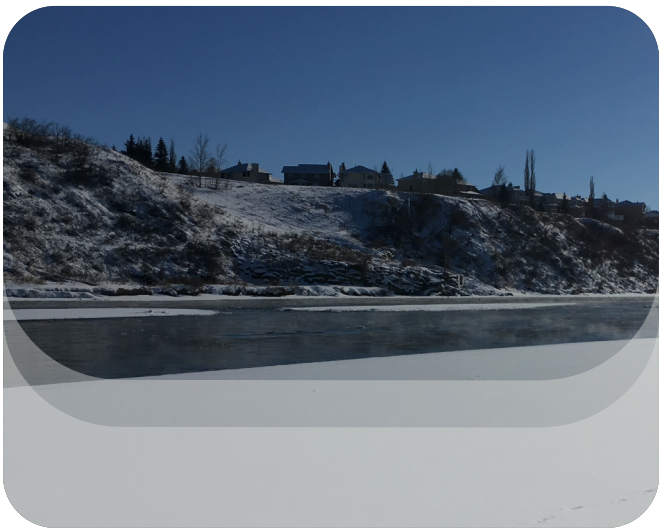
Responsibility for reporting a perpetual conservation easement to the national or international database is jointly held by the landowner and the conservation organization holding the easement. The conservation organization is the 'holder' of the data related to the protective device (the easement), and generally takes the lead on submission. However, they must have the permission of the landowner with whom they partner to provide any data related to the fee-simple property. Privacy and data-sharing are of the utmost importance here.

Conservation easement properties should be reported without the landowner's personal information, and may include limits on the sharing of spatial or location-specific data. As with fee-simple properties, the conservation organization can submit to the World Database of Protected and Conserved Areas (WDPCA) via submission to the Canadian Protected and Conserved Areas Database (CPCAD), or they can submit directly to the WDPCA. The conservation organization can seek either "government verification" or "expert verification."

Conservation easements – Temporary

What the tool is

A temporary conservation easement is the same as a perpetual conservation easement, except the term is limited. This limitation varies widely, often based on legislative direction. Terms may be a little as a few years or as long as 99 years (or longer). The defining characteristic is the agreement is designed to end. (*NB: These are often referred to as 'Term Easements'; a misnomer as all conservation easements have a 'term', and vary only in whether that term has a pre-determined endpoint*).



7 (see *Appendix 3: Servitudes, Covenants, and Easements*, for more details)

How it should be designated

Most of the guidance for designating a temporary conservation easement is the same as for perpetual conservation easements, with the exception of the impact of the temporary term. The temporary nature of these agreements is in direct conflict with the concept of a protected or conserved area, as both are intended to be 'long-term', ideally with no pre-conceived endpoint.

Direction on this is provided by Mitchell et al (2018), *Summary of criteria that distinguish PPAs from other PAs under different governance types* (adapted from Stolton et al 2014), as follows:

Permanence	• Area is legally designated for permanent protection of nature conservation (e.g. Act of Parliament/ legislation). **OR** • Designation to nature conservation is made through a permanent agreement (e.g. conservation covenant or easement). **OR** • Designation to nature conservation is made by a renewable agreement with the aim of permanence (e.g. time-limited conservation covenant or easement). **OR** • The intent for long term/ permanence is clearly stated in contracts, articles of association, memorandums of understanding, area objectives and plans and is reflected in the landholder's policy and financial mechanism.

This guidance was initially subject to considerable misinterpretation, including the perception that area-based conservation could have terms as little as 25 years. The IUCN subsequently issued a clarification (Fitzsimons et al 2024) that:

> "*this guidance does not mean that protected areas can be established for only 25 years, but that long-term intent can be demonstrated in several ways*"

(see *Appendix 2: Enduring Commitment to Biodiversity Conservation*, for more detail).

In essence, the IUCN suggests that a temporary conservation measure *may* be eligible if the agreement has the aim of permanence explicitly articulated.

ToC

Who is responsible for reporting and verification

The reporting and verification guidance for temporary conservation easements is the same as for perpetual conservation easements (above).

Servitudes and covenants

What the tool is

In general, servitudes and covenants are property law tools that can be used in the civil law system (servitudes) and common law system (covenants) to restrict activities on another person's privately-owned property. In certain forms, they can be used to maintain its natural systems and biodiversity (see *Appendix 3: Servitudes, Covenants, and Easements* for a detailed explanation of how these tools differ from conservation easements). Such restrictions might include (e.g.) prohibitions against pursuing subdivision, limits on timber harvest, bans on road development, and restrictions on buildings. These devices take the form of contracts between the owner of a 'dominant tenement' (the proximate property that will see a benefit) and the 'servient tenement' (the property on which the land use restrictions will be placed). These may or may not be registered on title, and may or may not be binding on future landowners.

It should be noted that because 'easements' are a common-law device, traditional 'conservation easements' are not available through Quebec's civil law system. Their most analogous tool is the 'real servitude', which is essentially a servitude connected to a property. The two most used nonpossessory rights tools in Quebec are the 'servitude de conservation immobilière', and the 'réserve naturelle sur un terrain privé' (see *Appendix 3: Servitudes, Covenants, and Easements* for a detailed explanation of these tools). While the categorization information below applies, these Quebec-specific devices should more appropriately be assessed in the same way as 'conservation easements.'

It should also be noted that legislatively-enabled 'Conservation Covenants' – despite their name – use the form of an *easement in gross*, and should therefore use the direction given for 'conservation easements', above.

How it should be designated

The designation of servitudes and covenants for conservation would be very similar as that for conservation easements, but with several key additions. Because these tools are used very broadly within property law, their form and durability can rely heavily on assumption and court interpretation. Indeed, there is a distinction between a 'real servitude' and an 'equitable servitude' with the former being enforceable based on written legal agreement, and the latter being enforceable by the courts based on a broad principle of fairness (again, see *Appendix 3: Servitudes, Covenants, and Easements* for more details).

For that reason, any assessment of a servitude or covenant used for nature conservation should give particular attention to the following:

- *Renewability, term* – Some servitudes/covenants may be of a very short term, and may not satisfy the 'long-term' criterion of both Private Protected Areas and OECMs.
- *Enforceability* (equitable servitude vs real servitude) – As noted above, some servitudes are not enforceable as legal interests in land. Some limit remedies to monetary damages payments, but do not include the requirement to take action to restore or remedy any infraction.
- *Binding on future generations* – Servitudes/covenants may not be binding on future generations, and may even last only until the beneficiary dies.
- *Identification of conservation values* – Servitudes/covenants are not intended to be comprehensive nature-protection devices, meaning there is no inherent need to catalogue the conservation values, nor for there to be any significant ecological value.
- *Clear connection between restrictions and conservation values* – Servitudes/covenants focus most heavily on land use 'restrictions' versus 'good management,' meaning there may be only a limited connection between the conservation values and the restrictions.

Who is responsible for reporting and verification

The reporting and verification guidance for servitudes and covenants is the same as for perpetual conservation easements (above).

Nature reserves

ToC

What the tool is

A primary private land conservation tool in Quebec involves partnerships between the provincial government and owners of land parcels with ecological value – *Nature Reserves on Private Land* (réserve naturelle sur un terrain privé).

How it should be designated

For inclusion in the Government of Quebec program, candidate properties must have nature conservation as the management priority on at least 75% of the land or water area of the site. The objectives of the agreement recognizing a Nature Reserve are generally intended to preserve species and their habitats, corresponding to the primary objective of an IUCN *Management Category IV* protected area (MELCCFP 2022). Sites that meet these criteria should be designated as Privately Protected Areas.

Who is responsible for reporting and verification

The government of Quebec is responsible for reporting *réserves naturelle sur un terrain privé*, as they are the holder of the data for these areas. However, they must have the permission of the landowner with whom they partner. Privacy and data-sharing are of the utmost importance here. These properties should be reported without the landowner's personal information, and may include limits on the sharing of spatial or location-specific data. The Quebec government can submit to the World Database of Protected and Conserved Areas (WDPCA) via submission to the Canadian Protected and Conserved Areas Database (CPCAD), or they can submit directly to the WDPCA. When they do, their information is considered "government verification."



Stewardship Tools

Land trusts employ numerous *stewardship* tools alongside their *land conservation* tools. These might include habitat management agreements, payments for sustainable practices, support for 'Best/Beneficial Management Practices', etc. These are critically important initiatives, and they speak to enhancing our ability to live in harmony with nature. As well, they speak to the Kunming-Montreal Global Biodiversity Framework (GBF) targets such as *Reduce the Introduction of Invasive Alien Species*, *Reduce Pollution to Levels That Are Not Harmful to Biodiversity*, *Enhance Biodiversity and Sustainability in Agriculture, Aquaculture, Fisheries, and Forestry*, and *Minimize the Impacts of Climate Change on Biodiversity*.

However, Privately Protected Areas and private OECMs (*area-based conservation* projects) are a unique category of conservation tool. They are the specific focus of the GBF Target to "Conserve 30% of Land, Waters and Seas." Their function is to protect *in situ* biodiversity for the long term.

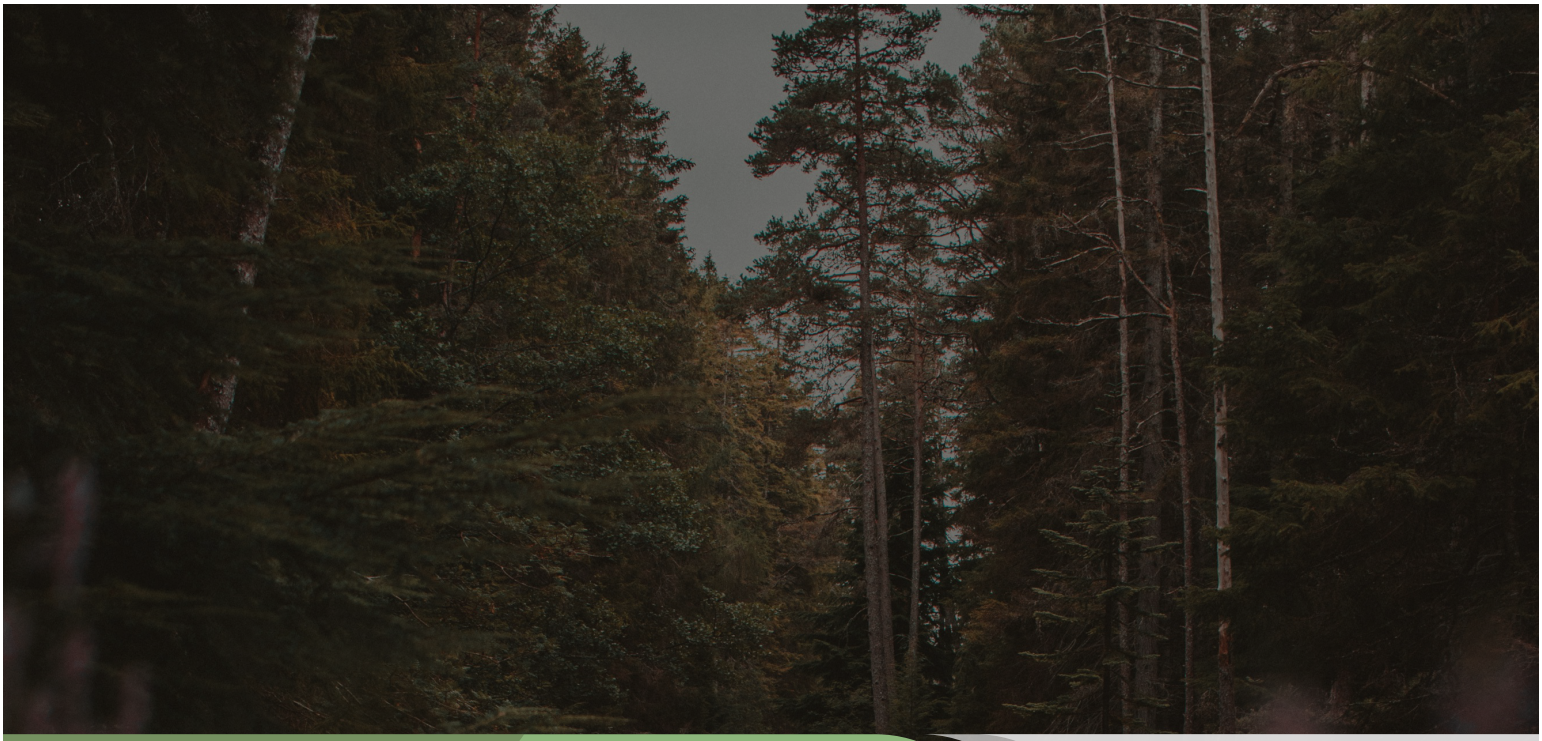
ToC

Assessing whether a tool, program, or approach satisfies the 'area-based conservation' criteria includes questions like:

- Does the initiative actively protect *in situ* biodiversity?
- Is the initiative established for the long-term?
- Does the initiative focus only on a single species or the area's biodiversity in general?
- Is the focus pollution control/limitation and harm reduction versus biodiversity conservation?

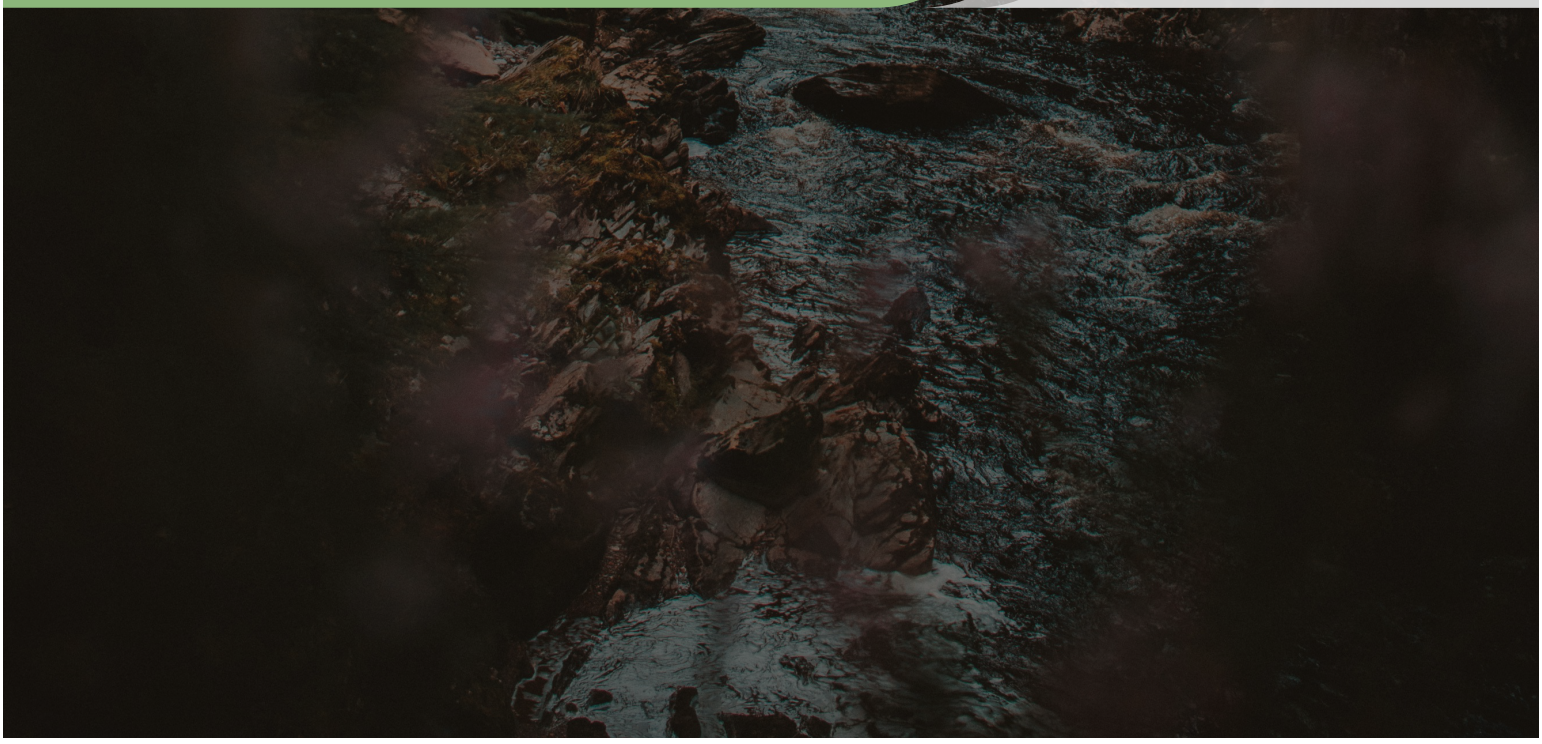
In general, stewardship tools (as described above) would be ineligible for inclusion in either the World Database on Protected and Conserved Areas (WDPCA) or the Canadian Protected and Conserved Areas Database (CPCAD).





CHAPTER 3:

Assessing a Private Area-based Conservation Project Against the IUCN Definitions



Assessing A Private Area-Based Conservation Project Against the IUCN Definitions

While the general guidance, above, is adequate for helping land trusts get a basic sense of how various private land conservation tools may or may not constitute 'area-based conservation', it does not provide a comprehensive basis for making that assessment on a site-by-site basis.

To do that, a land trust must assess their project against each element of the IUCN definitions for area-based conservation. The IUCN definitions of a *Protected Area* (Dudley 2008) and an *Other Effective Area-based Conservation Measure* (IUCN-WCPA 2019) are in fact, quite similar and contain significant (and intentional) overlap. However, they do contain important nuance, as will become apparent when going through the assessment information below.

For the purposes of this assessment guide, the two definitions have been broken down into the elements in the table to the right.

When assessing whether a private area-based conservation project is a Protected Area, OECM, or neither, the approach is the same as for all area-based conservation. This involves a sequential assessment:

1. If the site satisfies all the elements of the definition of a Protected Area, it must be reported as a Protected Area (Bingham 2020), and assessment can end[8];
2. If the site **does not satisfy <u>all</u> the elements of a Protected Area**, but ***<u>does</u>* satisfy all elements of an OECM**, it can be reported as an OECM;
3. Finally, if the site **does not satisfy <u>all</u> the elements of <u>either</u> definition**, it does not constitute area-based conservation.

This section of the document takes both the Protected Area and OECM definitions, and breaks them out into their component elements. This provides a basis for a land trust to assess a given area-based conservation project. For each 'definition element', this section provides the following:

- *Explanation* – A brief description of that element of the definitions
- *Guidance* – A summary of the guidance from both international and national sources
- *Land Trust Considerations* – Aspects of the definition element that are particularly applicable or important for land trusts
- *Evidence and Support* – Examples of what land trusts can use as evidence that their project satisfies that element of the definition

Be aware that to satisfy one of the definitions, a project must satisfy *<u>all</u>* of that definition's individual elements (often referred to as its 'criteria'). This is particularly important when viewing the individual *Land Trust Assessment* sections. For example, the simple existence of a management plan may satisfy one element of the definition, whereas specific contents of a management plan may be needed to satisfy another.

Protected Areas	OECM/Conserved Areas
A clearly defined geographical space .	A geographically defined area
	other than a Protected Area
recognized, dedicated and	which is governed and
managed	managed
through legal or other	in ways
effective means to achieve	that achieve positive and
the long-term	sustained long-term outcomes for the
conservation of nature	in situ conservation of biodiversity
with associated ecosystem services and	with associated ecosystem functions and services and
cultural values	where applicable, cultural, spiritual, socio-economic, and other locally relevent values.

8 In some cases, the governing authority may choose strategically not to report a site as a protected area because of concern by partners or the local community regarding that designation; in such cases a Privately Protected Area can be reported as an OECM.

Geographic Definition

Protected Areas	OECM/Conserved Areas
A clearly defined geographical space	A geographically defined area

Explanation

Protected Areas and Other Effective Area-based Conservation Measures (OECMs) are what the Convention on Biological Diversity has referred to in their Strategic Plans as "area-based conservation" (CBD 2010, 2022). A Protected Area or OECM must therefore have a demonstrable spatial area, with clear demarcation and boundaries. There are several explicit or referential methods that can satisfy this element.

This is not to say that other approaches to conservation that are not 'area-based' are unworthy, only different.

Guidance

In short ... if the area is not geographically defined, it is not 'area-based conservation'

International

- "Includes land, inland water, marine and coastal areas or a combination of two or more of these. 'Space' has three dimensions, e.g. as when the airspace above a protected area is protected from low-flying aircraft or in marine protected areas when a certain water depth is protected or the seabed is protected but water above is not: conversely subsurface areas sometimes are not protected (e.g. are open for mining). 'Clearly defined' implies a spatially defined area with agreed and demarcated borders. These borders can sometimes be defined by physical features that move over time (e.g. river banks) or by management actions (e.g. agreed no-take zones)." *IUCN Protected Area Guidance* (Dudley 2008)
- "Geographically defined area implies a spatially delineated area with agreed and demarcated boundaries, which can include land, inland waters, marine and coastal areas or any combination of these. In exceptional circumstances, boundaries may be defined by physical features that move over time, such as river banks, the high water mark or extent of sea ice." *IUCN Guidance on Recognising and Reporting OECMs* (IUCN-WCPA 2019)

Canadian

- "The intended effect of the criterion is to ensure the area is demarcated such that it can facilitate the *in-situ* conservation of biodiversity." *Pathway to Canada Target 1 Decision Support Tool* (PT1 2021)
- "However, the existence of subsurface rights held by a third party, is not, in and of itself, reason to rule an area out from further screening as a potential Protected Area or OECM." *Pathway to Canada Target 1 Decision Support Tool* (PT1 2021)

Land Trust Considerations

- The area of land held in fee simple or subject to a conservation easement, servitude or other device must be clearly defined.
- If the subject parcel contains areas not subject to conservation management, these should be excluded from the spatial description of the area-based conservation project.
- If the area is split into zones whose conservation management differs significantly, the land trust should consider breaking this 'parent' area into 'zones.'
- It should be clear if there air rights and/or subsurface rights held by parties outside the conservation area ownership and management (see *Appendix 4: Addressing Other Rights and Tenures* for consideration of sub-surface rights, and *Underlying Concern: Assessing and Mitigating Subsurface Mineral Risk Under Privately-Conserved Properties* for a more detailed consideration of the topic).

Evidence and Support

Documentation and support examples could include:

- GIS shapefile of property
- Land title or deed
- Legal land description; lot and plan
- Metes and bounds description
- Survey report



ToC

Protected Area or OECM

Protected Areas	OECM/Conserved Areas
	Other than a protected area

Explanation

Both the international and the Canadian databases for protected and conserved areas are adamant about distinguishing between Protected Areas and OECMs (aka Conserved Areas).

The difference between an OECM and a Protected Area is for the most part quite slim. Both are recognized and defined by the international conservation community as 'area-based conservation' measures for *in situ* protection of biodiversity, with the distinction being Protected Areas have conservation as their stated ***primary*** objective, while OECMs have ***secondary or absent*** goals for biodiversity conservation, but provide such conservation anyway by virtue of their protective mechanism.

Additionally, once a Privately Protected Area is identified as such, the databases require that the appropriate IUCN Protected Area Management Category be identified.

Guidance

In short ... if the site satisfies the definition of a protected area, it is a protected area; if restrictions on the site do not prioritize biodiversity conservation, but do still in fact provide in situ conservation of biodiversity, it is an OECM.

International

- "**The defining feature of a protected area is that the site is recognised, dedicated and managed for conservation**. Protected areas have conservation objectives as the primary objective of the site. The defining aspect of an OECM is the **biodiversity conservation outcome, regardless of the objectives of the site**." *IUCN Guidance on Other Effective Area-based Conservation Measures* (Jonas et al 2024)
- "This means that areas that are already designated as protected areas or lie within protected areas should not also be recognised or reported as OECMs" *IUCN Guidance on Recognising and Reporting OECMs* (IUCN-WCPA 2019)
- "Private protected areas can and do fall into all the categories. Some people assume that they are better represented under categories IV–VI; but in fact many fit the management objectives of I–III, perhaps especially those owned/managed by NGOs." *IUCN Protected Area Guidance* (Dudley 2008)

Canadian

- " This Decision Support Tool (DST), including the associated Screening Template, is intended to be used to help evaluate whether areas meet the definitions of "Protected Area" (PA) or "Other Effective Area-based Conservation Measure" (OECM). Evaluations can be completed by anyone. They are intended to inform the identification and recognition of PAs and OECMs and support reporting decisions by responsible jurisdictions, as well as to support other conservation decisions. " *Pathway to Canada Target 1 Decision Support Tool* (PT1 2021)

Land Trust Assessment

- This element of the definition is really just a reminder to first assess whether the site is a Protected Area, before digging into the criteria of an OECM.
- Note that neither lands acquired in fee-simple nor the holding of conservation easements immediately constitutes a Protected Areas nor OECMs; all elements of the definition (see below) need to be satisfied.
- With all elements likely satisfied, the question of whether a private land conservation project is a Protected Area or an OECM boils down to the question of whether the management regime puts 'primacy' on biodiversity conservation.
- When a land trust project is designated as a Privately Protected Area, it will need to identify an IUCN Management Category (this is covered in detail in *Reporting Private Area-Based Conservation Sites: A Guide to the Databases for Canadian Land Trusts*).

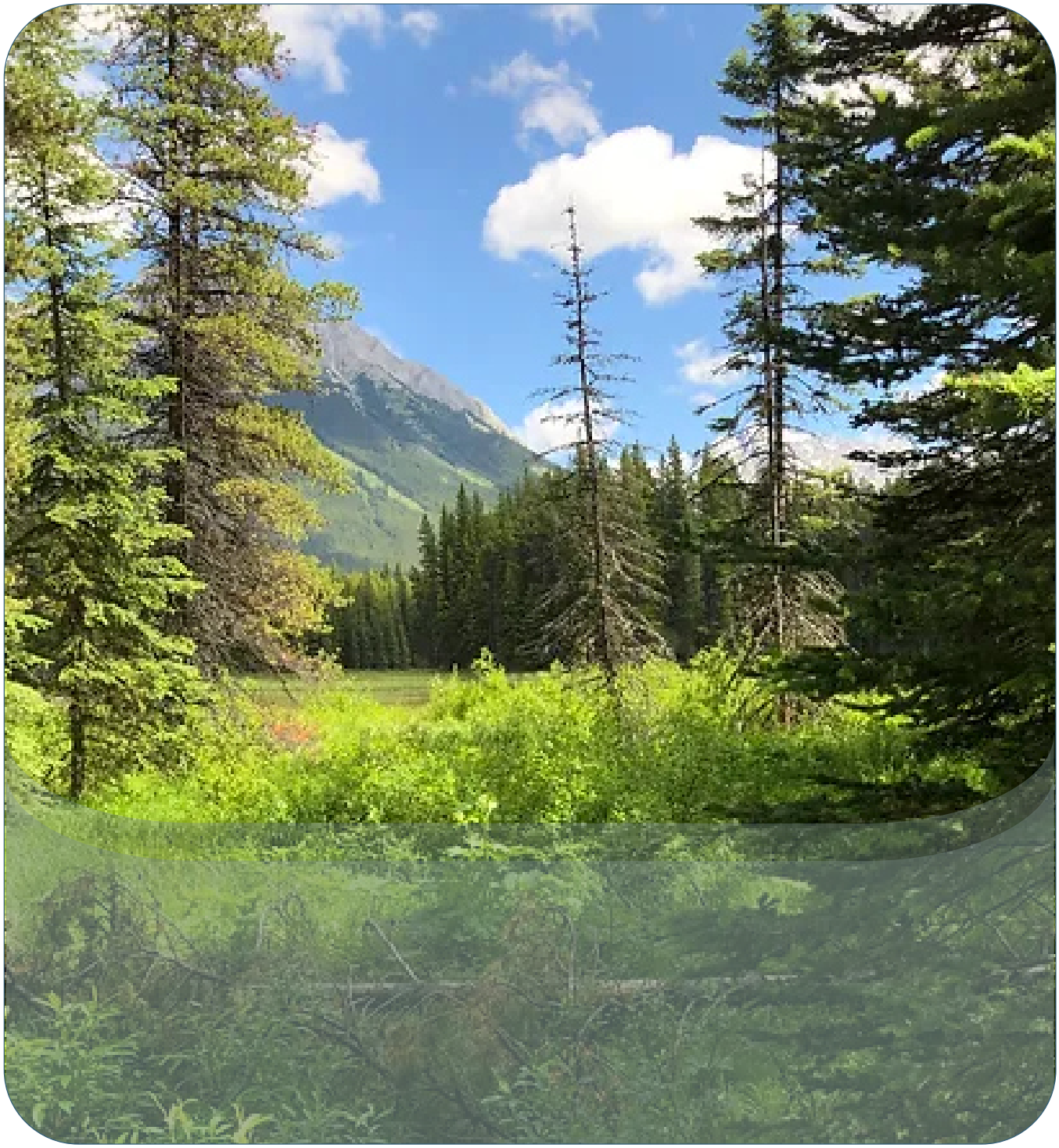
For more detailed guidance, see the following appendices:

- *Appendix 5: Identifying or Establishing Other Effective Area-Based Conservation Measures.*
- *Appendix 6: Showing Primacy of Biodiversity Conservation in a Conservation Easement*
- *Appendix 7: Showing Primacy of Biodiversity Conservation in a Property Management Plan*

ToC

Evidence and Support

- Purpose of the conservation easement, conservation values, and associated restrictions.
- Fee-simple property management plan or management principles.
- Land securement acquisition policies or criteria.



ToC

Recognition

Protected Areas	OECM/Conserved Areas
Recognized	

Explanation

The definition of a Protected Area deviates from that of an OECM here, in requiring that PAs are 'recognized.' Traditionally, 'recognition' has meant government recognition via some sort of designation or via inclusion in the international databases, providing limited direction for private area-based conservation. Augmented direction from the IUCN PPA Specialist Group makes it clear that conservation easements and properties owned by conservation NGOs constitute "recognized" protected areas (Bingham et al 2020).

There is also confusion in the realm of 'recognition' where a private governance authority recognizes a Privately Protected Area as a protected area, but the national government does not report it. Again, augmented direction from the IUCN PPA Specialist Group has clarified that this. The IUCN guidance recognizes that the term 'protected area' may be concerning, and allows that a governance authority can choose to report a Privately Protected Area as an OECM to address this (Stolton et al 2014).

Guidance

In short .... conservation easements and properties owned by conservation NGOs constitute "recognized" protected areas.

International

- "Implies that protection can include a range of governance types declared by people as well as those identified by the state, but that such sites should be recognised in some way (in particular through listing on the World Database on Protected Areas – WDPA)" IUCN PA Guidance (Dudley 2008)
- "In some countries, private or community groups may be concerned that declaring a site to be a protected area will restrict their rights, access or control. ... the site cannot be reported as a protected area without their agreement (see Sections 3.3 and 4.3). In this case, the option of identifying and reporting the site as an OECM (if it meets all the criteria) may offer a more acceptable alternative." IUCN Guidance on Other Effective Area-based Conservation Measures (Jonas et al 2024)
- "PPAs might be recognized in a number of different ways:
  - Legislation that declares a PPA part of the national or subnational protected area system with all attendant legal obligations.
  - Legislation that declares a PPA part of the national or subnational protected area system but with fewer obligations.
  - Legal agreements such as easements or covenants that are recognized by national governments.
  - Broader legal or quasi-legal agreements, such as easements or covenants, that may fall short of full recognition of a PPA by the national government but ensure long-term commitment to land or water conservation.
  - Recognition by a national or subnational association of PPAs with guidelines and inventory (see below) provided that the association is recognized by outside experts (e.g. WCPA regional chairs).
  - Recognized on authoritative international databases (e.g. WDPA) – probably via a national-level process (see for example UK country review).
  - Ownership by an NGO with a legal structure that obligates conservation.
  - (NB. Inclusion within international designations (e.g. Ramsar, Biosphere) or other designations of significance (e.g. key biodiversity areas) can strengthen the security of a PPA but is not sufficient in and of itself)." *IUCN Privately Protected Area Guidance"* (Stolton et al 2014)
- "It has become apparent that guidance is needed about how PPAs might be reported on internationally in cases where the ***governance authority*** recognises them as protected areas but the ***government*** does not report them to the World Database on Protected Areas (WDPA). The 2016 IUCN World Conservation Congress confirmed that *privately protected areas should be recognised as protected areas*.
  - Key message - "Privately protected areas should always be reported to the World Database on Protected Areas as protected areas, contingent on the consent of the private governance authority." *IUCN Privately Protected Areas: International Reporting and Their Relationship with OECMs*, (Bingham et al 2020)

ToC

Canadian

- Pan-Canadian guidance focuses on screening for whether a site is a Protected Area, an OECM, or neither, and assumes that that decision constitutes 'recognition.' Pathway to Canada Target 1 Decision Support Tool (PT1 2021)
- The Canadian Protected and Conserved Areas Database guidance subsumes 'recognition' within the Status field ("The Status describes the current state of protection of each protected or other conserved area.")
  - *Designated*: The protected area or OECM is **recognized** or dedicated through legal/formal means. Implies specific binding commitment to conservation in the long term.
  - *Established*: Site **recognized** or dedicated through other effective means. Implies commitment to conservation outcomes in the long term, but not necessarily with legal recognition." *Canadian Protected and Conserved Areas Database User Manual* (ECCC 2025)

Land Trust Considerations

- Sites subject to conservation easements, covenants or servitudes – which have in turn been specifically enabled by provincial or territorial legislation for conservation purposes – constitute 'recognition.'
- Sites held in fee simple by a land conservation organization (i.e., a land trust or conservancy), where the purposes of the organization and the management intent of the area is in situ conservation of biodiversity – constitute 'recognition.'
- A land trust may opt to report an area-based conservation site that satisfies the definition of a Protected Area as an OECM if they choose so, especially in cases where the designation of 'protected area' may raise concerns with partners or the local community.
- While reporting authority (i.e., 'recognition') for conservation easements is vested in the land trust, the organization should ensure that the private landowner provides consent for any information that might unduly jeopardize their privacy.
- Land trusts should be cognizant that there is value in their area-based conservation sites being 'recognized' by the international and/or national databases, as that provides a measure of third-party validation.

Evidence and Support

- Conservation easement agreement
- Charitable purposes, mission statement of the organization
- Management plan for the fee simple property



Dedication

Protected Areas	OECM/Conserved Areas
dedicated and	

Explanation

The 'dedicated' criterion is intended to bridge the gap between an area simply being biodiverse, and that area's biodiversity being protected. In effect, this asks whether there is a protective mechanism in place, and whether it 'has teeth.'

In general, conservation easements and properties owned by conservation NGOs are considered 'dedicated' provided the management plans (of fee simple properties) or the agreement clauses (of conservation easements) indicate an enduring commitment to conservation, and are publicly available.

Guidance

In short .... conservation easements and property ownership by conservation NGOs can constitute the "dedication" of a protected area.

International

- "Implies specific binding commitment to conservation in the long term, through e.g.:
  - International conventions and agreements
  - National, provincial and local law
  - Customary law
  - Covenants of NGOs
  - Private trusts and company policies
  - Certification schemes." *IUCN Protected Area Guidance* (Dudley 2008)
- "Showing 'dedication' can be more difficult in PPAs than in other governance types. Where the owner has no legal control over wildlife or ecological processes (e.g. fire management) that impact the ability to achieve desired conservation outcomes, 'dedication' can be shown through:
  - Formal agreements with the government agencies that have legal control to ensure that conservation values are maintained; or
  - Publicly available long-term management plans with indication of dedication to conservation; or
  - Other recognition processes.
    - For example, in the case of voluntary conservation commitments recognition by a national or subnational association of PPAs with guidelines and inventory can help provide additional evidence of the site's dedication to management which meets the IUCN definition of a protected area. It may be possible in the future for such associations to be additionally recognized by outside experts (e.g. WCPA regional chairs or the WCPA PPA Specialist Group)." *IUCN Privately Protected Area Guidance* (Stolton et al 2014)

Canadian

- The Canadian Protected and Conserved Areas Database guidance subsumes 'dedicated' within the Status field ("The Status describes the current state of protection of each protected or other conserved area"). The options include:
  - *Designated*: The protected area or OECM is recognized or **dedicated** through legal/formal means. Implies specific binding commitment to conservation in the long term.
  - *Established*: Site recognized or **dedicated** through other effective means. Implies commitment to conservation outcomes in the long term, but not necessarily with legal recognition." *Canadian Protected and Conserved Areas Database User Manual* (ECCC 2025)

Land Trust Assessment

- Conservation easement agreements must indicate an enduring commitment to conservation to satisfy the 'dedicated' criterion.
- The management plan for fee simple properties must indicate a long-term commitment to conservation to satisfy the 'dedicated' criterion.

For more detailed guidance, see the following appendices:

- Appendix 2: Enduring Commitment to Biodiversity Conservation

Evidence and Support

- Conservation easement agreement.
- Management plan for fee simple property

ToC

ToC

Governance

Protected Areas	OECM/Conserved Areas
	which is governed and

Explanation

'Governance' goes hand-in-hand with 'dedicated', in that, for a protective mechanism to be effective, someone has to have authority/responsibility for it. While 'governance types' are part of the assessment of Protected Areas, the term 'governed' is only used in the OECM definition. Regardless, this section will assume the criterion applies to both.

As noted above, guidance for privately-held area-based conservation is challenging as it considers "individuals, organizations or companies" in one governance basket. Nonetheless, not-for-profit registered charities with a mandate for land conservation (i.e., land trusts) are a recognized and validated governance type.

Guidance

In short ... an area-based conservation project undertaken by a land trust satisfies the 'governance' criterion.

International

- "Governed implies that the area is under the authority of a specified entity, or an agreed upon combination of entities. OECMs can be governed under the same range of governance types as protected areas, namely:
  1. Governance by governments (at various levels);
  2. Governance by private individuals, organisations or companies;
  3. Governance by indigenous peoples and/or local communities; and
  4. Shared governance (i.e., governance by various rights holders and stakeholders together) (Dudley, 2008; Borrini-Feyerabend et al., 2013)." *IUCN Guidance on Recognising and Reporting OECMs* (IUCN-WCPA 2019)
- "Protected areas can include a range of governance and management regimes. Governance types include governance by government, private governance, governance by indigenous peoples and local communities and various forms of shared governance." IUCN Guidelines for Privately Protected Areas (Mitchell et al 2018)

Canadian

- "Areas may qualify as Protected Areas provided they are governed and managed with conservation of nature as their primary goal, in ways that protect broader ecosystem components and processes year-round." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)
- "The Governance Type describes the entity responsible and accountable for making decisions about how a protected area or OECM is managed." Canadian Protected and Conserved Areas Database User Manual (ECCC 2025)

Land Trust Assessment

- By virtue of their structure, land trusts are a recognized as examples of 'private governance' type for protected areas and OECMs.
- An area-based conservation project can be said to be 'governed' by a land trust when the land trust is making the governance-level decisions that ensure nature conservation will be the primary objective (PPAs) or that the management regime may prioritize other land values, but the restrictions conserve biodiversity (OECMs).
- Examples would include ownership of a conservation property by a land trust, or holding a conservation easement on a property.
- A private area-based conservation site may be 'governed' by two or more land trusts, which would constitute 'shared' governance; regardless, the criterion would still be satisfied (direction on how to answer this question is included in the Reporting Private Area-Based Conservation Sites: A Guide to the Databases for Canadian Land Trusts.

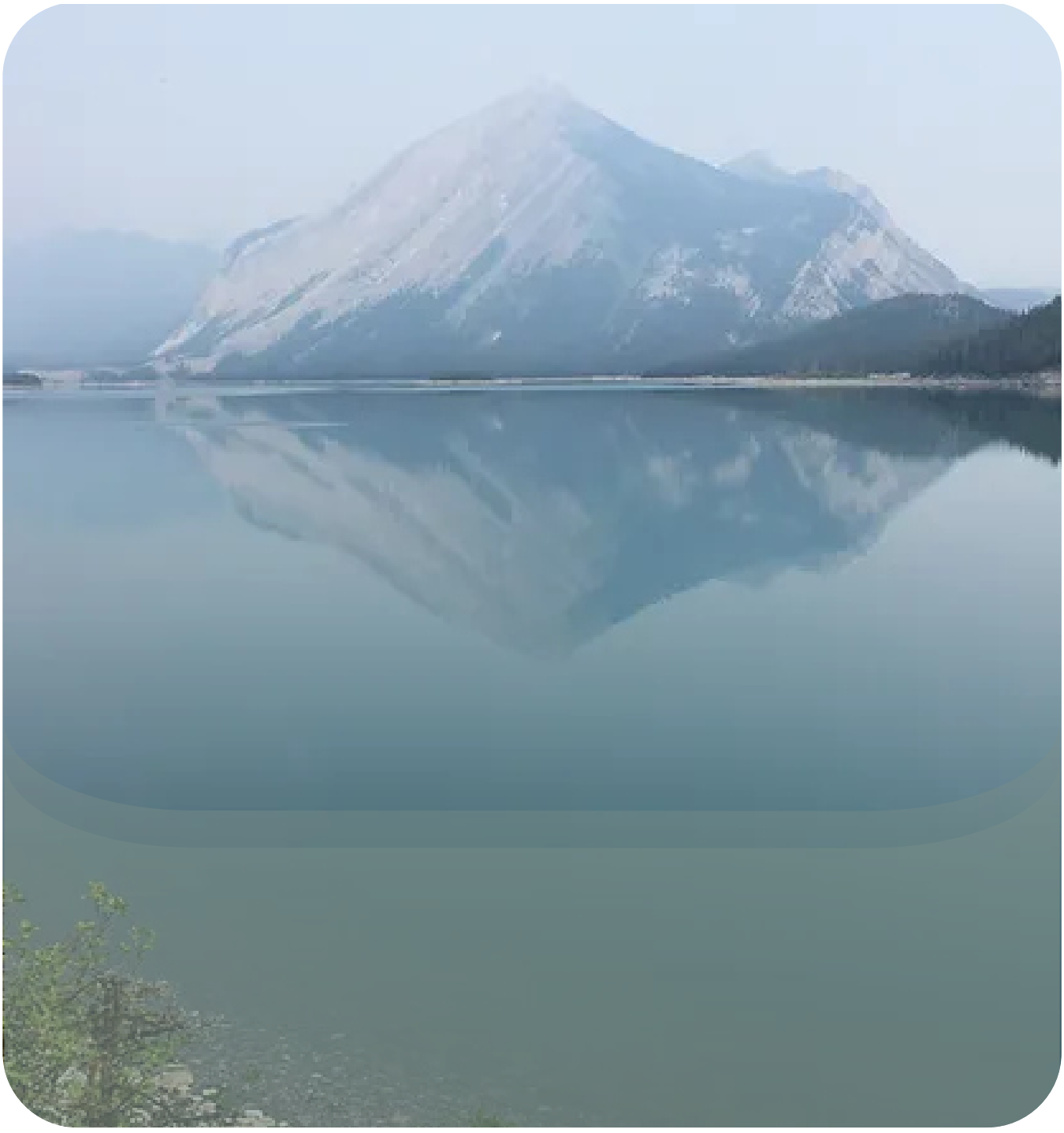
For more detailed guidance, see the following appendices:

- Appendix 5: Identifying or Establishing Other Effective Area-Based Conservation Measures
- Appendix 6: Showing Primacy of Biodiversity Conservation in a Conservation Easement
- Appendix 7: Showing Primacy of Biodiversity Conservation in a Property Management Plan
- Appendix 8: Evidence for In Situ Biodiversity Conservation Focus

ToC

Evidence and Support

- Deed of fee simple property indicating land trust ownership
- Conservation easement agreement indicating a land trust if the easement holder
- Contract, MOU, Letter of Agreement or similar device outlining shared governance



ToC

Management

Protected Areas	OECM/Conserved Areas
managed	managed

Explanation

Mitchell et al (2018) explain concisely that "**management** refers to what is being done in pursuit of given objectives ... **governance** refers to who decides what these objectives are ..." (see *Appendix 9: What is the Difference Between Management and Governance?* taken from *IUCN Guidelines for Privately Protected Areas* (Mitchell et al 2018))

Management is the dotted line that connects the stated conservation objectives, to the actual *in situ* conservation of biodiversity. This includes actively protecting the site from threats, placing limitations on land uses that may negatively affect *in situ* biodiversity conservation, and engaging in monitoring and enforcement.

The management approach may be plainly articulated in concrete management plans, or may be inferred from various indirect sources that collectively indicate the management intention.

Guidance

In short ... the area-based conservation site must be subject to active or passive management undertaken with the intent of maintaining biodiversity.

International

- "Assumes some active steps to conserve the natural (and possibly other) values for which the protected area was established; note that "managed" can include a decision to leave the area untouched if this is the best conservation strategy." IUCN Protected Area Guidance (Dudley 2008)
- "PPAs should have a written statement of an intention to manage for conservation outcome and some means of monitoring progress towards these goals (even if private ownership and management may make PPA planning and management less formal)." IUCN Privately Protected Area Guidance (Stolton et al 2014)
- "Having a management system in place is an important step in ensuring effective nature conservation in PPAs. Ideally, a management system should consider all aspects of protected area management, from identifying objectives to monitoring and adaptation." IUCN Guidelines for Privately Protected Areas (Mitchell et al 2018)
- "A key element of the OECM definition is that they should be "governed and managed in ways that achieve positive and sustained long-term outcomes for the in situ conservation of biodiversity." Thus evidence is required showing that the site is important for biodiversity (see Table 1) and is effectively conserving biodiversity as a result of its management. Some level of baseline inventory and ongoing monitoring of the site's biodiversity values is required to answer these questions." IUCN Guidance on Other Effective Area-based Conservation Measures (Jonas et al 2024)

Canadian

- "The Management Authority refers to all relevant public, private and indigenous agencies, organizations, individuals, or groups that manage the protected or other conserved area." Canadian Protected and Conserved Areas Database User Manual (ECCC 2025)

Land Trust Assessment

- A land trust is considered the manager of any conservation property they own, and the property is considered to be managed for conservation if it has an associated management plan or set of management principles that will ensure the in situ conservation of biodiversity.
- With a conservation easement held by a land trust, the 'manager' is in fact the landowner; thus conservation-focused management intention must be articulated through the conservation easement agreement itself

For more detailed guidance, see the following appendices:

- Appendix 6: Showing Primacy of Biodiversity Conservation in a Conservation Easement
- Appendix 7: Showing Primacy of Biodiversity Conservation in a Property Management Plan
- Appendix 9: What is the Difference Between Management and Governance?
- Appendix 10: Management Intention

ToC

Evidence and Support

- Conservation values, purpose, and restrictions/ prescriptions in a conservation easement agreement
- Baseline documentation
- Management plan or principles
- Monitoring protocol
- Property management policies



ToC

Protective Mechanism

Protected Areas	OECM/Conserved Areas
through legal or other	in ways

Explanation

Even for governments, simply declaring that a piece of biodiverse land is 'protected' is not adequate. This declaration must be backed up by some sort of binding mechanism.

Because the original conceptions of Protected Areas focused on publicly-conserved areas, the use term 'legal' can be misleading. For the most part, this meant 'legislated', as in the passing of Acts of the State that created gazetted parks and protected areas. The 'other' means referred to are, in fact, very often 'legally-binding' agreements.

The ownership of land or the holding of a conservation easement by a conservation charity are both considered acceptable mechanisms for the definitions of PAs and OECMs.

Guidance

In short ... simply being a biodiverse area is not enough; there must be a protective mechanism in place, such as a conservation easement or fee-simple ownership by a conservation NGO.

International

- "Means that protected areas must either be gazetted (that is, recognised under statutory civil law), recognised through an international convention or agreement, or else managed through other effective but non-gazetted means, such as through recognised traditional rules under which community conserved areas operate or the policies of established non-governmental organizations. IUCN Protected Area Guidance (Dudley 2008)
- "De facto or de jure tenure should be clearly defined (even if the package of tenurial rights and responsibilities constituting the 'area' that is managed as a PPA is diverse and unconventional). The control of rights over land or water use are rarely in the hands of one person, organization or government ministry – and thus tensions often arise when different rights holders have different objectives for the use of those rights." IUCN Privately Protected Area Guidance (Stolton et al 2014)
- "For any area to fit the definition of a protected area the current use of the area should be conservation – and the intent should be that the conservation objective is for the long term." IUCN Privately Protected Area Guidance (Stolton et al 2014)
- "Where specific management is necessary to achieve the stated conservation outcome and rights-holders may require a particular management style in order to satisfy their requirements. Managers of sites should be aware of any rights of use which are not in their control, and efforts should be made to ensure that use does not impact these conservation outcomes." IUCN Privately Protected Area Guidance (Stolton et al 2014)

Canadian

- "The mechanisms provide the ability to prevent incompatible activities and manage all other activities within the area, such that the in-situ conservation of biodiversity can be achieved." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)

Land Trust Assessment

- Conservation properties held in fee simple by land trusts are generally considered to be area-based protection. However, there is in fact no mechanism preventing the sale of the land, and subsequent non-conservation use. Ideally, such a property would have a conservation easement or some other device triggered upon sale.
- A conservation easement with a biodiversity conservation purpose is an acceptable mechanism for both Protected Areas and OECMs.

For more detailed guidance, see the following appendices:

- Appendix 6: Showing Primacy of Biodiversity Conservation in a Conservation Easement
- Appendix 7: Showing Primacy of Biodiversity Conservation in a Property Management Plan
- Appendix 8: Evidence for In Situ Biodiversity Conservation Focus

Evidence and Support

- Conservation easement agreement
- Management plan for fee-simple properties
- Policy on the sale of conservation lands

ToC

Effectiveness

Protected Areas	OECM/Conserved Areas
effective means to achieve	that achieve positive (outcomes) and

Explanation

For all the good intentions, a proposed area-based conservation project may be good on paper, but not in practice. The 'effective' criterion aims to ensure mechanisms are in place to ensure the site is effective in protecting biodiversity protection after it is designated.

For privately-conserved land, that means ensuring the project is subject to organizational policies, agreement clauses, land management regimes, and monitoring protocols that can reasonably be expected to result in 'effective' conservation.

In short ... the policies, management regimes, and agreement clauses must indicate the ability for the land trust's project to be effective in in situ biodiversity conservation.

Guidance

International

- "[Effective] Means that protected areas must either be gazetted (that is, recognised under statutory civil law), recognised through an international convention or agreement, or else managed through other effective but non-gazetted means, such as through recognised traditional rules under which community conserved areas operate or the policies of established non-governmental organizations." IUCN Protected Area Guidance (Dudley 2008)
- "Implies some level of effectiveness - a new element that was not present in the 1994 definition but which has been strongly requested by many protected area managers and others. Although the category will still be determined by objective, management effectiveness will progressively be recorded on the World Database on Protected Areas and over time will become an important contributory criterion in identification and recognition of protected areas." IUCN Protected Area Guidance (Dudley 2008)
- "The existence of ineffective or impermanent incentive structures can create the risk of 'temporary' PPAs being created which disappear when the incentives lapse, even when the initial aim was for permanent protection." IUCN Guidelines for Privately Protected Areas (Mitchell et al 2018)
- "OECMs should be effective at delivering positive and sustained outcomes for the in-situ conservation of biodiversity. Specifically, there should be a clear association between the management and biodiversity outcomes, with mechanisms in place to address existing or anticipated threats." IUCN Guidance on Recognising and Reporting OECMs (IUCN-WCPA 2019)
- "Environmentally-damaging industrial activities and infrastructure development should not occur in OECMs." IUCN Guidance on Recognising and Reporting OECMs (IUCN-WCPA 2019)

Canadian

- "Activities incompatible with the in-situ conservation of biodiversity do not occur and compatible activities are effectively managed." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)
- "Protected Areas and OECMs must be managed in a way that leads to the in-situ conservation of biodiversity. This requires a way of controlling or managing what occurs on the site. For instance, governing authorities must have the ability to prevent incompatible activities, and must also ensure that these activities are prevented to ensure the biodiversity outcomes." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)

Land Trust Assessment

- Land trusts should assess whether area-based conservation projects are subject to the following:
  - *Organizational Policies* that establish the overall intention of the organization to protect the nature features and systems of the areas they secure
  - *Management plans* for fee-simple properties that establish the management goals and practices are focused on *in situ* biodiversity conservation
  - *Conservation easement clauses* that link land use restrictions/prescriptions to the *in situ* conservation of biodiversity
  - *Monitoring protocols and structures* that ensure the property will be regularly assessed against its conservation goals

ToC

- It should be made clear if there air rights and/or sub-surface rights held by parties outside the conservation area ownership and management. The simple existence of a sub-surface right held by an industrial interest does not, in and of itself, preclude a property from satisfying this criterion, however, some evidence should exist that the threat of such industrial activity has been assessed and deemed to be insignificant in terms of likelihood and/or ability to threaten the conservation values of the property.
- The Pan-Canadian Conservation Initiative (PT1 2021) errs in its direction on what constitutes "effective." It divides the assessment of whether a site's conservation measures are effective into whether there "are" such measures (referred to as Effective Means-1), and whether governing authorities are "compelled" to use those measures (referred to as Effective Means-2). The former is important, but the latter does not exist. No provincial, territorial, or federal jurisdiction has given up its legal ability to forego monitoring, limit enforcement, and issue industrial dispositions in parks and protected areas, meaning conservation measures are not "compelled." As such, it would likewise be unhelpful for private area-based conservation projects to be assessed against the Effective Means-2 requirements.

For more detailed guidance, see the following appendices:

- Appendix 8: Evidence for In Situ Biodiversity Conservation Focus
- Appendix 11: Representative Land Trust Standards and Practices

Evidence and Support

- Organizational policies regarding land management, project selection, and monitoring
- Management plans for fee-simple properties
- Agreement clauses for conservation easements
- Monitoring protocols, including baseline reports and monitoring policies/procedures



Enduring

Protected Areas	OECM/Conserved Areas
the long-term	sustained long-term outcomes

Explanation

The full suite of tools to ensure that natural systems will persist contains several short-term mechanisms, especially in the realm of private land conservation. These include incentive payments, time-limited harvest controls, management agreements, cost-shared eco-friendly infrastructure, and others.

However, 'area-based conservation' assumes the resultant 'conservation' will be enduring, and demonstrably so. In the limited cases where temporary or impermanent initiatives are considered for designation as area-based conservation, there must still be an indication that the shorter-term action is part of a longer-term perspective and plan.

Guidance

In short ... the designation must provide enduring conservation, or at least signal that intention.

International

- "Protected areas should be managed in perpetuity and not as a short-term or temporary management strategy." IUCN Protected Area Guidance (Dudley 2008)
- "The IUCN definition of a protected area is clear that such areas should be managed for conservation in perpetuity and this is the main criterion that will distinguish whether a particular area of privately-owned land or water is or is not a protected area. A land owner who manages for conservation today but makes no provisions for whether or not the management will continue into the future is certainly contributing to conservation but not through a recognised protected area." IUCN Protected Area Guidance (Dudley 2008)
- "The governance and management of OECMs is expected to be sustained and deliver the long-term effective in-situ conservation of biodiversity. Short-term or temporary management strategies do not constitute an OECM." IUCN Guidance on Recognising and Reporting OECMs (IUCN-WCPA 2019)
- "All PPAs should be established with a long-term strategy and sustainable financing." IUCN Guidelines for Privately Protected Areas (Mitchell et al 2018)
- "Incentives aimed at encouraging long-term commitment should be sustainable for a similar length of time." IUCN Guidelines for Privately Protected Areas (Mitchell et al 2018)
- "PPAs should demonstrate an intent to conserve 'in perpetuity', or at least 'long-term' (a period of at least 25 years). PPAs can face particular challenges in 'proving' long-term conservation. In a few countries, PPA declaration brings legal obligations for long-term protection, putting PPAs on equal footing to state-run protected areas. Where this is not the case, long-term intent can be demonstrated through:
  - PPA status transcending changes of ownership, through easement, covenant, wills, etc.
  - Where formal agreements relating to PPAs are short-term they should be tied to commitment to long-term protection (e.g. renewable agreements or long-term stated objectives) and ending of agreements should never prohibit continuation of PPA status.
  - Some form of long-term monitoring to ensure adherence to conservation intent.
  - Active or passive management practices being applied in order to safeguard the integrity of natural resources present in the PPA, that are validated by local or regional units of a national association of PPAs with guidelines and a national inventory." IUCN Privately Protected Area Guidance (Stolton et al 2014)
- "However, not all forms of area-based conservation qualify for inclusion in Target 3. Long-term intent and outcomes are fundamental, as outlined in the definitions of protected areas and OECMs." Defining 'long-term' for protected areas and OECMs ... To reiterate, this guidance [Stolton et al 2014] does not mean that protected areas can be established for only 25 years, but that long-term intent can be demonstrated in several ways." Defining 'long-term' for protected areas and OECMs (Fitzsimons et al 2024)
- "Recent draft policy proposals by some nations suggesting that a 25-year 'intention' to deliver biodiversity outcomes equates to 'long-term' is not consistent with global guidance ... The OECMs guidance from the IUCN and CBD Decision 14/8 on long term is the same as for protected areas.

ToC

ToC

Long-term refers to the idea that an OECM is expected to deliver in situ conservation of biodiversity in perpetuity, and not be temporary or time limited." Defining 'long-term' for protected areas and OECMs (Fitzsimons et al 2024)

Canadian

- "The intention for protected areas is to conserve them for the long-term. For further clarity, "long-term" is understood to include instances where mechanisms for conservation do not allow for commitments in perpetuity (i.e., privately protected areas) [sic] but there is clear evidence of intent to maintain protection through renewal (protection should be in place by default, unless actively removed) or future adoption of more permanent mechanisms." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)
  - NB: It should be noted that the PT1 2021 guidance errs in suggesting that Privately Protected Areas do not allow for commitments in perpetuity.

Land Trust Assessment

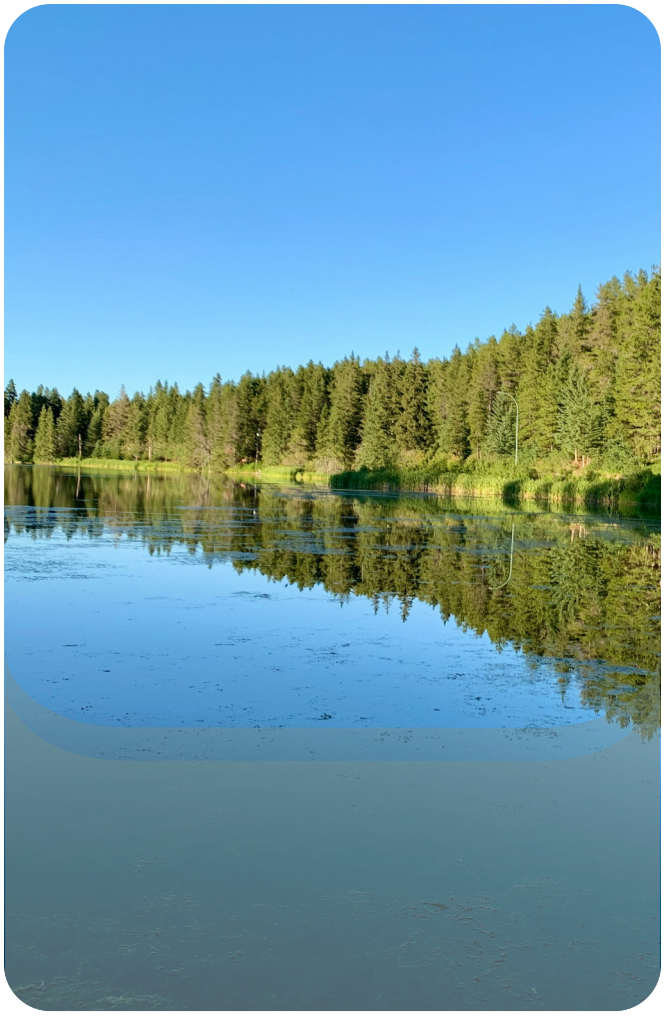
- Fee-simple properties acquired and managed by land trusts should be subject to organizational policies that support their long-term protection, including policies for the potential transfer of the land, adherence to donor agreements, and ideally the requirement to place ace on any property before disposition.
- Conservation easements should be negotiated in perpetuity, or at least with 99-year terms. If temporary or impermanent terms are set, the agreement should make clear that the intention is to renew the agreement, and to manage the property for the long-term in situ conservation of biodiversity.
- Conservation easement agreement terms below 25 years would not meet the criteria for either a Privately Protected Area or an OECM. Time-limited terms above 25 years, would also not meet the criteria, unless they are tied on some way to a perpetual commitment to in situ conservation of biodiversity.
- Financial models should be established that can support long-term management of either fee-simple properties or conservation easements, including endowed or restricted funds dedicated to long-term monitoring and management.
- Incentive payments should be assessed to determine if they, in fact, support the long-term conservation of the site. For example, if incentive payments are provided only over the short-term, that would indicate an inability to conserve the property over the long term.

For more detailed guidance, see the following appendices:

- Appendix 2: Enduring Commitment to Biodiversity Conservation
- Appendix 10: Management Intention

Evidence and Support

- Perpetual conservation easement agreement.
- Temporary conservation easement agreement with clauses supporting long-term conservation of the property.
- Policies regarding fee-simple property acquisition, management, and disposal.



Conservation

Protected Areas	OECM/Conserved Areas
conservation of nature	*in situ* conservation of biodiversity

Explanation

The 'conservation of nature' or *'in situ* conservation of biodiversity' speak to the crux of area-based conservation. It requires 1) clarity on the what 'nature/biodiversity' is present on the site, as well as 2) what actions constitute the 'conservation' of those.

For a land trust, this can (largely) be simplified to the 'nature/biodiversity' considerations being in their up-front practices (site selection, identification of conservation values, baseline reports), and the 'conservation' considerations being in their on-going activities (land use restrictions, land management principles, regular monitoring).

Guidance

In short ... there must be clear indication that candidate sites were chosen for their robust biodiversity, and that protection of that biodiversity is in fact being accomplished.

International

- "In the context of this definition conservation refers to the in-situ[9] maintenance of ecosystems and natural and semi-natural habitats and of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species (see definition of agrobiodiversity in the Appendix), in the surroundings where they have developed their distinctive properties." IUCN Protected Area Guidance (Dudley 2008)
- "In this context nature always refers to biodiversity, at genetic, species and ecosystem level, and often also refers to geodiversity, landform and broader natural values." IUCN Protected Area Guidance (Dudley 2008)
- "Recognition of an OECM should include the identification of the range of biodiversity attributes for which the site is considered important and be based upon the best available knowledge. These key biodiversity values, as well as the broader conservation values of OECMs, should be described and tracked over time." IUCN Guidance on Recognising and Reporting OECMs (IUCN-WCPA 2019)

Canadian

- "How can we determine whether an area is effectively conserving biodiversity in-situ? As a best practice, areas should have direct evidence of biodiversity outcomes, including the condition of habitats and ecological processes, species abundances, impacts of invasive species, and effects of ecological isolation." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)
- "Conservation outcomes may be able to be inferred from species abundance information (e.g. surveys or harvesting reports), or discussions with site managers and knowledge holders, or management effectiveness assessments." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)
- "In some cases, conservation outcomes may also be inferred from current uses and their expected impacts, or, in the absence of current-use knowledge, from an understanding of allowed and prohibited uses." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)
- "Understanding whether conservation outcomes are being or likely to be achieved implies that reference or desired conditions can be defined, or at least that, going forward, baselines can be established against which future conditions can be compared." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)

Land Trust Assessment

- The definitions of 'biodiversity' created by the Convention on Biological Diversity and used in the IUCN, Pan-Canadian Conservation, and WDBPCA initiatives, make it clear that habitat for a single species, sites disconnected from the surrounding natural systems, or industrial areas with limited natural features do not constitute 'in situ biodiversity' in the context of area-based conservation.
- In general, land trusts should have some mechanism for identifying sufficiently biodiverse areas for area-based conservation projects, and perhaps strategic conservation plans (though this is challenging given the nature of the work is largely opportunistic).
- For conservation easements, the agreements and supporting documentation (such as baseline and

9 *In situ* is a Latin phrase meaning "in the natural or original position or place" (https://www.merriam-webster.com/dictionary/in%20situ)

monitoring reports) need to identify 1) the aspects of biodiversity intended to be conserved (conservation values, conservation purposes, baseline reports), and the conservation actions being taken (land use restrictions and prescriptions, on-going monitoring).

- For fee-simple properties, the conservation values should be catalogued in some sort of baseline inventory indicating that the area is biodiverse, management plan or management principles designed to maintain that biodiversity, and a monitoring mechanism that can identify if biodiversity is being maintained.

For more detailed guidance, see the following appendices:

- Appendix 6: Showing Primacy of Biodiversity Conservation in a Conservation Easement
- Appendix 7: Showing Primacy of Biodiversity Conservation in a Property Management Plan
- Appendix 8: Evidence for In Situ Biodiversity Conservation Focus

ToC

Evidence and Support

- Site selection policies
- Conservation easement agreement clauses
- Baseline and monitoring protocols and procedures
- Management plans and/or management principles



ToC

Ecosystem Services

Protected Areas	OECM/Conserved Areas
with associated ecosystem services and	with associated ecosystem functions and services and

Explanation

Despite 'ecosystem services' figuring prominently in both the Protected Areas and OECM definitions, there is very little guidance associated with this criterion. For the most part, the guidance references the framework of the Millenium Ecosystem Assessment (MEA 2005), which groups services in the categories of provisioning, regulating, cultural, and supporting.

In general, the goal seems to be to recognize that humans derive many benefits from these protected natural systems, and also that accessing those benefits should not impair the conservation mechanism in place.

Guidance

In short ... the area should be managed with awareness that humans derive benefits from the healthy, functional ecosystems which the site protects.

International

- "Means here ecosystem services that are related to but do not interfere with the aim of nature conservation. These can include provisioning services such as food and water; regulating services such as regulation of floods, drought, land degradation, and disease; supporting services such as soil formation and nutrient cycling; and cultural services such as recreational, spiritual, religious and other non-material benefits." IUCN Protected Area Guidance (Dudley 2008)
- "All protected areas should also aim where appropriate to: ... Provide regulatory ecosystem services, including buffering against the impacts of climate change;
  - "[includes this footnote to 'appropriate'] This distinction is made because not all protected areas will contain significant geology, ecosystem services, opportunities for local livelihoods etc., so such objectives are not universal, but are appropriate whenever the opportunity occurs." *IUCN Protected Area Guidance* (Dudley 2008)
- "Ecosystem functions and services are closely associated with biodiversity conservation. OECMs can protect ecosystem services, but management of these services should not interfere with the conservation of important biodiversity values of the site. Ecosystem services can include provisioning services such as the provision of food and water; regulating services such as regulation of floods, drought, land degradation, and disease; supporting services such as soil formation and nutrient cycling; and cultural services such as the delivery of recreational, spiritual, religious and other non-material benefits." IUCN Guidance on Other Effective Area-based Conservation Measures (Jonas et al 2024)
- " 'ecosystem functions and services' Healthy and functioning ecosystems provide a range of services. Ecosystem functions are an integral part of biodiversity, and are defined as the biological, geochemical and physical processes that take place or occur within an ecosystem. Ecosystem services include provisioning services such as food and water; regulating services such as regulation of floods, drought, land degradation and disease; and supporting services such as soil formation and nutrient recycling. Protection of these ecosystem functions and services may be a frequent rationale for the recognition of OECMs. However, management to enhance one particular." IUCN Guidance on Recognising and Reporting OECMs (IUCN-WCPA 2019)

Canadian

- [none]

Land Trust Assessment

- This is largely an opportunity for land trusts to identify the co-benefits arising from their area-based conservation project.
- Land trusts should be conscious that the primary objective of area-based conservation is in situ protection of biodiversity; several of the potentially-renewable 'food and fiber' provisioning services can be overtapped leading to degradation of the natural systems. For this reason, articulating all the available ecosystem services can, in fact, be counterproductive for the site's assessment.
- Sites designated and managed for the maintenance or maximization of certain ecosystem services may be OECMs, provided the protection of in situ biodiversity is demonstrable.

ToC

Evidence and Support

- Sources of evidence and support will vary dramatically, based on which services are being profiled, and even whether profile is warranted in all cases.



ToC

Culture

Protected Areas	OECM/Conserved Areas
cultural values.	where applicable, cultural, spiritual, socio-economic, and other locally relevent values

Explanation

As with 'ecosystem services' above, 'cultural values' figure prominently in both the Protected Areas and OECM definitions, and there is also relatively little guidance associated with this criterion. In general, 'cultural values' tends to refer to long-term local practices that are synergistic with *in situ* biodiversity.

The guidance that does exist is explicit that some cultural values and practices are aligned with *in situ* conservation of biodiversity, while others are not. For cultural values and area-based conservation, the key consideration is their connection, and more explicitly, that the pursuit of culturally-based practices is supportive of (or at least benign regarding) the conservation of *in situ* biodiversity.

Guidance

In short ... cultural values and associated practices that support in situ conservation of biodiversity should be protected and integrated into the implementation of the protective mechanism.

International

- "Includes those [cultural practices] that do not interfere with the conservation outcome (all cultural values in a protected area should meet this criterion), including in particular:
  - those that contribute to conservation outcomes (e.g., traditional management practices on which key species have become reliant);
  - those that are themselves under threat." *IUCN Protected Area Guidance* (Dudley 2008)
- "OECMs include areas where the protection of key species and habitats and management of biodiversity may be achieved as part of cultural, spiritual socio-economic and other locally relevant values and practices. In such cases, it will be essential to ensure the recognition and protection of the linkages between biological and cultural diversity and associated governance and management practices that lead to positive biodiversity outcomes, such as customary sustainable uses of biodiversity (CBD Article 10(c)). Conversely, management for cultural, spiritual socio-economic or other locally relevant values within an OECM should not impact negatively on biodiversity conservation values." IUCN Guidance on Recognising and Reporting OECMs (IUCN-WCPA 2019)
- "Cultural and spiritual values include recreational, religious, aesthetic, historical and social values related to tangible and intangible benefits that nature and natural features have for people, with a particular focus on those that contribute to conservation outcomes (e.g. traditional management practices on which key species or whole ecosystems have become reliant, or the societal support for conservation of landscapes for their quality in artistic expression or beauty) and intangible heritage, including cultural and spiritual practices." IUCN Guidance on Other Effective Area-based Conservation Measures (Jonas et al 2024)

Canadian

- "An area managed to conserve cultural practices and values of Indigenous Peoples, including use of species and ecosystem components, in ways that do not compromise ecological integrity, may also achieve the in-situ conservation of biodiversity as a whole." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)
- "Any infringement of Aboriginal or Treaty rights for public safety or conservation reasons requires justification in accordance with the highest standards established by the Canadian courts and must be attained in a manner consistent with the honour of the Crown and the objective of reconciliation. In the absence of such restrictions Indigenous peoples within Canada are generally able to exercise their Aboriginal and Treaty rights in Protected Areas or OECMs in Canada on lands held by the Crown. All activities, including rights-based activities, need to be considered when evaluating a site." Pathway to Canada Target 1 Decision Support Tool (PT1 2021)

Land Trust Assessment

- Cultural practices that support the in situ conservation of biodiversity, especially those that co-evolved with the local ecosystem, should be explicitly identified in the conservation easement's baseline report, or in the fee-simple property's initial inventory. Additionally, protection of those should be reflected in the conservation easement restric-

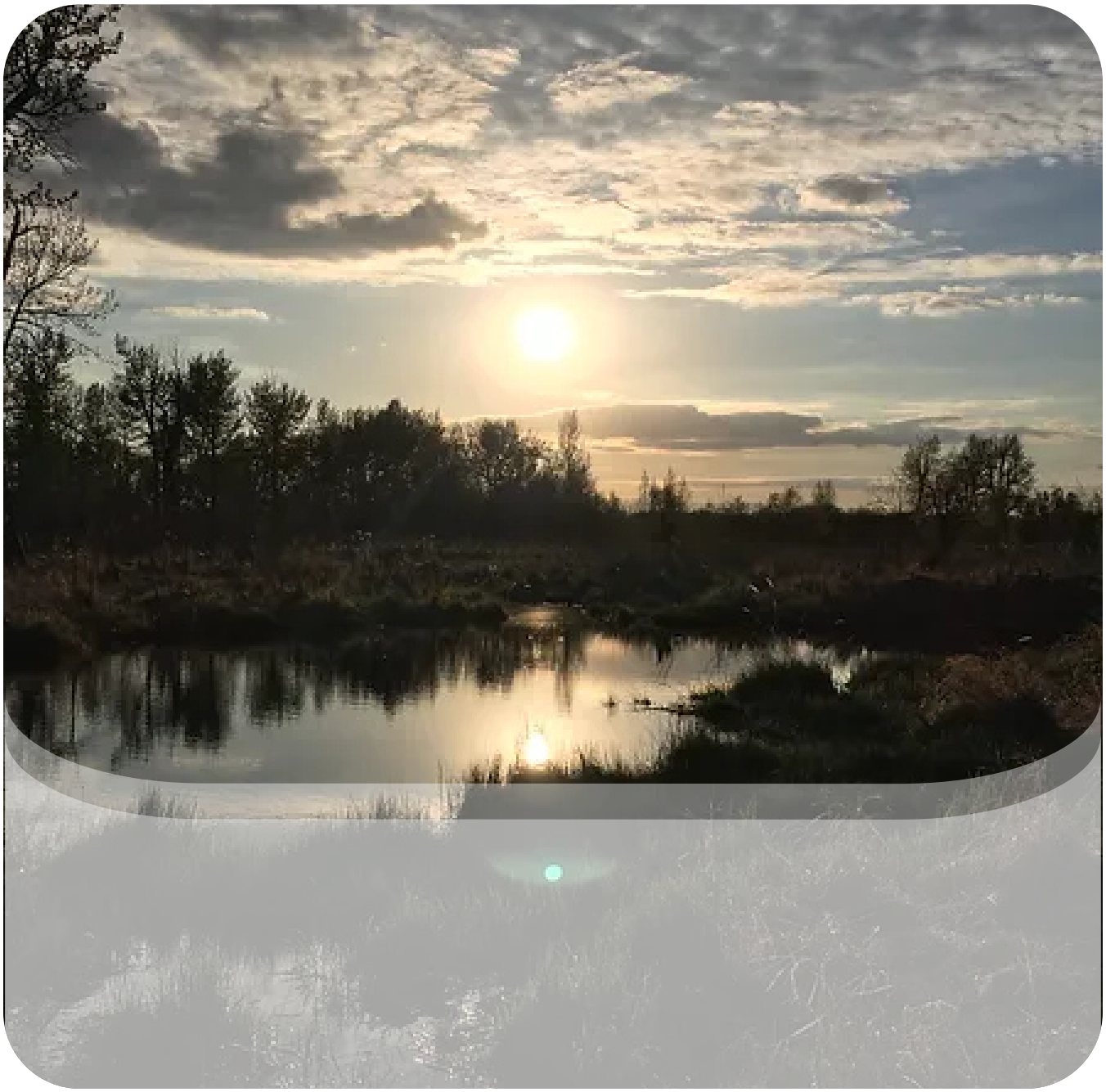
tions, or management plan/principles.

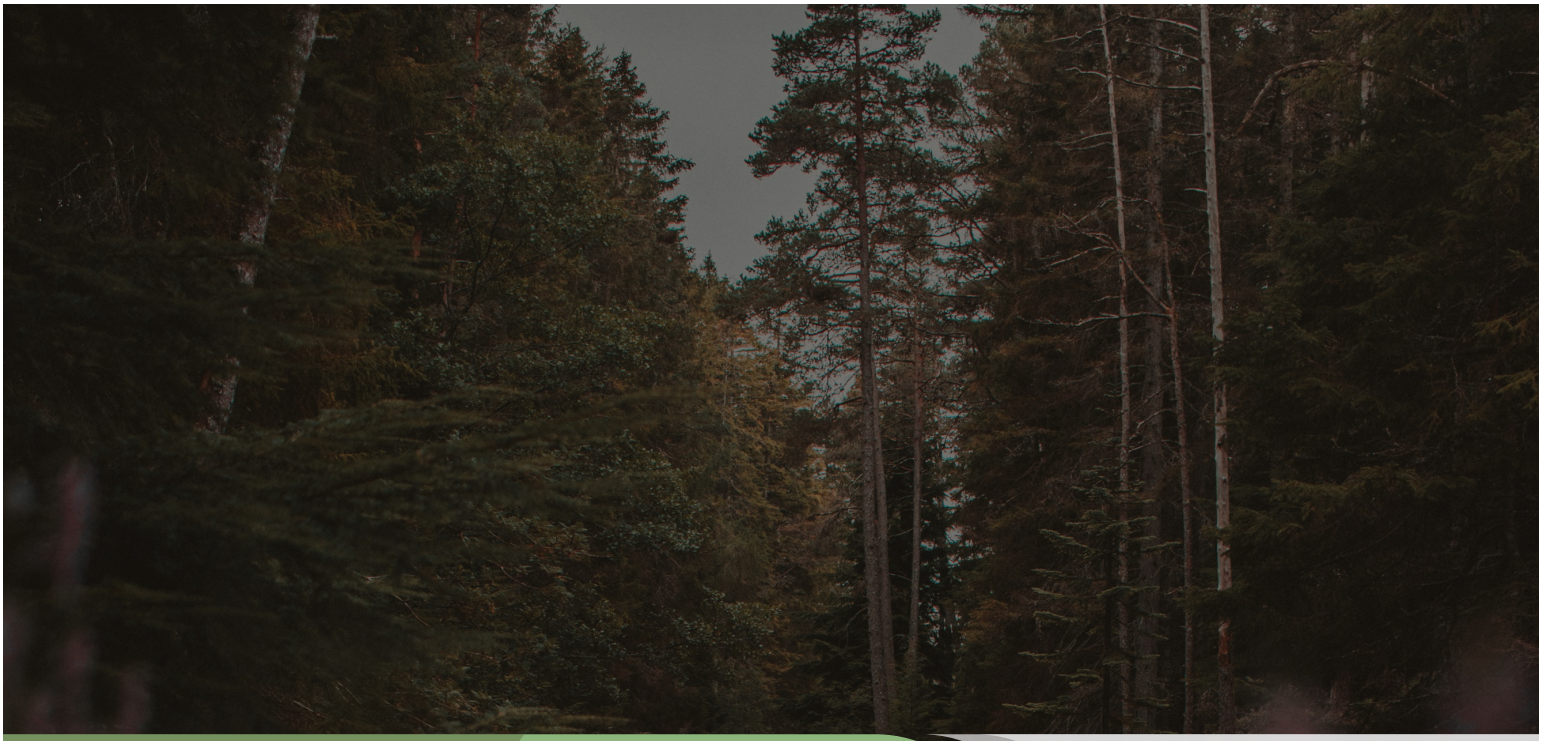
- Long-established cultural practices should not be used as a basis for the protective mechanism, nor allowed on a land-trust-owned property or conservation easement, unless they are demonstrably benign in terms of their impact on the in situ conservation of biodiversity.
  - This would include activities associated with agriculture, maintaining scenic beauty, promoting/allowing recreation, and/or accommodating Indigenous harvest of species.

Evidence and Support

- Conservation easement baseline report
- Fee-simple property inventory or management plan

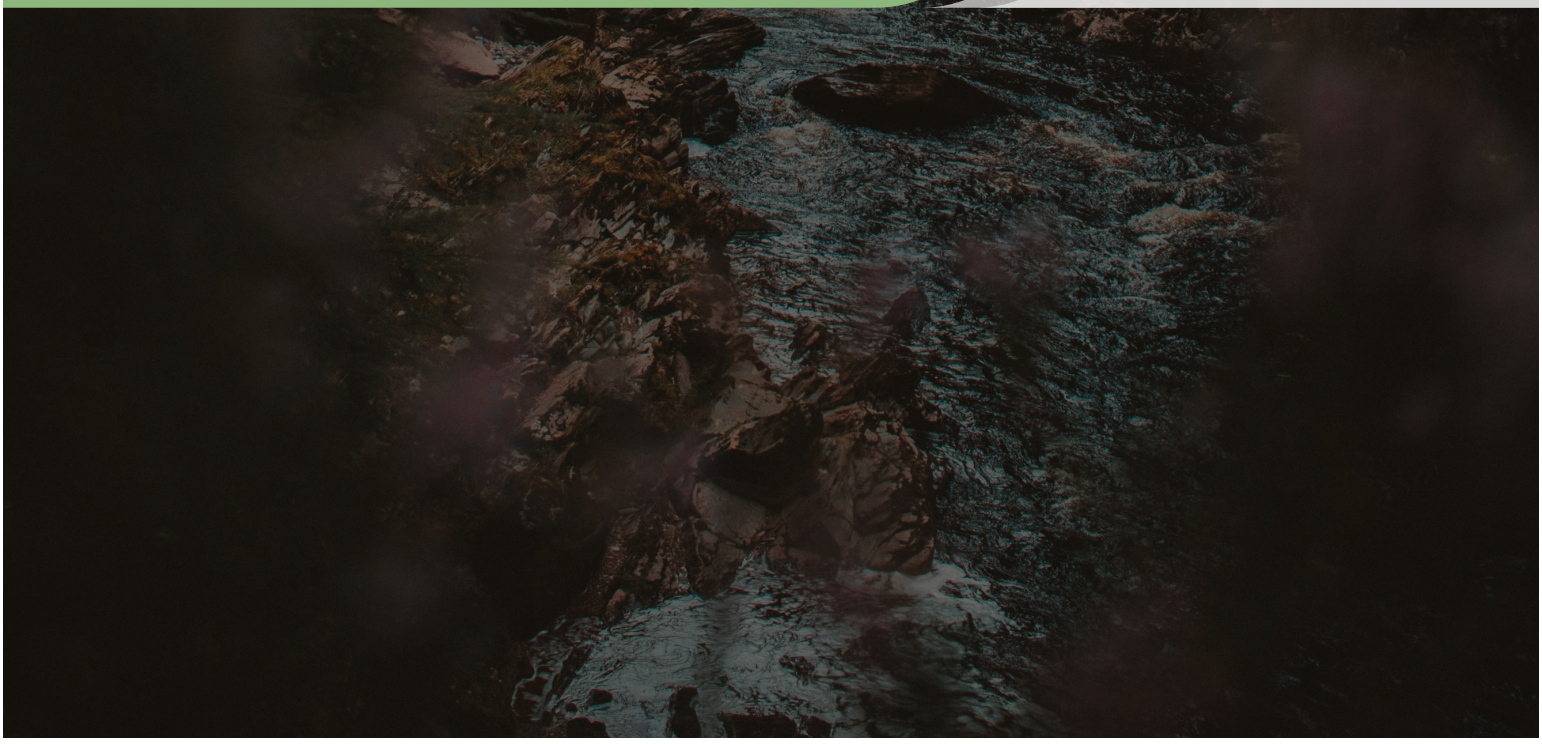
ToC





CHAPTER 4:

Formatting the Assesment



Formatting the Assessment

The final step for a land trust is to lay out this assessment in a form that facilitates its review, and eventual insertion into the Canadian Protected and Conserved Areas Database (CPCAD) and/or the World Database on Protected and Conserved Areas (WDPCA).

Using the guidance above, land trusts can create a simple assessment matrix laying out each criterion and the associated *assessment narrative* and listing of *evidence and support*. (see *Area-based Conservation Assessment Worksheet*, next page).

Assessment Narrative

The assessment narrative would use the guidance above to articulate how the proposed area-based conservation project would satisfy each of the definitional criteria. This need not be an academic thesis, but rather a description long enough to satisfactorily explain how the various considerations for that criterion are met by the fee-simple property or conservation easement (or other suitable device). The narrative should reference the relevant pieces of evidence and support, explaining how they factor in making the case for that element.

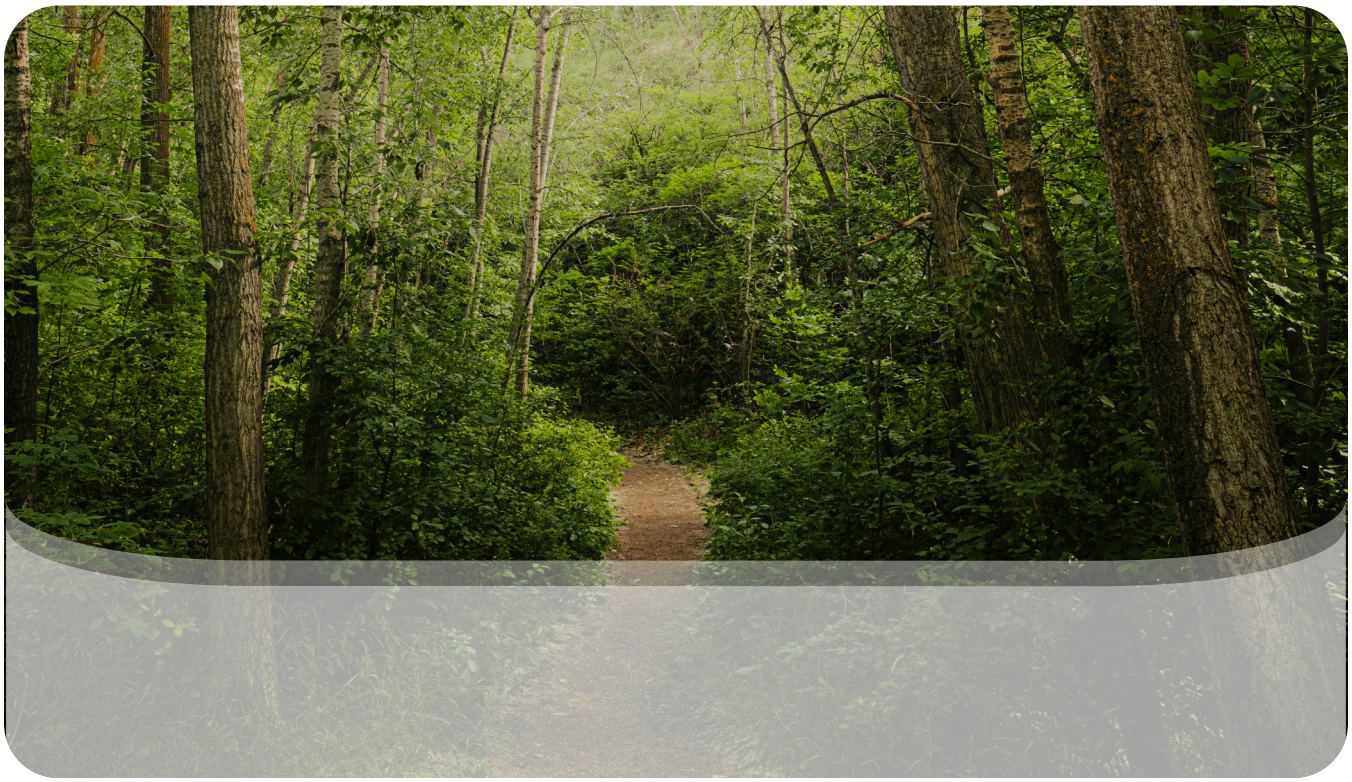
Evidence and Support

ToC

The listing of evidence and support should include the documents that can substantiate the claim that the project satisfies that element of the area-based conservation definition. This might include conservation easement agreements, fee-simple property management plans, organizational policies, strategic conservation plans, baseline reports, monitoring protocols, etc.

Land trusts should seek out efficiencies in this section. For example, proponents should note if the project

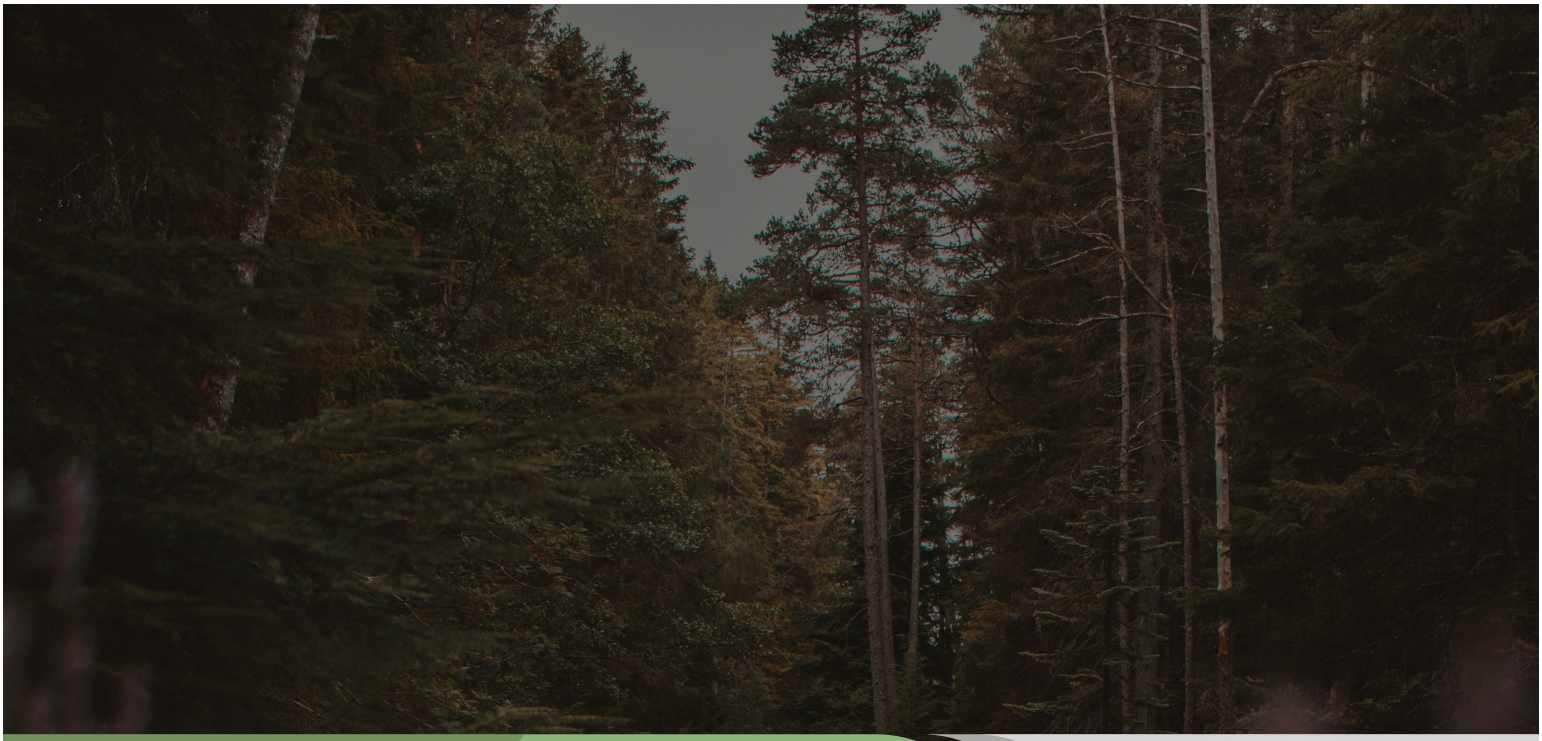
- Exists in a recognized Key Biodiversity Area, Environmentally Significant Area, species-at-risk habitat, or similar pre-existing assessment;
- Has already been certified as a Gift of Ecologically-sensitive Property (EcoGift) by the federal government, or received some other certification; and
- Is covered by board-level policies that adopt specific, relevant Standards and Practices (see Appendix 11: Representative Land Trust Standards and Practices).



Area-Based Conservation Assessment Worksheet

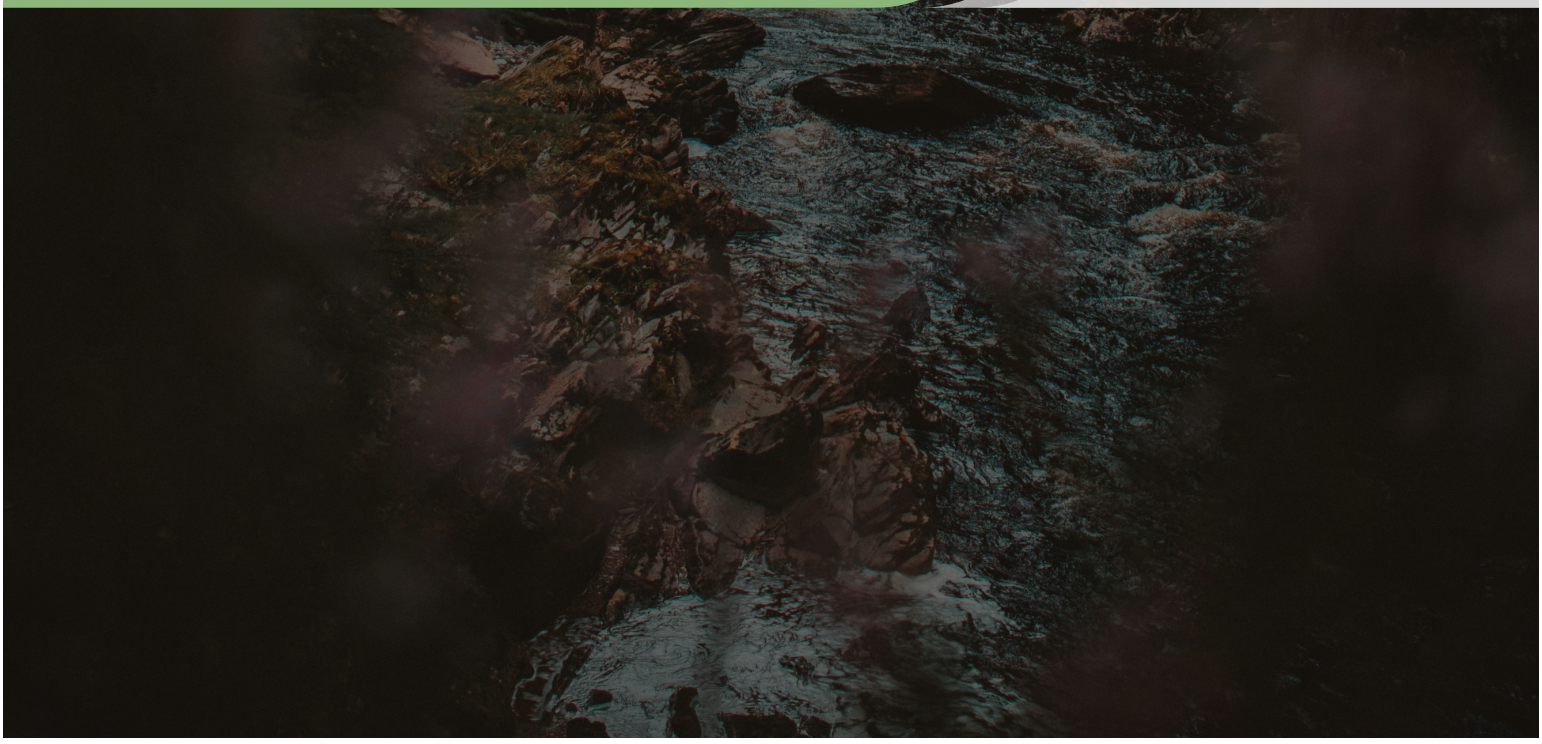
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Geographic		
Definition		
Protected Area or OECM		
Recognition		
Dedication		
Governance		
Management		
Protective Mechanism		
Effectiveness		
Enduring		
Conservation		
Ecosystem Services		
Culture		

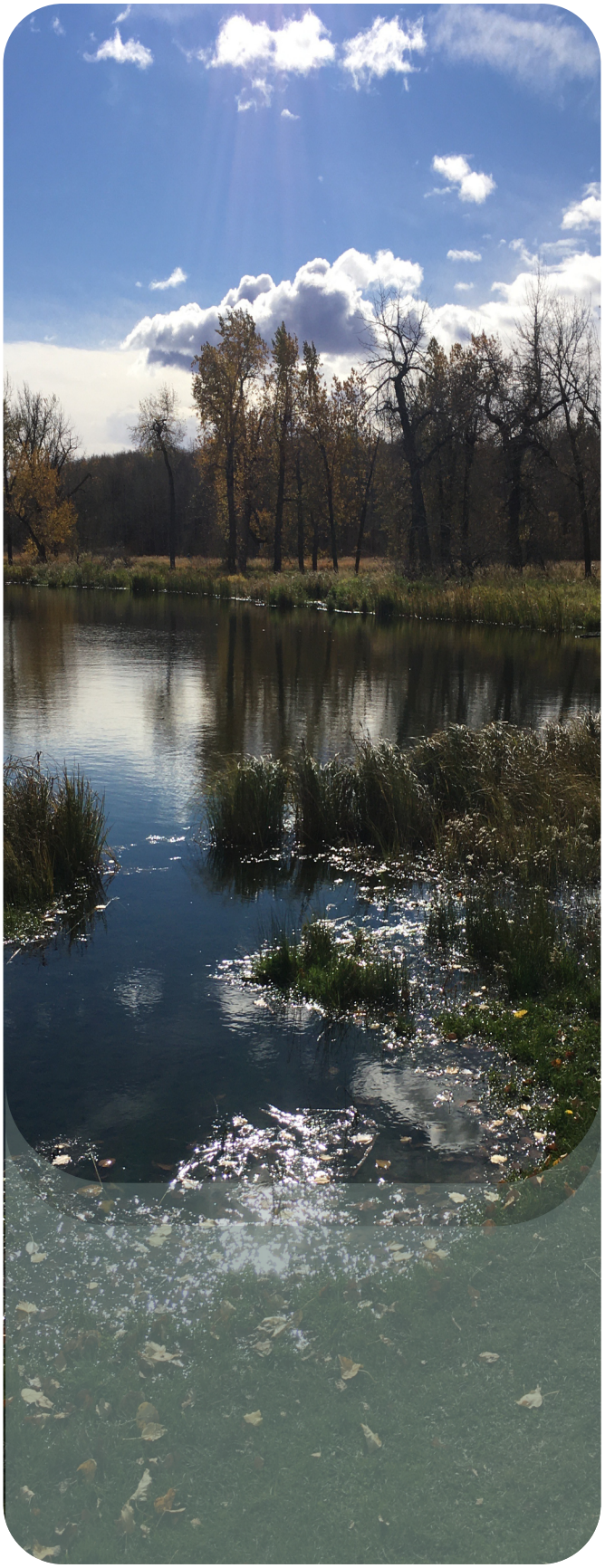


CHAPTER 5:

Final Thoughts

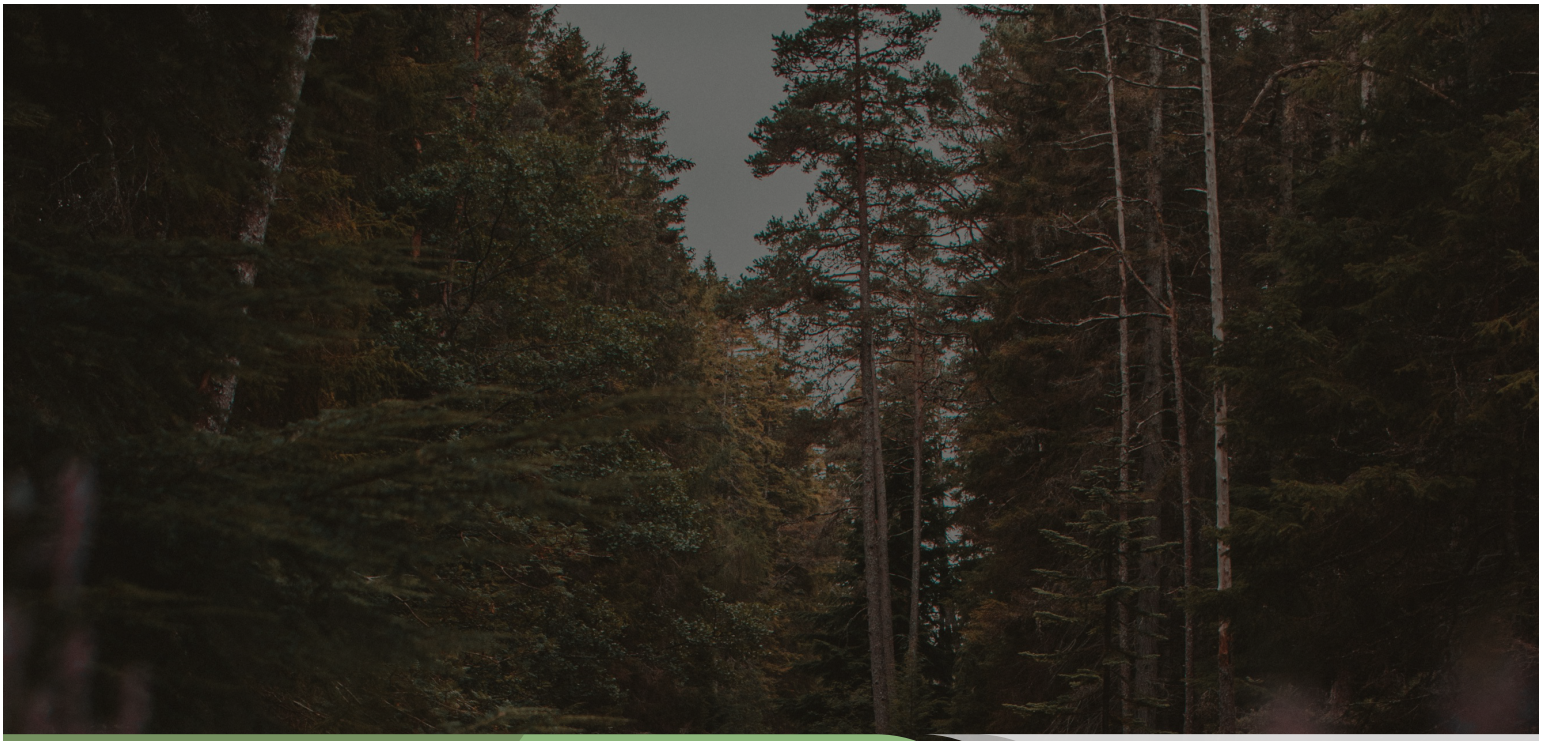


Final Thoughts

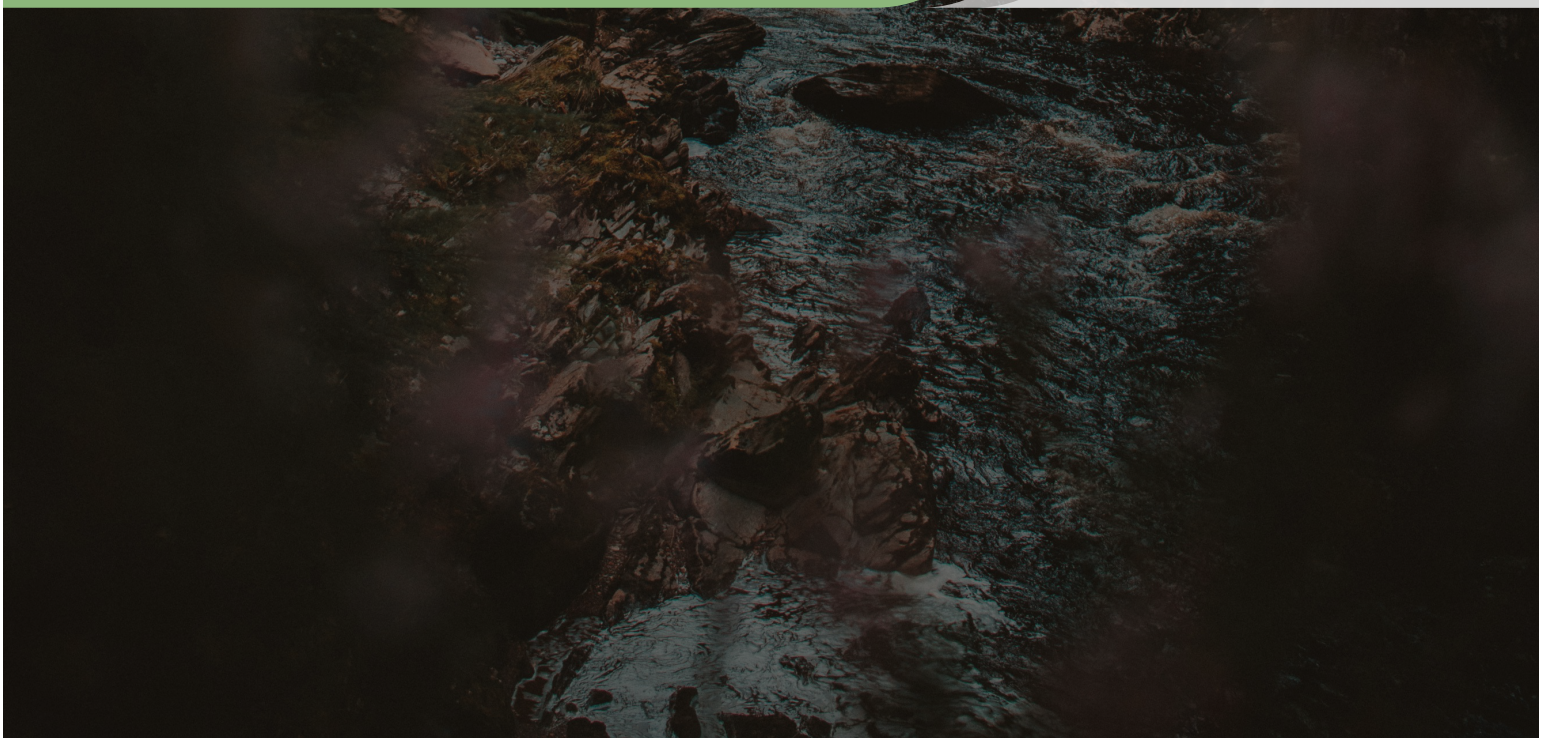


A few final thoughts ....

- The opportunities to extend this assessment into infinity are numerous. Keep it simple. Stay focused on the goal: to make the case a given project constitutes area-based conservation as defined by the IUCN.
- Remember that most land trust projects – both fee-simple and conservation easement – will satisfy the criteria for a Privately Protected Area, as land trusts are conservation charities whose primary goal is seeing land managed for its conservation values.
- It is worth reviewing the Primer (Area-Based Conservation Designations: A Primer for Canadian Land Trusts) to understand the background to the whole process. It can make it easier to fill in the assessment when it is more apparent why the process is the way it is.
- To report an area-based conservation project to the national or international databases, a land trust must be sure that that initiative satisfies the criteria – which is what this Guidebook covers. But the actual reporting is a separate step (with its own idiosyncrasies). See the Reporting guide (Reporting Private Area-Based Conservation Sites: A Guide to the Databases for Canadian Land Trusts) for simplified guidance on how to use this assessment, as well as the other necessary information, to submit to either the national or international database.



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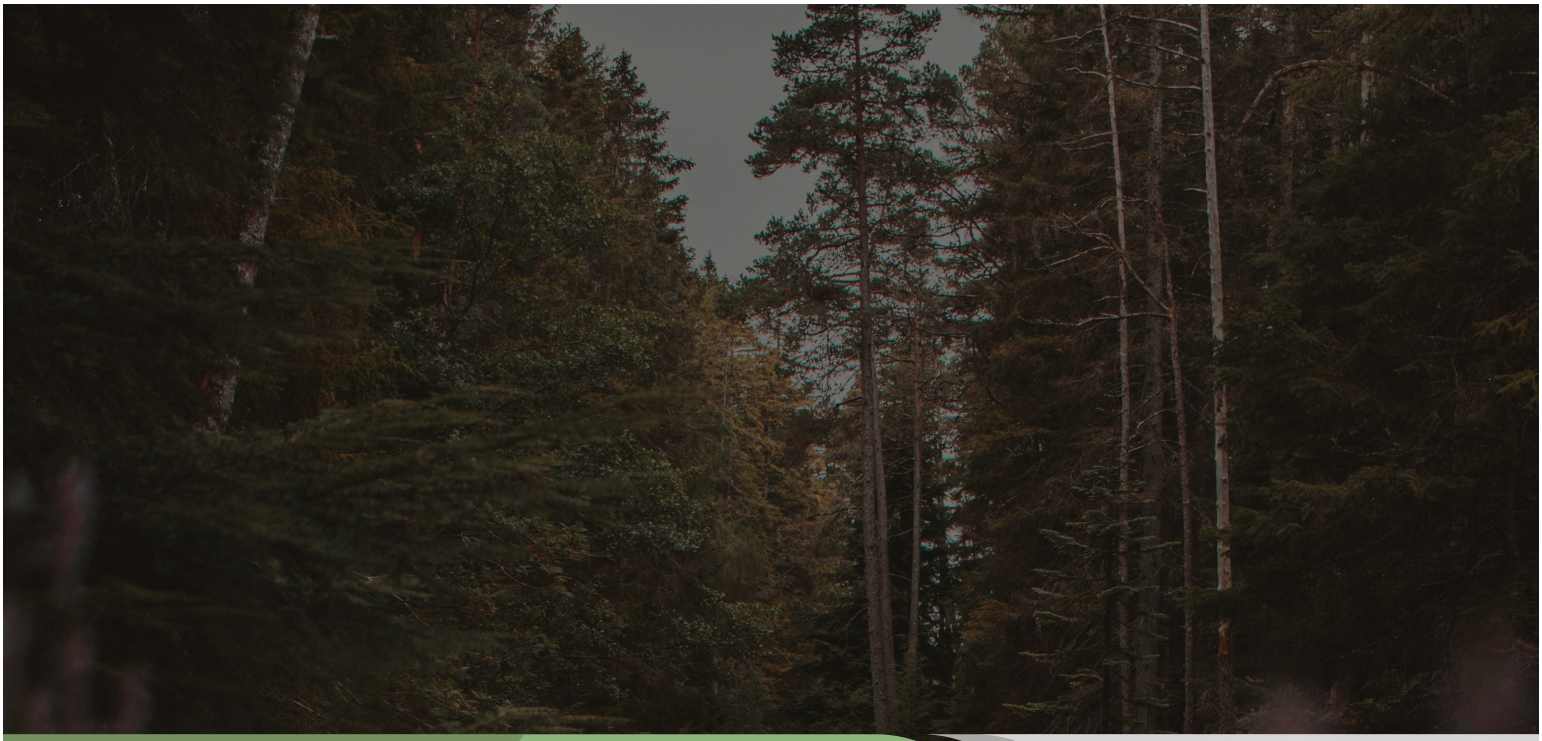
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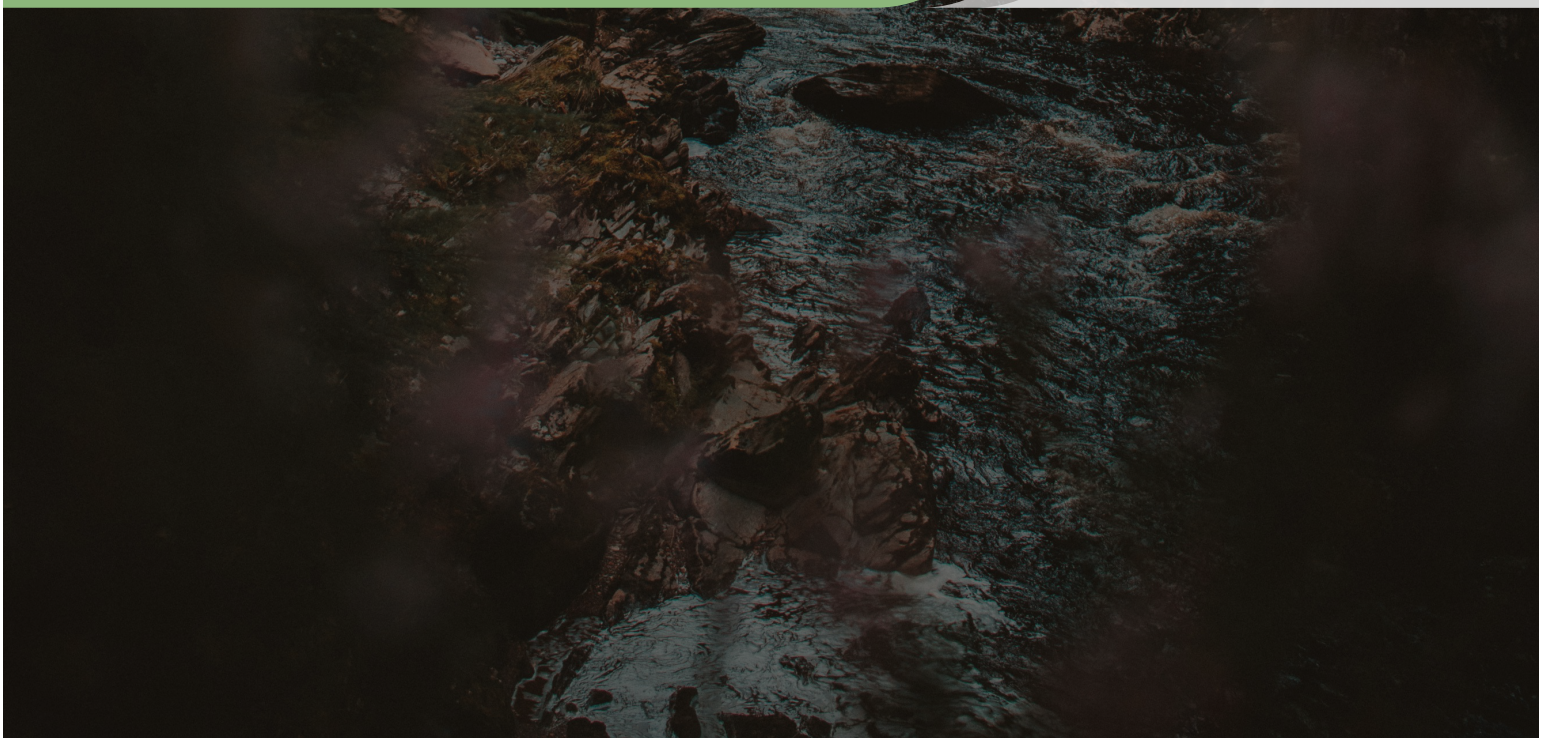
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APPENDIX 1:

Terminology



Appendix 1: Terminology

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Area-based Conservation

Amongst the various approaches that can help ensure the planet's natural systems thrive and persist, is 'Area-based Conservation' where a geographic area is identified and specific enduring measures put in place to safeguard the area's natural features and systems. The Convention on Biological Diversity has identified two categories of 'area-based conservation', first in their 2010-2020 strategic plan (CBD 2010), and again in their 2020-2030 plan (CBD 2022):

> "*... are conserved through effectively and equitably managed, ecologically representative and well connected systems of* ***protected areas*** *and* ***other effective area-based conservation measures*** *...."* *(CBD 2010)*

Area-based Conservation Projects

'Area-based Conservation Projects' refer to specific area-based conservation efforts which may be Protected Areas (PAs) or Other Effective Area-based Conservation Measure (OECMs). For private land conservation charities (i.e., land trusts), these would largely be fee-simple acquisitions or securement of conservation easements.

Conservation Easement

In this report, the term Conservation Easement is used to refer to legislatively-enabled private-property easements and covenants that apply positive and/or negative requirements on a the owner of a property in favour of protecting the identified conservation values of a property. Canadian provincial and territorial law enabling this tool may refer to these as Conservation Easements, Conservation Covenants, and/or Conservation Agreements.

Conserved Area

'Conserved Area' is a common colloquial shorthand for an Other Effective Area-based Conservation Measure (OECM).

Governance Authority

The term 'governance authority' refers to the entity responsible for decision-making at the level of the protected area or OECM. In the case of PPAs and privately governed OECMs, this may be an individual landowner, non-profit organisation or for-profit organisation (Bingham et al 2020).

In Situ Biodiversity

The Convention on Biological Diversity defines *'in situ* conservation' as:

> *"The conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties."* (CBD2011)

Other Effective Area-based Conservation Measure

An Other Effective Area-based Conservation Measure is an area-based conservation project that meets the IUCN definition of an OECM.

> *"Other effective area-based conservation measure" means "a geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the in situ conservation of biodiversity,' with associated ecosystem functions and services and, where applicable, cultural, spiritual, socioeconomic, and other locally relevant values."* (CBD 2018)

Private OECM (Other Effective Area-based Conservation Measure)

A Private Other Effective Area-based Conservation Measure (P-OECM) is an area-based conservation project that meets the IUCN definition of an OECM, AND whose governance type is Private Governance.

Privately Protected Area (PPA)

A Privately Protected Area is an area-based conservation project that meets the IUCN definition of a Protected Area, AND whose governance type is Private Governance. Private Governance is defined by the IUCN as:

> "*individuals and groups of individuals; non-governmental organisations; corporations – both existing commercial companies and sometimes corporations set up by groups of private owners to manage groups of PPAs; for-profit owners; research entities or religious entities*." (WCC 2016)

Protected Area

A Protected Area is an area-based conservation project that meets the IUCN definition of a Protected Area:

> "*A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural value*." (Dudley 2008)

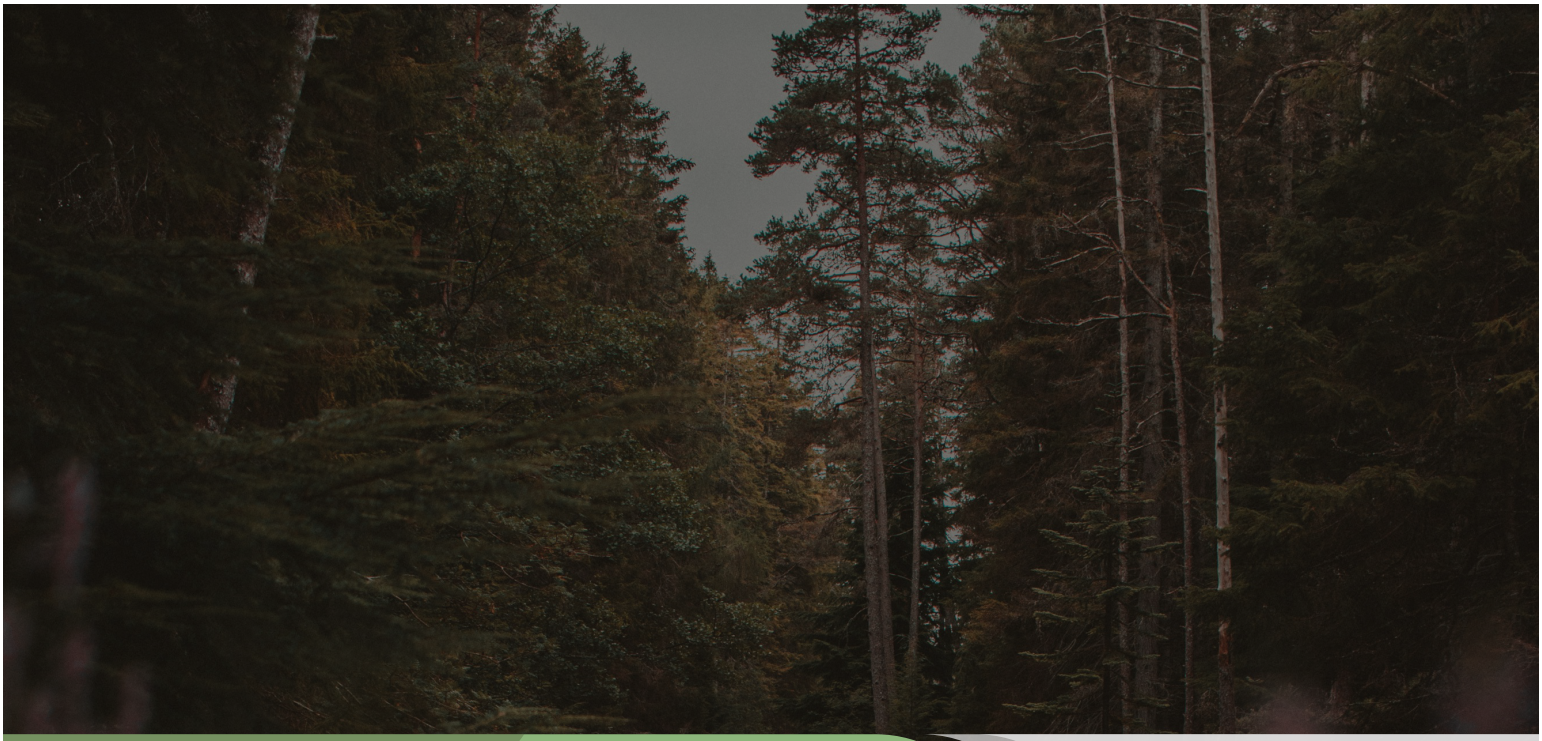
Reporting Authority / Data Provider

'Reporting Authority' is a term/concept carried over from the original form of the Canadian Protected and Conserved Areas Database (CPCAD) process, where all submissions had to go through a provincial/territorial government or one of a few specifically-authorized entities. This is no longer the case, as any Governance Authority can now report directly int the Canadian Protected and Conserved Areas Database.

'Data Provider' is the actual field in the database referring to the entity providing the data. The Data Provider must be, or be authorized by, the Governance Authority.

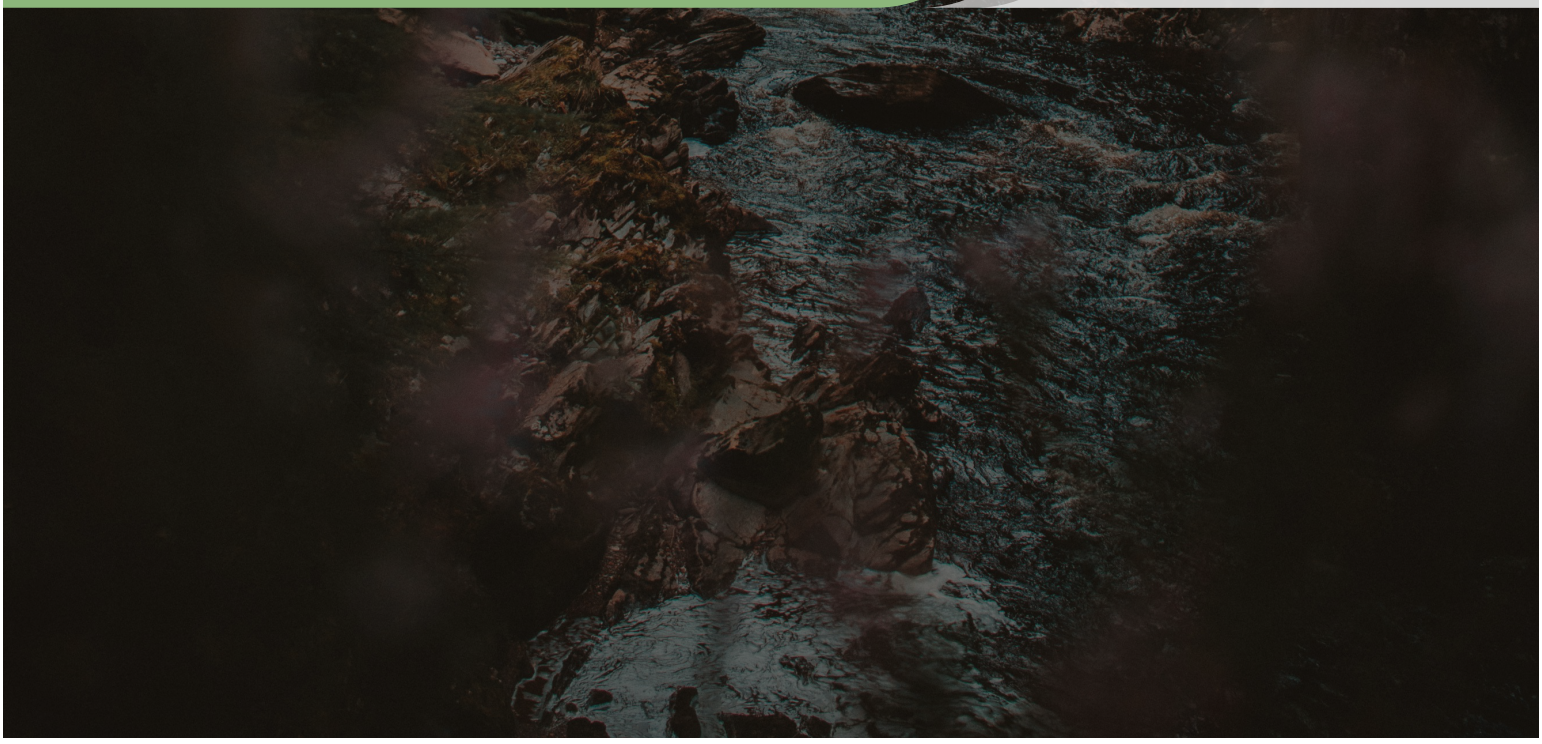


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APPENDIX 2:

Enduring Commitment to Biodiversity Conservation



Appendix 2: Enduring Commitment to Biodiversity Conservation

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No Protected Area or OECM can be said to be truly 'permanent.' In Canada, publicly-conserved parks and protected areas have been shrunk or put up for sale, and the enabling legislation gives governments the right to issue all sorts of industrial use dispositions (which they regularly do). For that reason, assessment guides have adopted terminology that emphasizes an "enduring commitment to biodiversity conservation."

In the case of public protected areas, that enduring commitment can be reflected in the legislation, regulations, or plans of government. Regardless of the numerous loopholes available, these policy devices reflect that the default is a commitment in the long term to protecting nature in these areas.

The same commitment to enduring conservation is required in the private land conservation realm, but of course looks different. There are six key elements to demonstrating that the commitment to conservation is enduring:

- Term
- Renewal
- Management
- Future landowners
- Future of the organization
- Future of the agreement

Term

For conservation easements, the most obvious aspect of this commitment is the term of the agreement. Most easements are negotiated in perpetuity, meaning they have no pre-determined end point, providing a clear indication of this commitment.

Impermanent or temporary conservation easements (colloquially referred to as 'term' easements), have a written commitment to impermanence, but may still satisfy this criterion. Contract law has long viewed 99-year agreements as essentially equivalent to perpetual, and such an easement term would functionally satisfy the "long-term conservation" criterion.

Stolton et al (2014) suggest that "a period of at least 25 years" is required. This created confusion in the Privately Protected Areas realm, as some countries/ parties interpreted this to mean "25 years is enough to equal long-term." The IUCN released a follow-up clarification stating that "this guidance does not mean that protected areas can be established for only 25 years, but that long-term intent can be demonstrated in several ways" (Fitzsimons et al 2024).

Renewal

In cases of temporary conservation easement agreements, the consideration of renewal is vital. Stolton et al (2014) suggest:

> *" Where formal agreements relating to PPAs are short-term they should be tied to commitment to long-term protection (e.g. renewable agreements or long-term stated objectives) and ending of agreements should never prohibit continuation of PPA status."*

Future Landowners

Consideration of future landowners is key for both conservation easements and fee-simple land acquisitions.

In the case of conservation easements, the agreement should be binding on future landowners. This is the case with the enabling legislation across the country which directs that these agreements are placed on title and 'run with the land.'

In the case of fee-simple properties, it is more complex. Cases of land trusts acquiring properties and then selling them to fund higher-biodiversity properties caused an uproar in the late 1990s / early 2000s in Canada. For properties submitted as area-based conservation projects, land trusts should have policies in place that ensure the property would not be sold without the intent that it continue to be conserved, potentially to another land trust, or ideally with a conservation easement.

Future of the Organization

As a sector, land trust organizations have a failure rate that the for-profit business community would kill for. However, it is possible for organizations to fold. Policies and procedures should be in place that ensure protected and conserved areas endure.

For fee-simple properties, this should include policies and potentially agreements that will ensure properties are transferred to another land trust in the case of an

organization ceasing operations. Again, placing conservation easements on these properties in advance can be prudent.

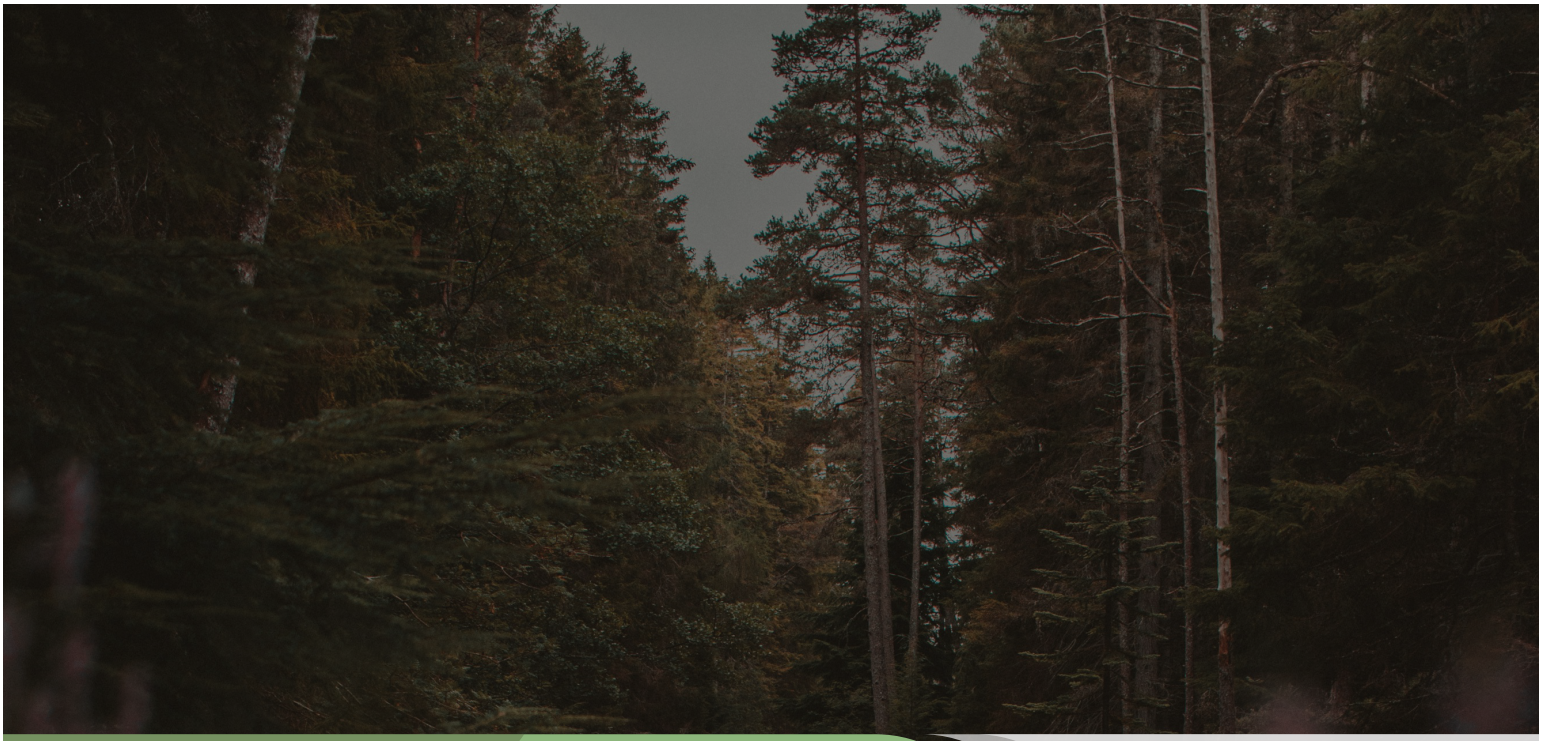
For conservation easements, both the agreements themselves, and the organization's policies should indicate the intention and process (and ideally the recipient) for cases where the organization ceases operations and the easement needs to be transferred to another eligible conservation easement holder.

Future of the Agreement

In the case of impermanent or temporary conservation easements, even though the term may be limited, the agreement itself (and the associated negotiations) should emphasize the desirability of renewal, and that the management approach – even for a short term – is intended to protect the conservation values with a perpetual view.

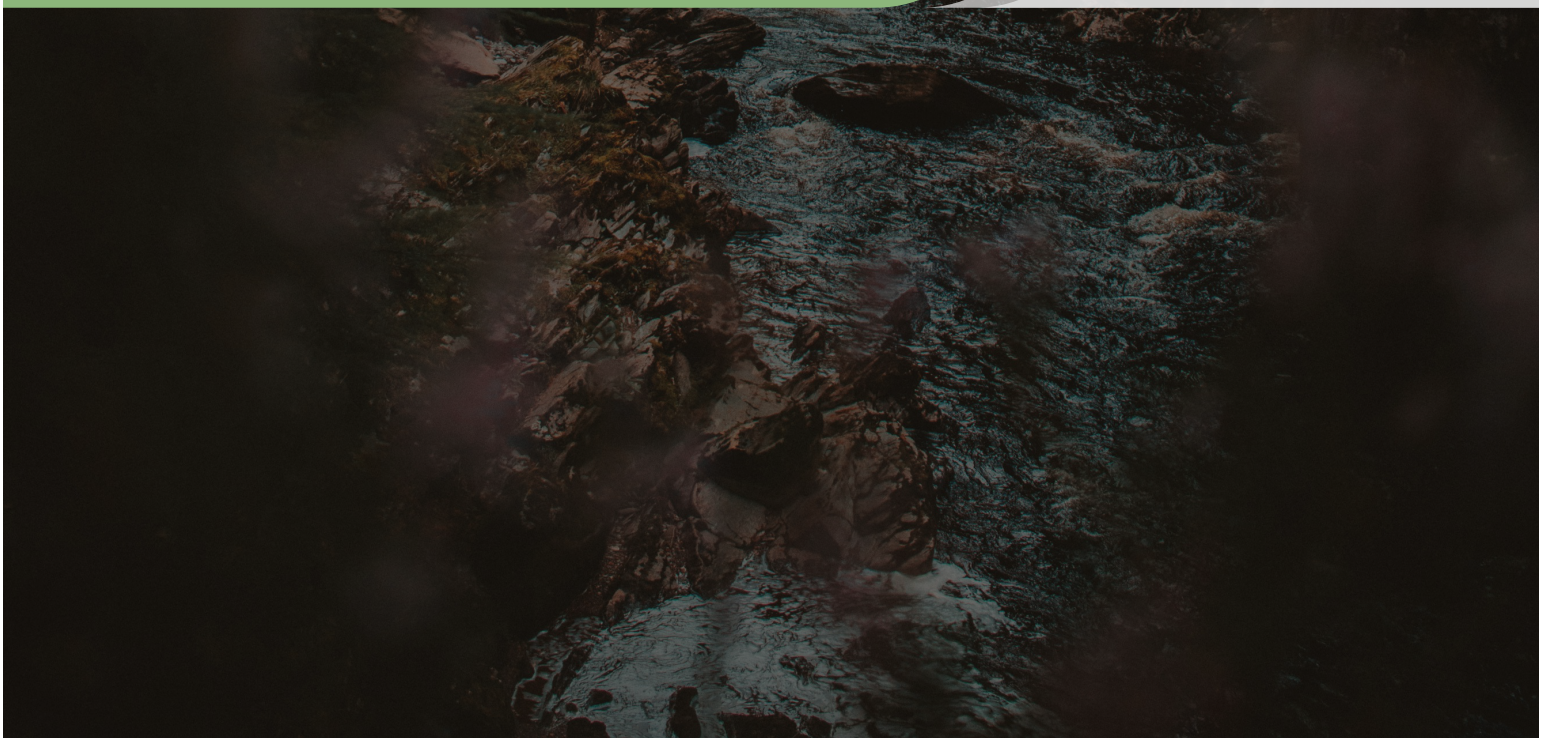
As noted above, the all conservation easements should be explicit as to the future of conservation easement agreements in cases where the land trust can no longer be the holder, ensuring they are transferred to a like-minded easement holder.





APPENDIX 3:

Servitudes, Convenants, and Easements



Appendix 3: Servitudes, Convenants, and Easements

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The terms *Servitude*, *Covenant*, and *Easement* are all used to describe devices that can potentially be used to regulate activity on private land for the purpose of conservation. However, there is tremendous variation and nuance largely based on:

- Civil law vs common law – Quebec uses the civil law code, and all other jurisdictions in Canada use the common law. Servitudes, Covenants, and Easements do not all exist in both, or in the same way.
- Qualifiers on the word – Each term can have qualifiers that imply something specific and often unusual (e.g., 'restrictive' covenant, or 'real' servitude)
- Specific enabling legislation – These terms are broad property law terms with many unwritten usage nuances. However, in some cases (e.g., conservation easements), specific legislation is passed to codify the tool and the practice.

This appendix starts by explaining the main concepts behind each term, then goes on to explain how they are used for private land conservation.

Private Land Conservation Devices in General Terms

For all of these terms, this is the common characteristic is they convey a 'nonpossessory interest'. In contrast to something like (e.g.) a 'lease', which gives someone *possession* of a property for a period of time, these 'nonpossessory' give someone an interest in that property, but no possession.

Servitudes

In general, a 'servitude', gives the owner of one parcel of land some kind of rights over another parcel of land, even though they have no possessory ownership rights.

Key points regarding this term:

- A general and specific term – 'Servitude' is used both as a general term to cover all 'nonpossessory interests,' as well as a specific term in certain circumstances (usually when a qualifier term is added).
- Civil vs. common law – 'Servitude' is a standard term in the civil law system, but not in the common law system.
- Dominant and servient tenements – all types of servitude identify a 'dominant tenement' (the parcel that is receives a benefit) and a 'servient tenement' (the parcel that has a corollary burden placed on it).
- Equitable interest vs a legal interest – some instruments that affect rights associated with a property are officially registered with the property (legal interests) while others are not but may still be enforced by the courts (equitable interests). An example of the latter is an unregistered mortgage.
- Real vs personal servitude – Primarily used in civil law systems, a 'real' servitude is a right that over a parcel of land (the 'servient' tenement) that benefits another parcel of land (the 'dominant' tenement). In contrast, a 'personal' servitude benefits a specific person, not a land parcel.
- May or may not run with the land – Different servitudes have different inherent rules with regard to their term. For example, 'real' servitudes generally bind all future landowners, while 'personal' servitudes generally expire when the benefited individual dies.

Covenants

In its simplest terms, 'covenants' are "promises between owners of neighboring land" (Youngman 2001). They generally impose restrictions on how a property (the servient tenement) can be used, but do not convey any usage rights to the dominant property.

Key points regarding this term:

- Adjacent land parcels – Covenants, in general, assume the dominant and servient tenements are adjacent or in very close proximity to each other.
- Restrictive (negative) covenants – Most covenants are 'restrictive covenants' meaning they place restrictions on a landowner's use of their property. Restrictive covenants are considered a proprietary interest in land, and are usually enforceable on future landowners.
- Positive (affirmative) covenants – Though more unusual, there are 'positive' covenants, meaning they place obligations on a landowner's use of their property. However, 'positive' covenants are generally not considered a proprietary interest in land (just a contractual obligation), and are therefore

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generally not enforceable on future landowners.

- Enforcement – The remedies available for the breach of the terms of a covenant are generally limited to monetary damages, as opposed to an obligation to take certain actions. The covenant is enforceable by the owner of the dominant tenement.
- Equity versus legal interest – Though a specific agreement or legislation can state otherwise, covenants are generally rooted in 'equity' meaning they are not expected to be registered on title.

Easements

The term 'easement' refers to a non-possessory right to *use* or *restrict* the use of another person's land (the servient tenement) for the benefit of another parcel (dominant tenement). It is an proprietary interest in land, and registered on the title of the land, placing binding obligations on future owners of the servient tenement.

Key points regarding this term:

- Common law device – An 'easement' is a common-law property device that does not exist in civil law; the most analogous device in civil law is a 'real servitude'
- Can be negative and/or affirmative – Unlike covenants, easements are inherently able to apply both restrictions and obligations on the servient landowner, and both are considered to be binding on future landowners.
- Easement in gross – Easements may be 'appurtenant' or 'in gross.' The former uses the more traditional 'dominant/servient tenement' structure, while an in gross easement does not rely on adjoining properties, and does not directly benefit a 'piece of land' but rather provides the benefit to a person or entity.
- Terminology confusion – One of the most common types of easements is a right-of-way access, where the owner of one parcel can drive across another's to access their property. While often referred to colloquially as a 'restrictive covenant', this is in fact a type of easement.

Servitudes for Conservation in Canada

After reading through the above information, one can see how each type of 'nonpossessory' device would have both benefits and limitations for enduring protection of a property's conservation values.

To address this, the governments of all ten provinces and one territory have enacted specific legislation to enable (and codify) versions of these devices that can best serve enduring conservation. They are:

- Conservation easements,
- Servitude de conservation immobilière,
- Servitude de conservation personnelle, and
- Réserve naturelle sur un terrain privé.

Conservation easements

'Conservation easement' is the generic term for the various 'easement in gross' devices enabled by Canada's common law provincial/territorial governments. Different common-law jurisdictions use the terms Conservation Easements, Conservation Covenants, and Conservation Agreements for this kind of device, but they all use the 'easement in gross' structure as the basic building block, and the model first proposed in 1959 (Whyte 1959) and titled a 'conservation easement.' The common easement-based characteristics in most legalisation include:

- Easement in gross – Use of the 'in gross' structure that 1) allows agreements to forgo 'dominant and servient' parcel requirements, 2) allows easement to be tied to an entity vs a land parcel.
- Negative and positive obligations – Ability to establish both restrictions (negative) obligations as well as required land use practice (affirmative) obligations.
- Legal interest registered on title – Identification as an interest in land that is registered on the title of the property, binding future landowners.
- Enforcement – Allowance for enforcement by the entity holding the easement regardless of their land ownership status, and allowing enforcement remedies that include both monetary damages and requirements to take certain actions.

Real Conservation Servitude (servitude de conservation immobilière)

As the 'easement' concept does not exist in the civil law system, private land conservation in Quebec relies on a more traditional 'servitude' structure. A 'servitude de conservation immobilière' involves a landowner choosing which part of their property to conserve, then using a legal agreement (servitude) with a conservation organization to restrict certain land use activities that would detrimentally affect the conservation values.

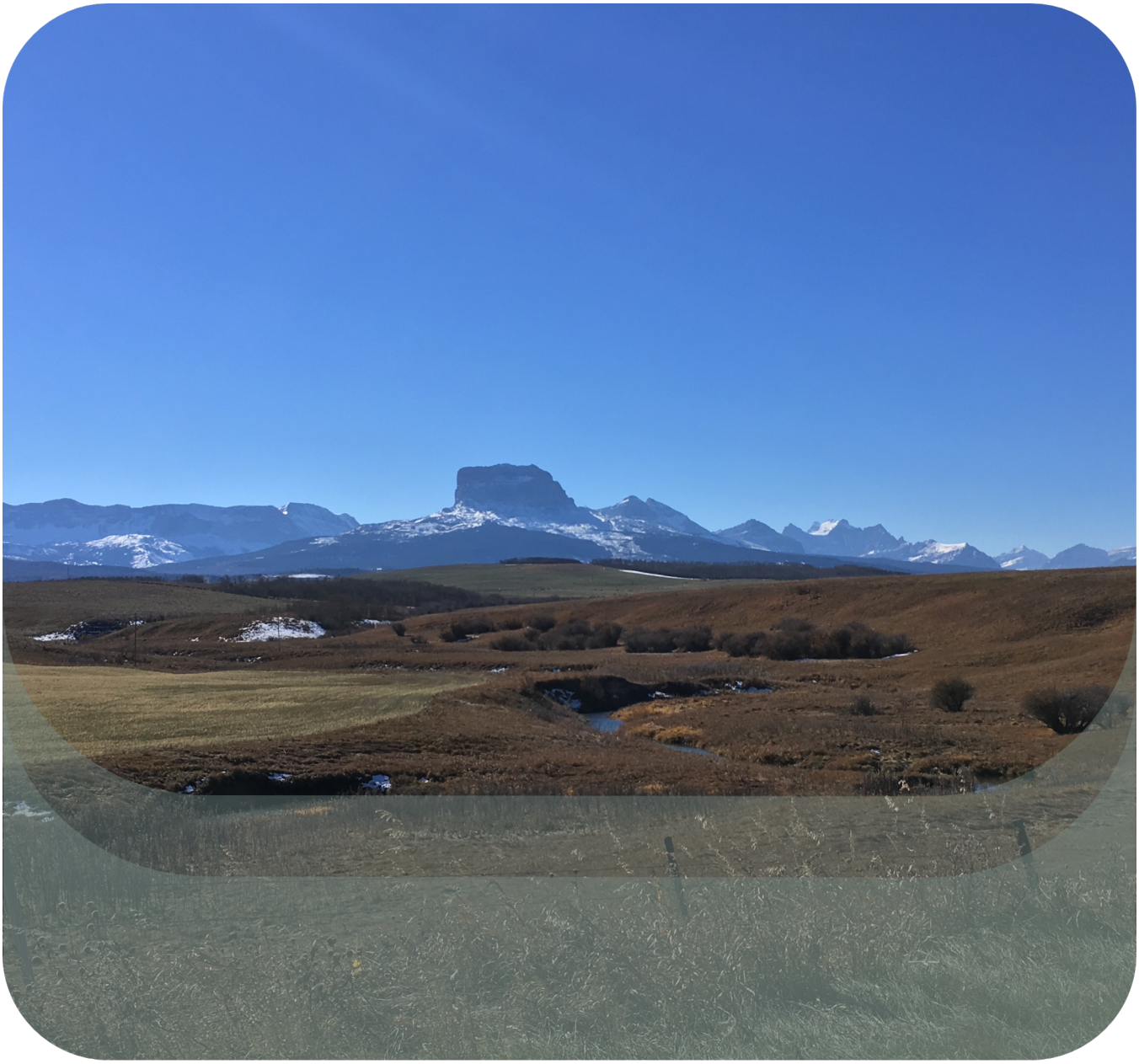
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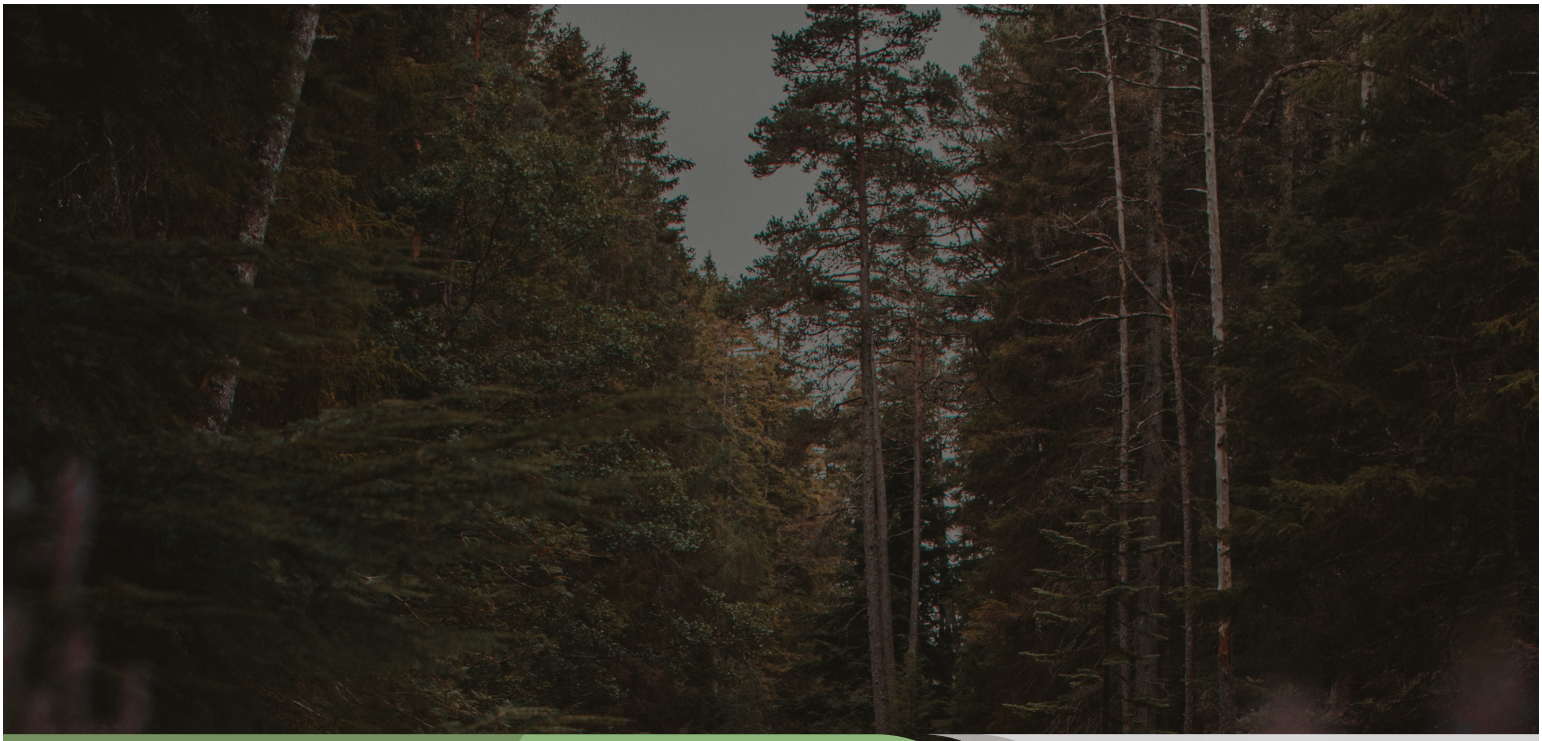
Personal Conservation Servitude (servitude de conservation personnelle)

Quebec has more recently begun using Personal Conservation Servitudes (servitudes de conservation personnelle), which provides an additional step towards providing a more conservation-easement-like tool in that province. These do not require a dominant tenement, thus allowing for the agreement to be with an entity that is not an adjacent landowner. To remove the uncertainty otherwise inherent in using personal servitudes for conservation, the Personal Conservation Servitude includes the terminology 'real' and 'perpetual.'

Réserve naturelle sur un terrain privé.

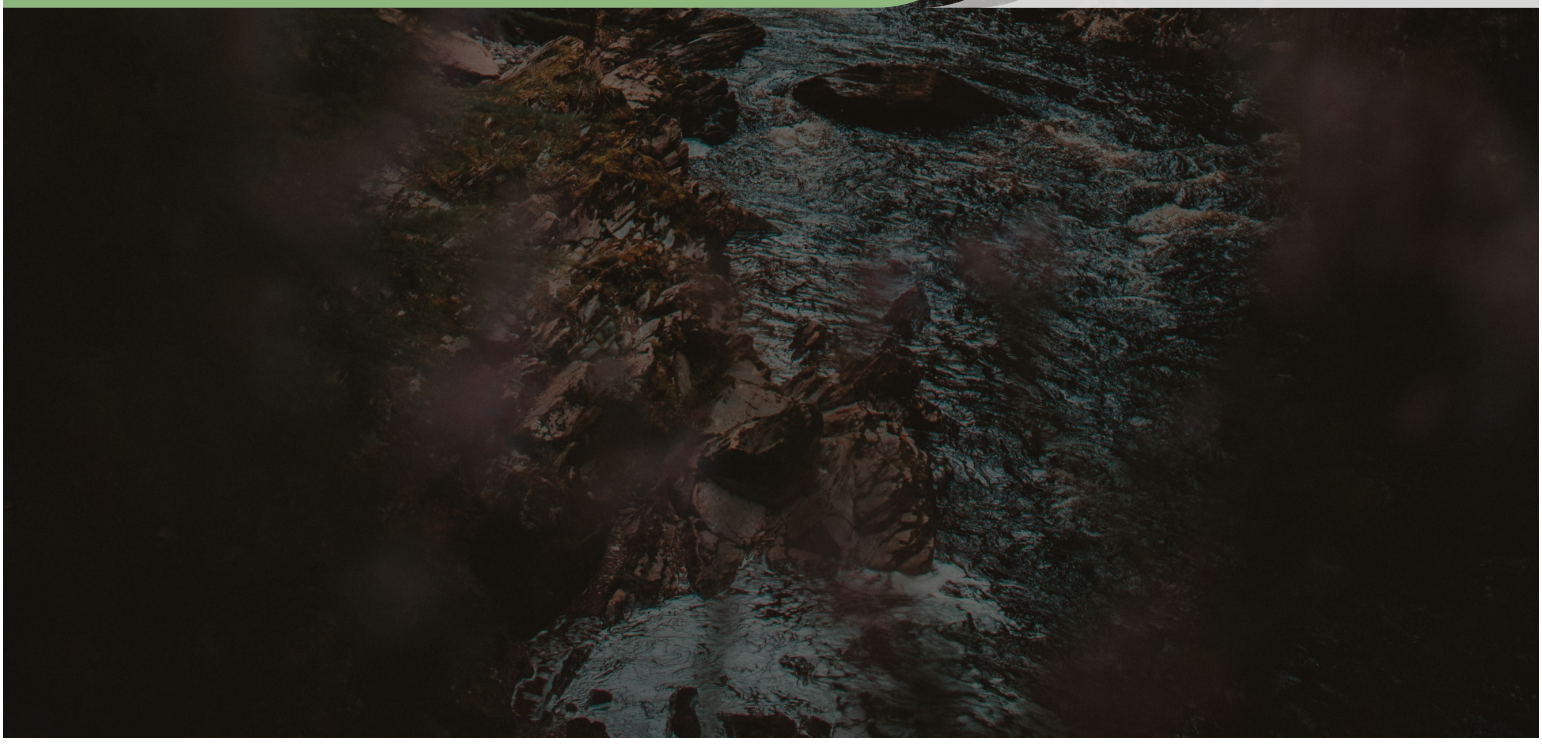
Quebec landowners also have the opportunity to engage in a similar agreement, but with the provincial government instead. With a *réserve naturelle sur un terrain privé*. The landowner enters into a similar agreement to a 'servitude de conservation immobilière', only in this case with the *ministère de l'Environnement, de la Lutte contre les changements climatiques, de la Faune et des Parcs* (MELCCFP) in Quebec.





APPENDIX 4:

Addressing Other Rights and Tenures



Appendix 4: Addressing Other Rights and Tenures

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Almost by definition, private lands will have a more complex dynamic of activities and rights associated with a property than public lands. Sub-surface rights have received much attention in this vein because in many cases they are separate from the surface rights, and held in private ownership or public lease.

The *Pathway to Canada Target 1* National Steering Committee has been clear that the simple existence of sub-surface rights would not preclude a property (public or private) from being listed in the Canadian Protected and Conserved Areas Database (CPCAD). They have also been clear that in cases outside the more typical realm of publicly-protected areas, the concepts of "intention" and "likelihood" should form the basis of assessments.

Intention refers to the clear indication that enduring protection of the property's biodiversity conservation values underlies the management approach.

Likelihood refers to making the case that while a negative impact to the biodiversity conservation values of a property is possible, on balance the probability of it happening or the significance of its impact is low.

In the case of sub-surface rights associated with a privately-conserved parcel, the challenge for land trusts and conservancies, then, is to indicate if the *likelihood* of impacts is low, and that the management *intention* is to preclude or limit it wherever possible.

Ability to Affect Other Rights and Tenures

In some (rare) situations, the fee-simple owner of a private land parcel has the ability to control how other rights and tenures will play out, but in most cases they will not. Demonstrating *intention* and *likelihood* will be different for these two situations.

Changes beyond landowner control refers to circumstances where a right or tenure may exist beyond the landowner, and the exercising of those rights will happen regardless of the landowner's wishes. These include the government right to expropriate in the public interest (e.g., roads and other public infrastructure), or the right of a sub-surface mineral rights holder to access those resources.

Changes within landowner control refers to circumstances where a right or tenure may exist beyond the landowner, but the landowner still has rights and opportunities to affect it. These includes the right of the landowner to negotiate modifications of a surface access agreement, or to seek a change in the order of interests in the land to affect their priority.

In cases where *changes are beyond landowner control*, the land trust can demonstrate *intention* and low *likelihood* in the following ways:

- Demonstrate the likelihood is low that an industrial activity will happen that might impact the biodiversity conservation values of the property in a material
- Develop property-specific thresholds of industrial activity, beyond which CPCAD status would have to be revisited.

In cases where *changes are within landowner control*, the land trust or conservancy can demonstrate *intention* and low *likelihood* in the following ways:

- Demonstrate the likelihood is low that an industrial activity will happen that might impact the biodiversity conservation values of the property in a material.
- Maintain a board-level policy on how the land trust would deal with industrial activity applications were they to arise.

Note that in both cases, the land trust will have to articulate what those other rights and tenures are.

Demonstrating Low Likelihood of Industrial Development

While no type of protected area comes with guarantees that industrial activity will never affect them, evidence would have to be provided that the *likelihood* of industrial activity taking place that could significantly affect the biodiversity conservation values of the property is fundamentally low.

Because privately-conserved parcels may have a number of external rights and tenures associated with them, this evidence of low *likelihood* may need to address such activities as:

- Gravel extraction,
- Surface mining,
- Hydrocarbon exploration,
- Hydrocarbon extraction, and/or

- Expropriation for roads, power lines, pipelines.

As well, some activities associated with lower-impact industries may also need evidence that the likelihood they will exceed sustainable levels is low. These may include:

- Selective timber harvest,
- Extensive livestock grazing, and/or
- Low-impact recreational access.

Such evidence could include information showing:

- Terms of a conservation easement or a management plan preventing gravel pits,
- Prevalence of directional drilling in the area indicating drilling platforms could be directed away from the property,
- Low economic or technical viability of accessing sub-surface resources in the area,
- Lack of hydrocarbon exploration plans established for the area,
- Willingness of rights-holders to adapt practices (use of existing roads, timber management restrictions, limits on recreational access, footprint reductions, grazing management plans, etc.),
- Existence of other viable rights-of-way in the vicinity,
- Willingness of provincial government to cancel sub-surface leases,
- Board-level policy for actively resisting industrial activity applications, and/or
- Past successes in resisting, redirecting, or refusing industrial activity.

Industrial access policy

For areas where industrial access is a possibility, land trusts should maintain board-level policies regarding how emergent applications for industrial access or activity would be addressed.

For conservation easements, such policies could include agreement clauses requiring landowners:

- Refuse industrial access wherever it is within their rights to do so,
- Notify the conservation easement holder of any such applications, and/or
- Work with the easement holder in negotiating required low impact practices.

For fee-simple conservation properties held by a land trust, such policies could include:

- Board-level policies requiring the land trust or conservancy to refuse industrial access wherever it is within their rights to do so; and/or
- Parcel-specific management plans that contain terms of engagement for industrial operators and direction on pressing for specific low-impact practices.

In both cases, low-impact practices policies could include:

- Avoidance of the property wherever technically feasible,
- Use of existing roads for access,
- Minimization of footprints for well pads, staging areas, pump stations, etc.,
- Highest-standard reclamation practices that include use of native species, and re-use of original soil horizon, and/or
- Avoidance of areas critical for the property's biodiversity conservation values (riparian areas, wildlife movement corridors, nesting areas, native vegetation, etc.).

Threshold of Environmentally Damaging Industrial Activities and Infrastructure

A limited amount, or certain types, of industrial activity may not affect the conservation values of the property in a material or significant[10] way. However, in cases where expropriation and sub-surface access are a possibility, land trusts and conservancies should maintain property-specific policies that identify a threshold of such activity beyond which it can be said the elements of biodiversity targeted by the conservation area have been significantly or materially affected in an environmentally damaging way. At that point, the property's status within Canadian Protected and Conserved Areas Database (CPCAD) would need to be re-visited.

Such threshold guidance could include:

- A minimum acreage required to maintain the identified biodiversity conservation values,
- A maximum percentage of the property that can be

10 While all properties could be said to be environmentally damaged by industrial activity (acid rain, micro-plastics, climate change, roads, etc.), 'material' or 'significant' effects could mean large footprint changes/impacts, enduring impacts, cumulative effect impacts, etc.

affected before the identified conservation values are impacted (3% has been proposed in several discussions), and/or

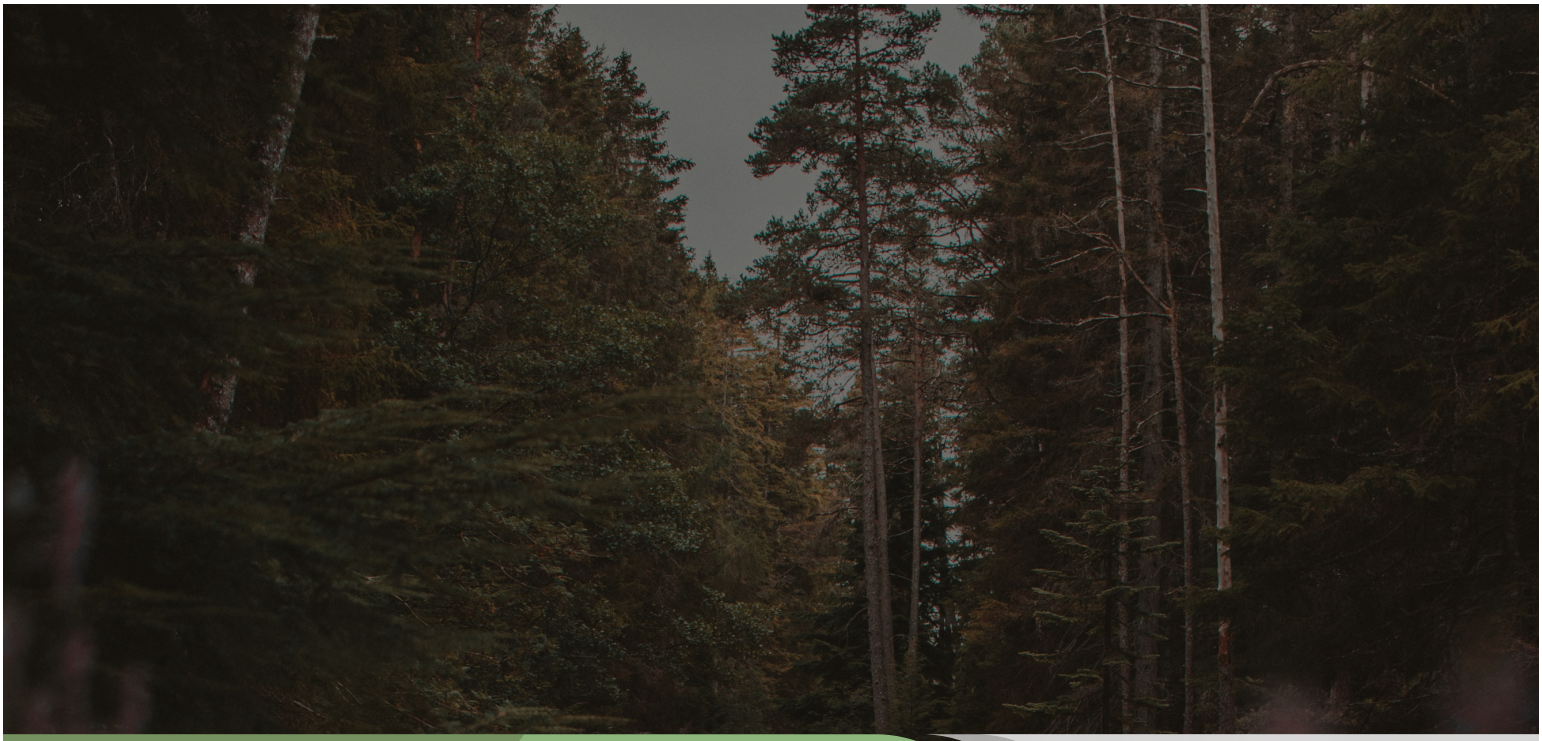
- Ecologically sensitive areas that cannot accommodate any impact (I.e., zero-threshold areas).

Threshold exceedance responses could include:

- Assessment by a qualified conservation biologist / ecologist to confirm the significance of the impact,
- Re-submission of the property to CPCAD with the boundaries adjusted to exclude the area of the industrial activity, and/or
- Change in CPCAD status to 'Interim Protected Area' pending completion of the industrial activity and restoration of its impacts.

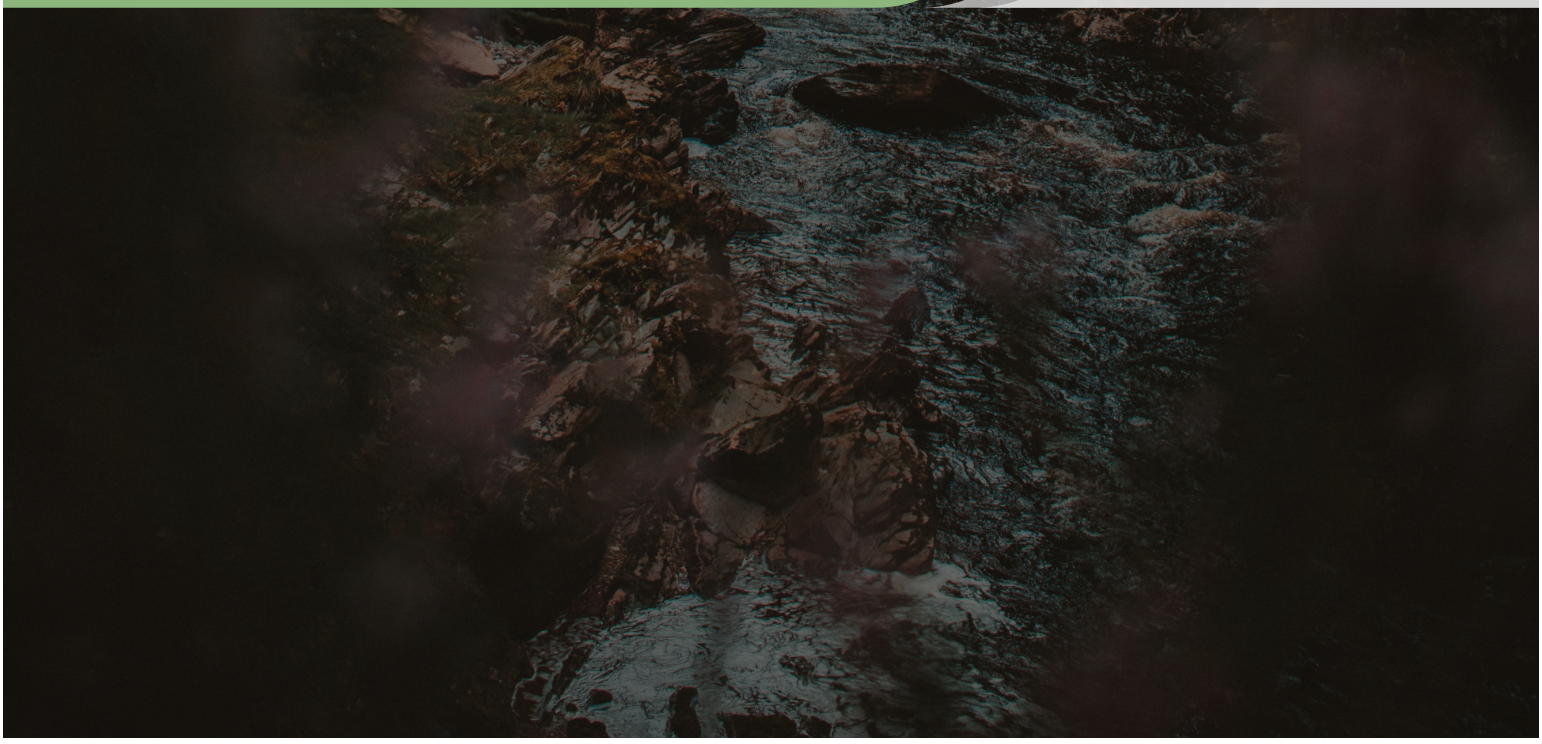
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APPENDIX 5:

Identifying or Establishing Other Effective Area-Based Conservation Measures



Appendix 5: Identifying or Establishing Other Effective Area-Based Conservation Measures

(taken from "Recognising and reporting other effective area-based conservation measures." Stolton et al 2019, p.3)

Protected areas and OECMs are both expected to result in the long-term and effective in-situ conservation of biodiversity. However, whereas protected areas have nature conservation as the primary management objective, OECMs may or may not have nature conservation as an objective.

Types of approaches that deliver effective conservation in other effective area-based conservation measures

1. "**Primary conservation**"—refers to areas that may meet all elements of the IUCN definition of a protected area, but which are not officially designated as such because the governance authority does not want the area to be recognised or reported as a protected area. For example, in some instances indigenous peoples and local communities may not want areas of high biodiversity value that they govern to be designated as protected areas or recorded in government protected area databases. Assuming an area meets the OECM criteria, the governance authority has the right to withhold or give its consent to the area being recognised as an OECM.

2. "**Secondary conservation**"—is achieved through the active management of an area where biodiversity outcomes are a secondary management objective. For example, enduring watershed protection policies and management may result in effective protection of biodiversity in watersheds, even though the areas may be managed primarily for objectives other than conservation. Sites managed to provide ecological connectivity between protected areas or other areas of high biodiversity, thereby contributing to their viability, may also qualify as OECMs.

3. "**Ancillary conservation**"—refers to areas that deliver in-situ conservation as a by-product of management activities, even though biodiversity conservation is not a management objective. For example, Scapa Flow in the Orkney Islands protects shipwrecks and war graves. This protection has led to the ancillary conservation of important biodiversity.

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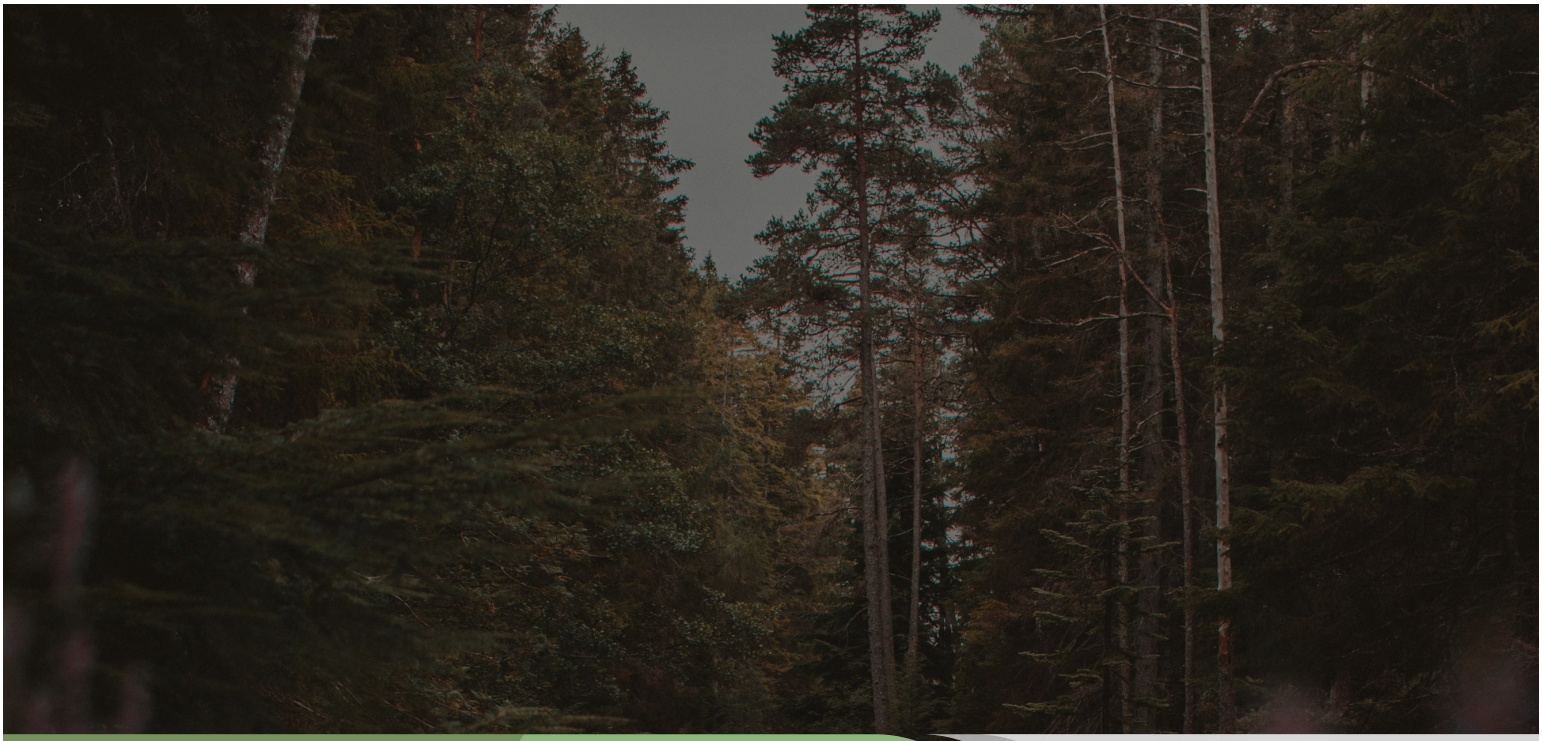
Unrecognised and unreported areas that meet the definition of a protected area

IUCN recommends that areas that meet all elements of the IUCN definition of a protected area, and are recognised as such by the governance authority, be considered protected areas rather than OECMs. For example, some privately protected areas are not reported as protected areas by national governments, even though they may satisfy the IUCN criteria.

Other intact natural areas

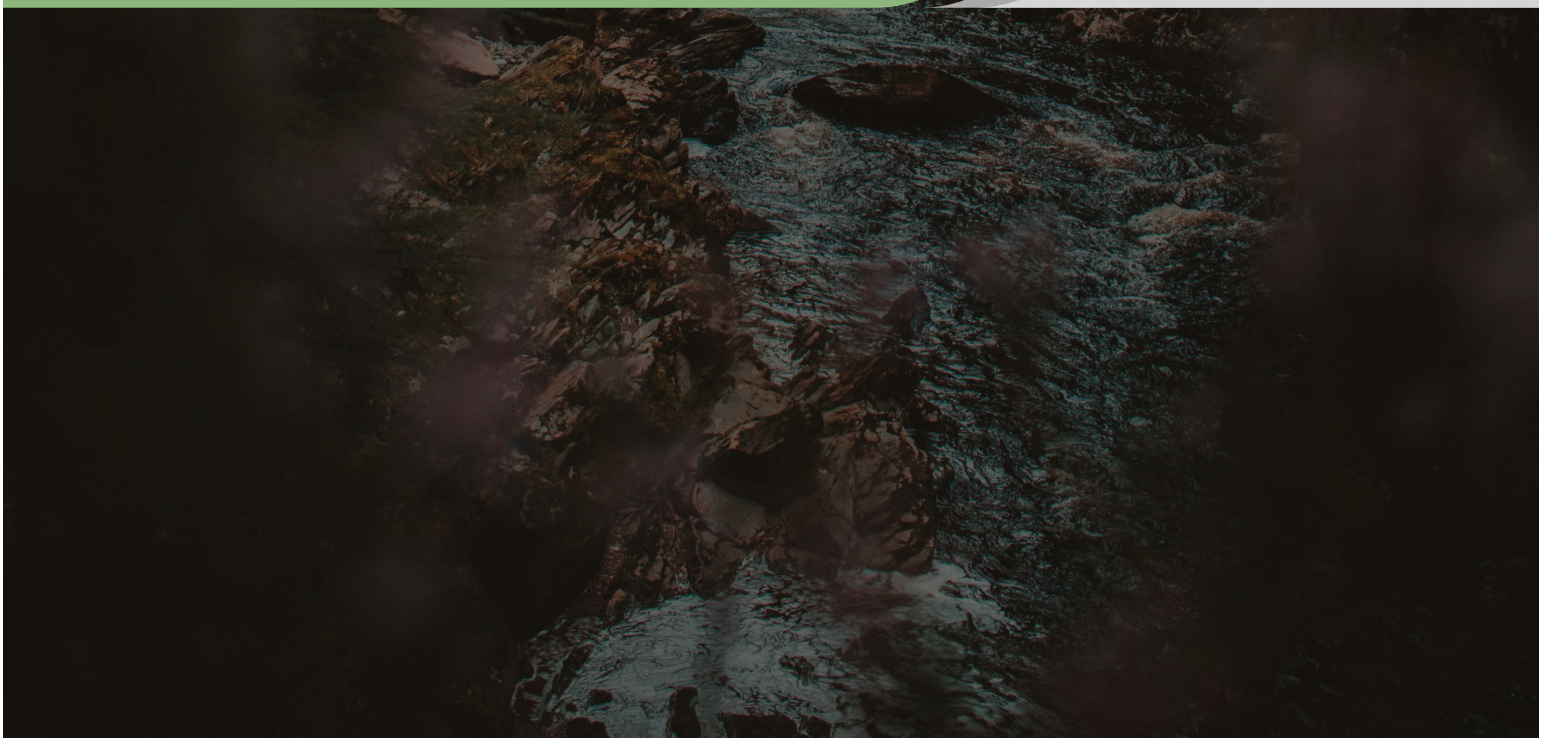
All of the above cases must be distinguished from other intact natural areas that are not subject to any deliberate form of conservation management but nevertheless currently harbour intact biodiversity, for example because of their remoteness or due to situations of conflict. These areas are considered to be neither OECMs nor protected areas since such sites may have little long-term security if conditions change, or if they are opened up to environmentally-damaging activities.





APPENDIX 6:

Showing Primacy of Biodiversity Conservation in a Conservation Easement



Appendix 6: Showing Primacy of Biodiversity Conservation in a Conservation Easement

Not all conservation easements have ecological purposes. And of those that do, not all are managed to ensure nature comes first. That is in no way an indictment of the tool; in fact it reflects its power and flexibility.

Demonstrating Primacy of Biodiversity Conservation

For a property encumbered by a conservation easement to be considered an area-based conservation project, it has to ensure in-situ biodiversity[11] is conserved. If that is the result of that purpose being the primary management approach, the project is a Protected Area; if it is a secondary or even absent goal, but the associated restrictions result in *in situ* conservation of biodiversity, it is an OECM (or Conserved Area).

This begs the question of how a conservation easement can ensure (and demonstrate) that biodiversity conservation is the primary management goal. The answer is a function of:

- Purposes
- Conservation Values
- Land Use Restrictions and Prescriptions
- Management Intention

Purposes

A conservation easement may be granted for several purposes, based on the enabling legislation of the province or territory. Primacy of nature conservation is indicated by:

- The stated purpose of the agreement is to protect the natural features and systems of which the property is a part.
- If there are multiple purposes, the conservation of nature is indicated to be the primary or overriding purpose in the case of a conflict.

Conservation Values

A conservation easement needs to be clear as to what are the conservation values it was established to protect. This may be a section in the agreement that uses that heading, or some other mechanism to make this connection (e.g., a reference to protecting the conservation values identified in an associated baseline report). Regardless, it should be clear that these conservation values reflect the *in situ* conservation of biodiversity.

Land Use Restrictions and Prescriptions

The land use restrictions and prescriptions contained in the report should have a clear connection to the (biodiversity-focused) conservation values. More specifically, the restrictions and prescriptions must require that the landowner will prioritize protection of the identified biodiversity-focused conservation values in their land management, especially in the case of a conservation easement granted for multiple purposes that include biodiversity conservation.

Management Intention

No area-based conservation project (public or private) can be guaranteed to be everlasting. In the case of conservation easements, there may be other elements such as the term of the agreement, the focus of the monitoring, the capacity of the organization, etc. that may confound the ultimate picture, but regardless, a conservation easement that claims to put primacy on biodiversity conservation should demonstrate that that is the 'management intention' (see *Appendix 10: Management Intention* for more detail).

When a Conservation Easement Might be an OECM

In some cases a conservation easement might not meet the definition of a Protected Area, but would meet the definition of an OECM. In these cases, protection of biodiversity is *not* the top priority of the agreement (as reflected in the purpose and conservation values), but the associated restrictions do *in fact* provide that protection.

An example would be a conservation easement granted to protect agricultural, cultural, scenic, or recreational purposes, but whose land use restrictions require the landowner to engage in land management practices that will in fact provide *in situ* biodiversity protection on the property.

11 For more detail on what the CBD and IUCN mean by this term, see *Appendix 9: Evidence for In Situ Biodiversity Conservation*.

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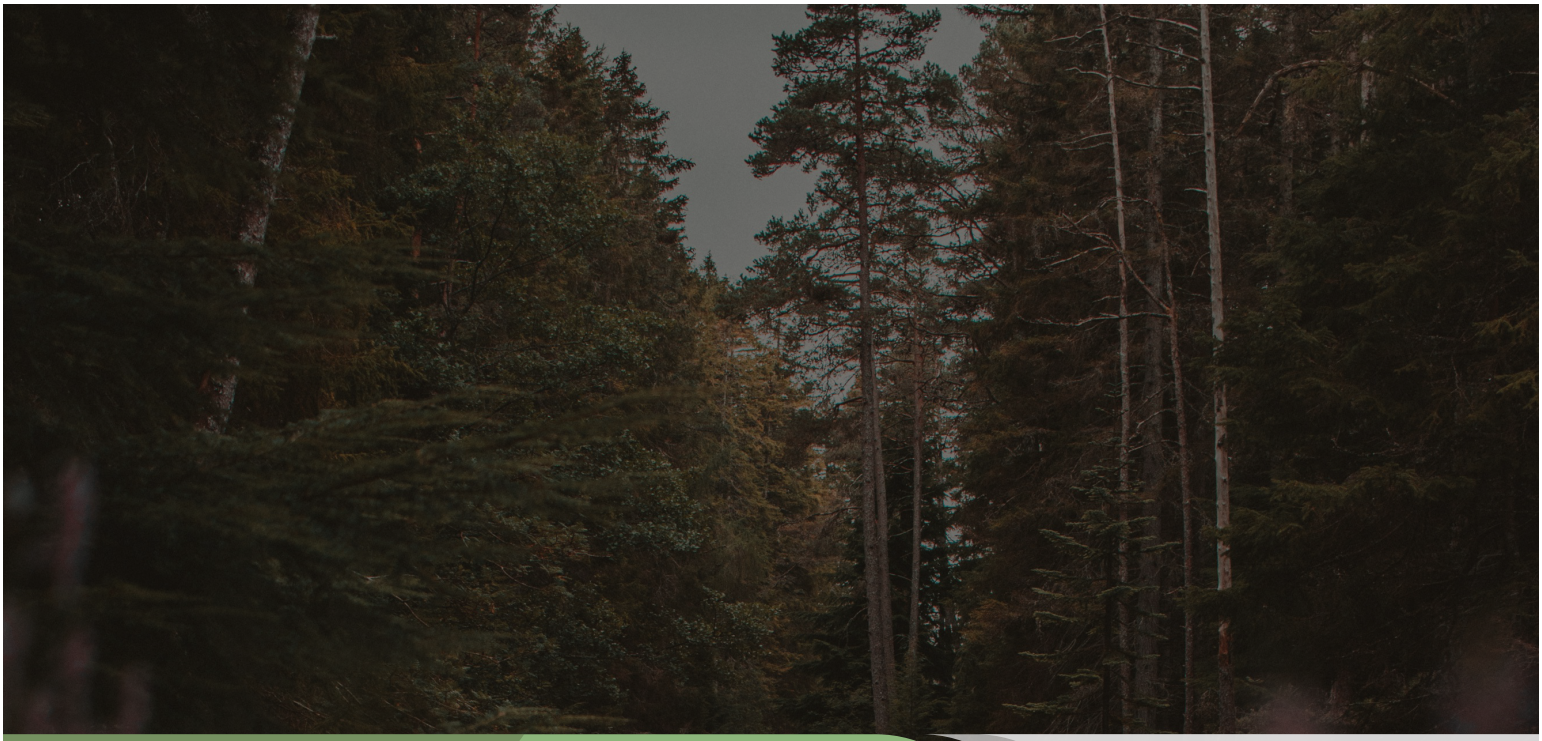
When a Conservation Easement is Neither a Protected Area Nor an OECM

There are many case where a perfectly valid conservation easement is not area-based conservation as considered by the Global Biodiversity Framework. This reflects the reality that the conservation easement tool is robust and diverse, allowing for conservation of many of the land-based values held by Canadians.

Examples include (perfectly valid) conservation easements established to protect agricultural land, nature-based recreation, Indigenous culture, or scenic beauty. If these cases do not include restrictions/ prescriptions that will contain land use in a way that favours in situ conservation of biodiversity, those conservation easements are not 'area-based conservation' under the Global Biodiversity Framework – i.e., they are not Privately Protected Areas nor private Other Effective Area-based Conservation Measures.

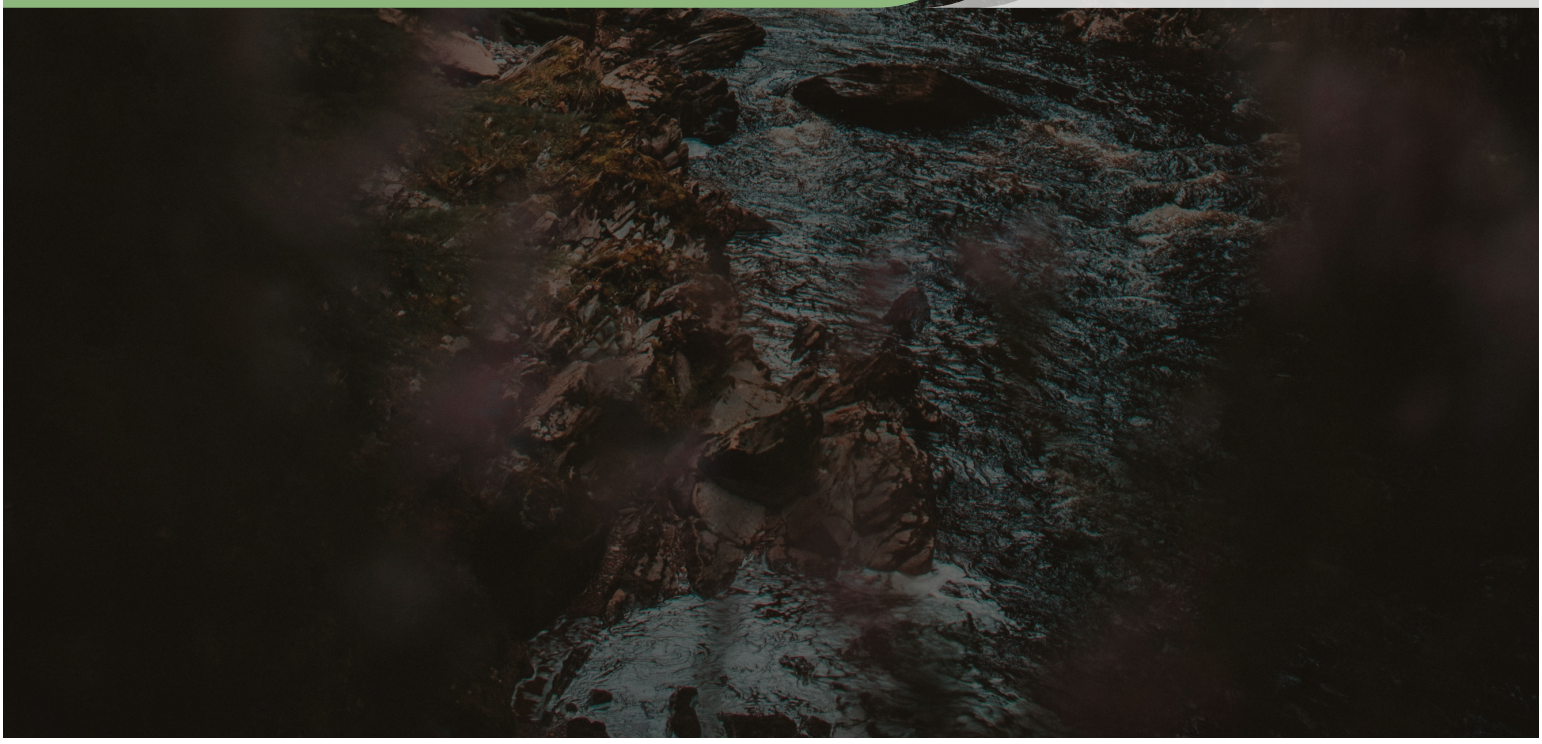
Similarly, if a conservation easement – of any type – is not granted in perpetuity, or does not contain a commitment to perpetual conservation of *in situ* biodiversity (see *Appendix 2: Enduring Commitment to Biodiversity Conservation*), it would not be considered a Privately Protected Area nor a private OECM.





APPENDIX 7:

Showing Primacy of Biodiversity Conservation in a Property Management Plan



Appendix 7: Showing Primacy of Biodiversity Conservation in a Property Management Plan

Ownership in fee simple of a property by a land trust is a strong signal that biodiversity conservation is the primary management consideration, but should be bolstered by the following:

- Land Management Principles
- Land Management Restrictions/Prescriptions
- Long Term Monitoring
- Associated Policies

Land Management Principles

The simple process of purchasing a property carries no responsibility to articulate a land management ethos. Properties owned by land trusts should contain a set of management principles that prioritize *in situ* conservation of biodiversity. These function as the gap filling measures, where future circumstances may arise that are not covered by the specifics of the management plan, and direction is needed that will ensure enduring biodiversity conservation.

Land Management Restrictions/Prescriptions

The management plan for a property owned by a land trust in fee simple should include explicit indications of the land use activities that will be allowed, those that will not be allowed, and those that be required. To indicate biodiversity conservation is primary, these should all orientate towards that goal.

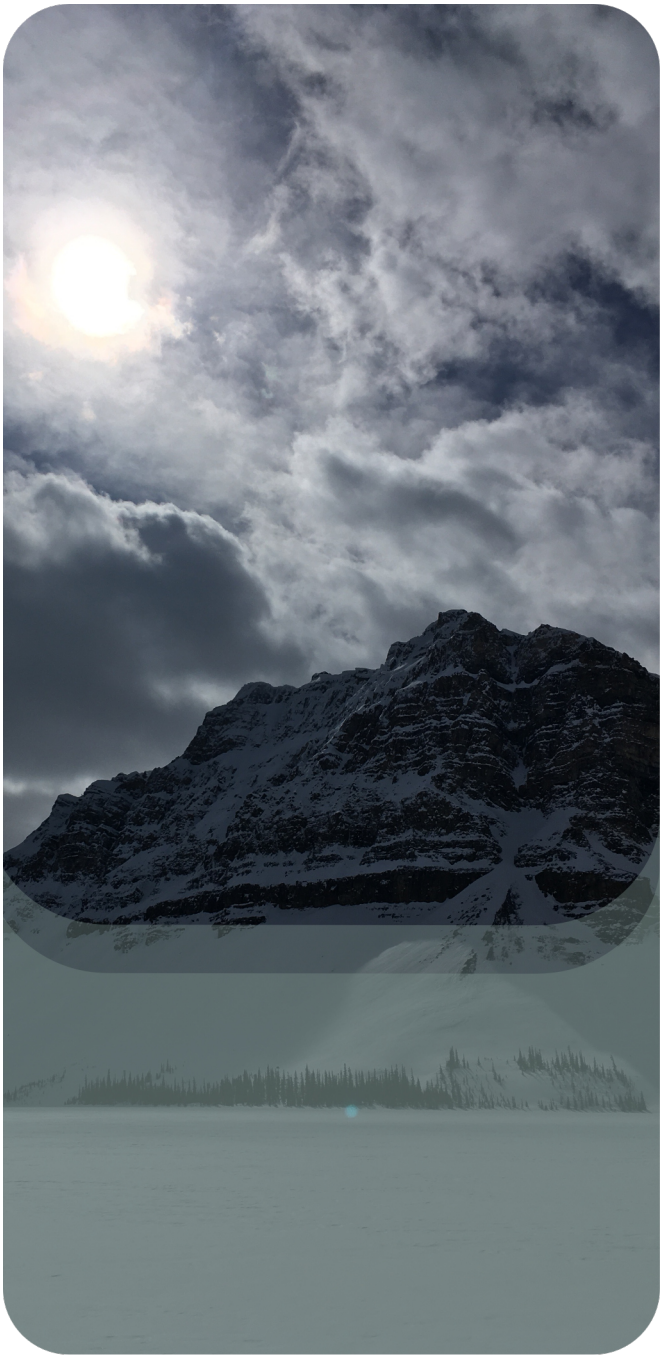
Long-term Monitoring

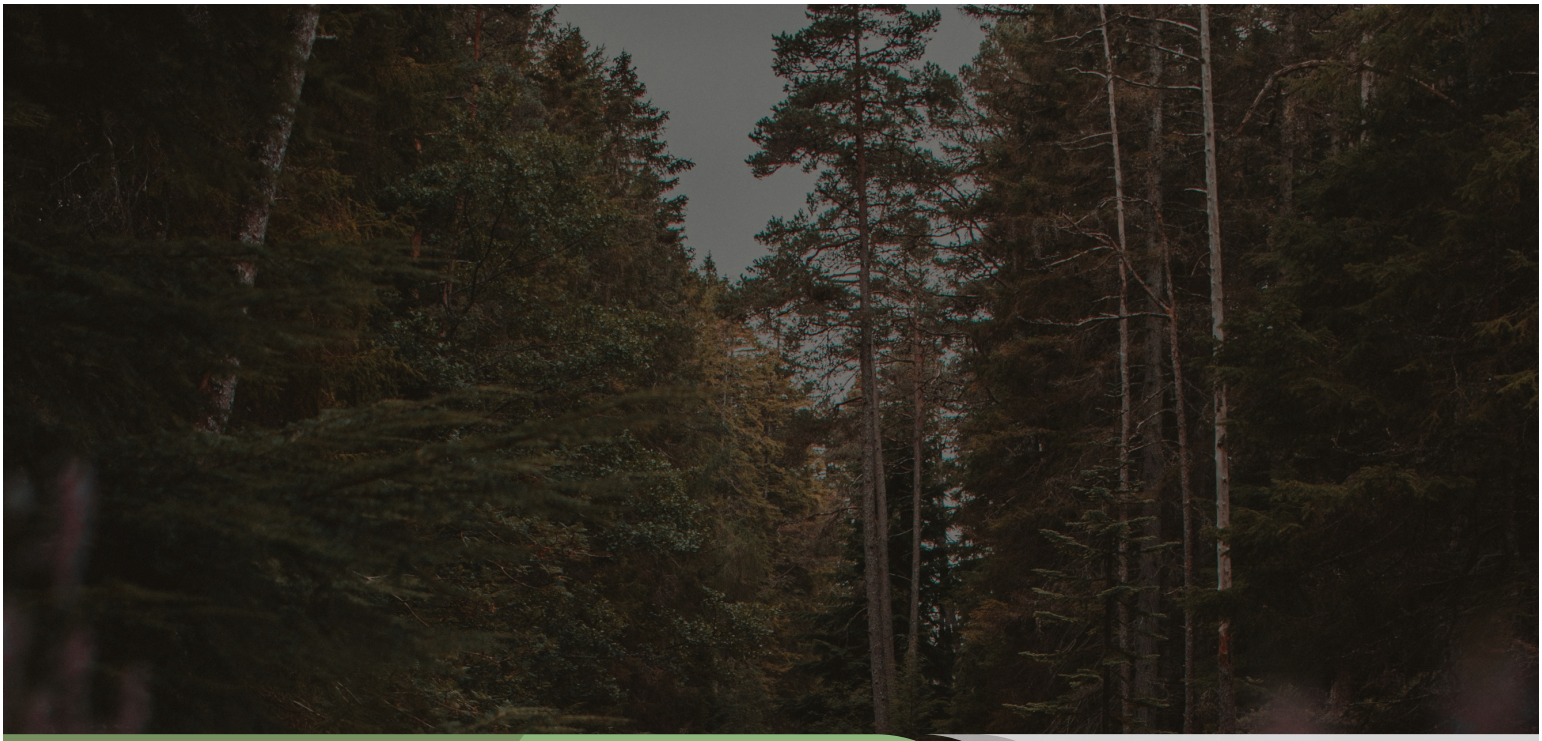
Again, ownership in fee-simple carries no implied requirement for monitoring. The management plan and principles should articulate a commitment to regular, long-term monitoring against the initial inventory, with a goal to assess/ensure that the *in situ* biodiversity is in fact being conserved. This should be paired with an associated (and articulated) adaptive management approach that commits to course corrections when necessary to conservation biodiversity on the property.

Associated Policies

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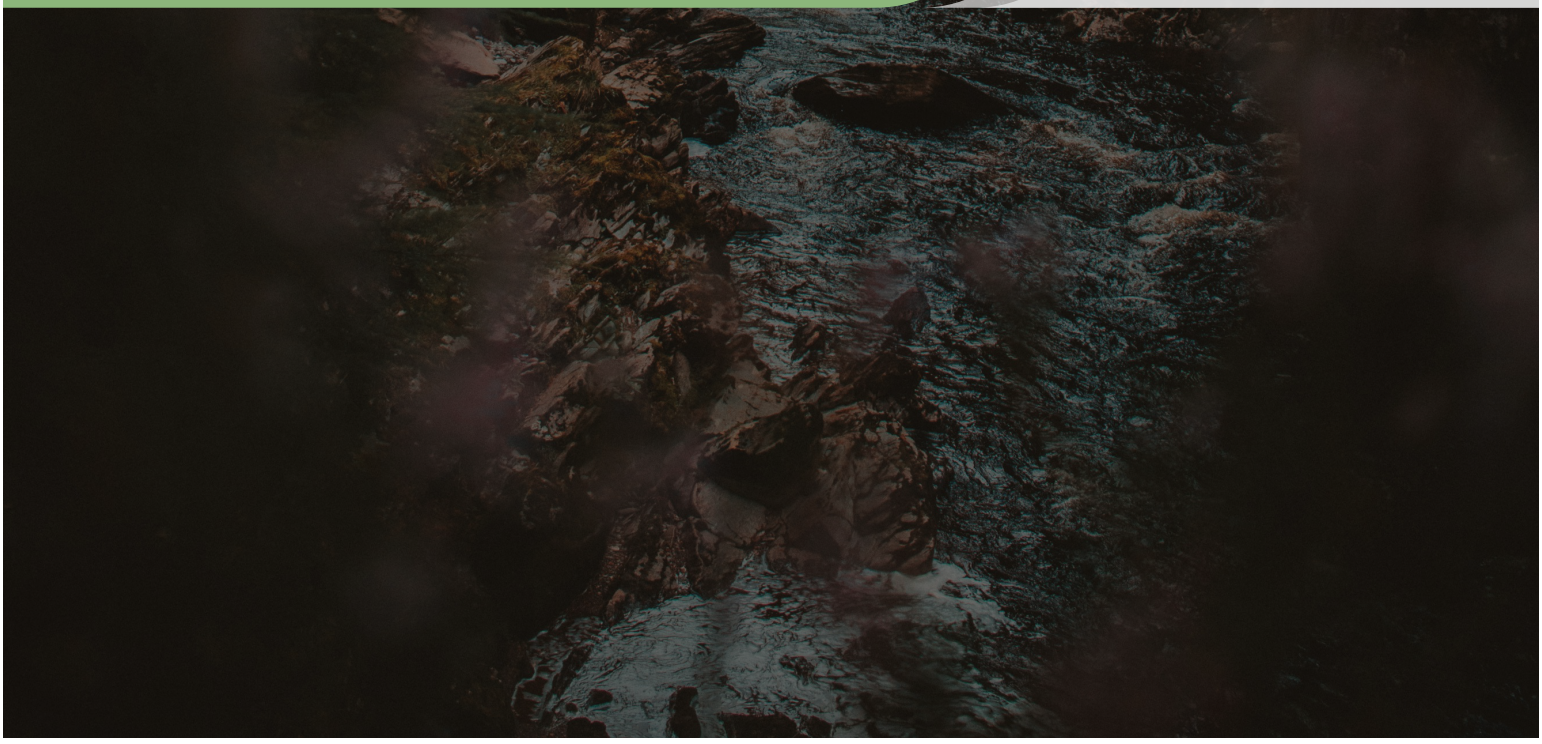
Because a management plan only speaks to the management and not the governance dynamics of committing to long-term biodiversity conservation, the management plan should be complemented by organization-wide or property-specific policies. At a minimum, these should ensure the property cannot be sold without guarantees of enduring conservation, such as the placement of a conservation easement on the property (see *Appendix 2: Enduring Commitment to Biodiversity Conservation* for more details).





APPENDIX 8:

Evidence for *In Situ* Biodiversity Conservation



Appendix 8: Evidence for *In Situ* Biodiversity Conservation

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The IUCN and the Pathway to Canada Target 1 criteria for both Protected Areas and Other Effective Area-based Conservation Measures reference '*in situ*[https://www.merriam-webster.com/dictionary/in%20situ12] biodiversity conservation.'

These references draw directly from the Convention on Biological Diversity's (CBD's) definition of *biodiversity*:

> *"The variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of ecosystems."* (CBD2011)

However, defining *biodiversity* is different from describing what is an effective effort to *conserve* it. Recognizing this, the CBD has also produced a definition of '*in situ* conservation', one which underpins much of the guidance for identifying and screening OECMs:

> *"The conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties."* (CBD2011)

While these definitions and guidance work well at a high level, they still leave those who actually govern and manage potential Private Protected Areas and OECMs with limited direction as to whether their area will qualify.

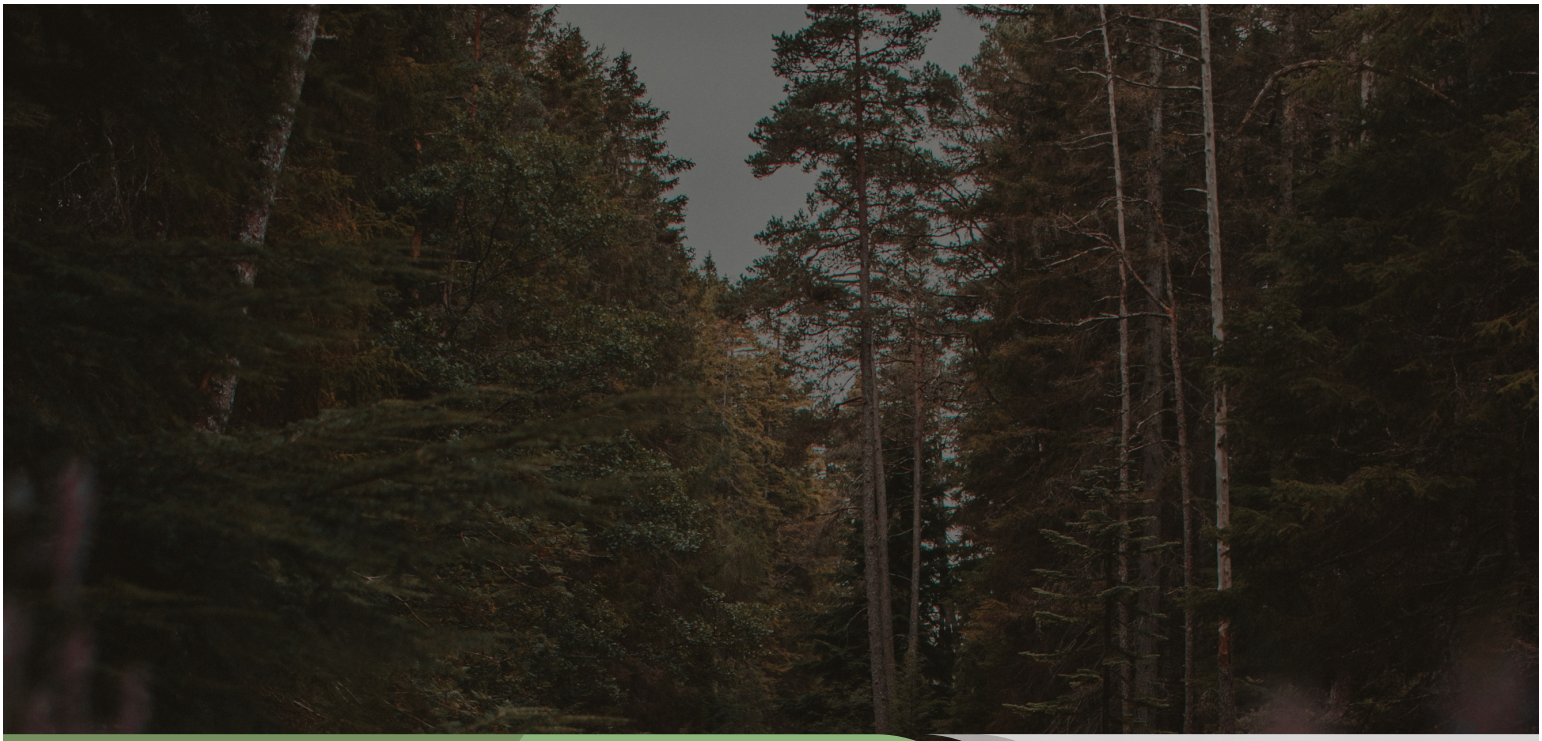
In an effort address this, the IUCN's World Commission on Protected Areas developed further guidance, stating that *"OECMs will effectively protect one or more of the following elements of native biodiversity:*

- Rare, threatened or endangered species and habitats, and the ecosystems that support them, including species and sites identified on the IUCN Red List of Threatened Species, Red List of Ecosystems, or national equivalents.
- Representative natural ecosystems.
-
- High level of ecological integrity or ecological intactness, which are characterised by the occurrence of the full range of native species and supporting ecological processes. These areas will be intact or be capable of being restored under the proposed management regime.
- Range-restricted species and ecosystems in natural settings.
- Important species aggregations, including during migration or spawning.
- Ecosystems especially important for species life stages, feeding, resting, moulting and breeding.
- Areas of importance for ecological connectivity or that are important to complete a conservation network within a landscape or seascape.
- Areas that provide critical ecosystem services, such as clean water and carbon storage, in addition to in-situ biodiversity conservation.
- Species and habitats that are important for traditional human uses, such as native medicinal plants" (IUCN WCPA 2019).

Privately-conserved areas proposed as either Privately Protected Areas or private OECMs should provide evidence that one or more of these elements of biodiversity is being targeted for conservation. This may be accomplished by:

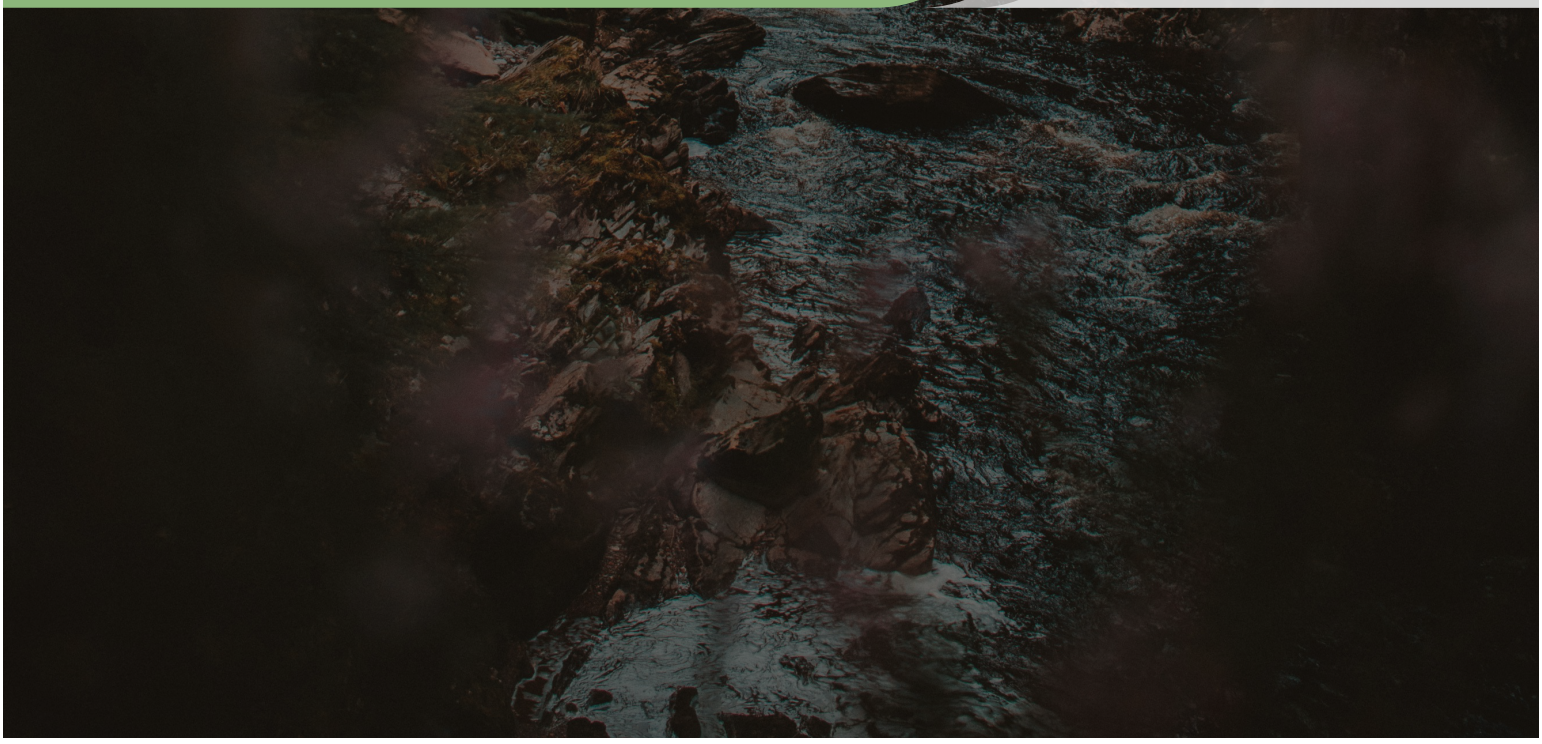
- The enabling clauses and restrictive terms of a conservation easement which specifically target one or more of these elements.
- The principles and required actions of a management plan attached to a fee-simple parcel owned by a land trust which specifically target one or more of these elements.
- A regional conservation plan or strategy, encompassing the privately-protected parcel, which specifically targets one or more of these elements.

12 *In situ* is a Latin phrase meaning "in the natural or original position or place" ()

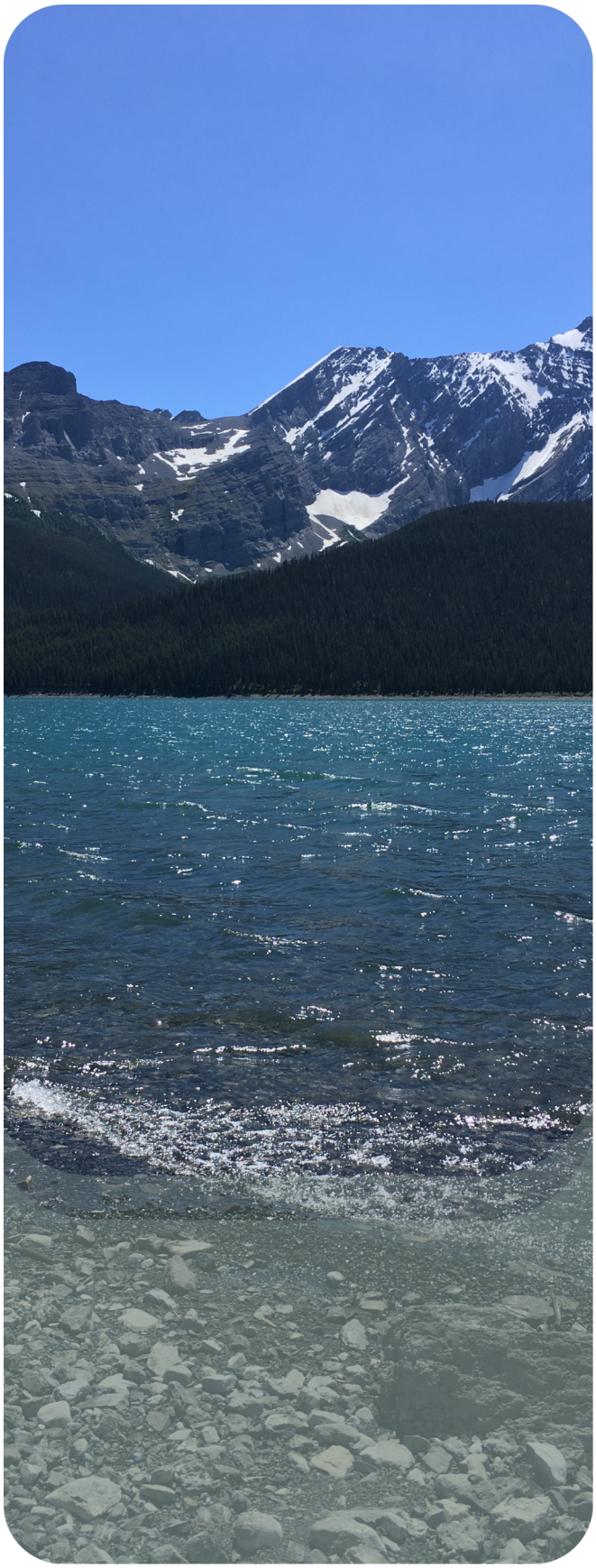


APPENDIX 9:

What is the Difference Between Management and Governance?



Appendix 9: What is the Difference Between Management and Governance?



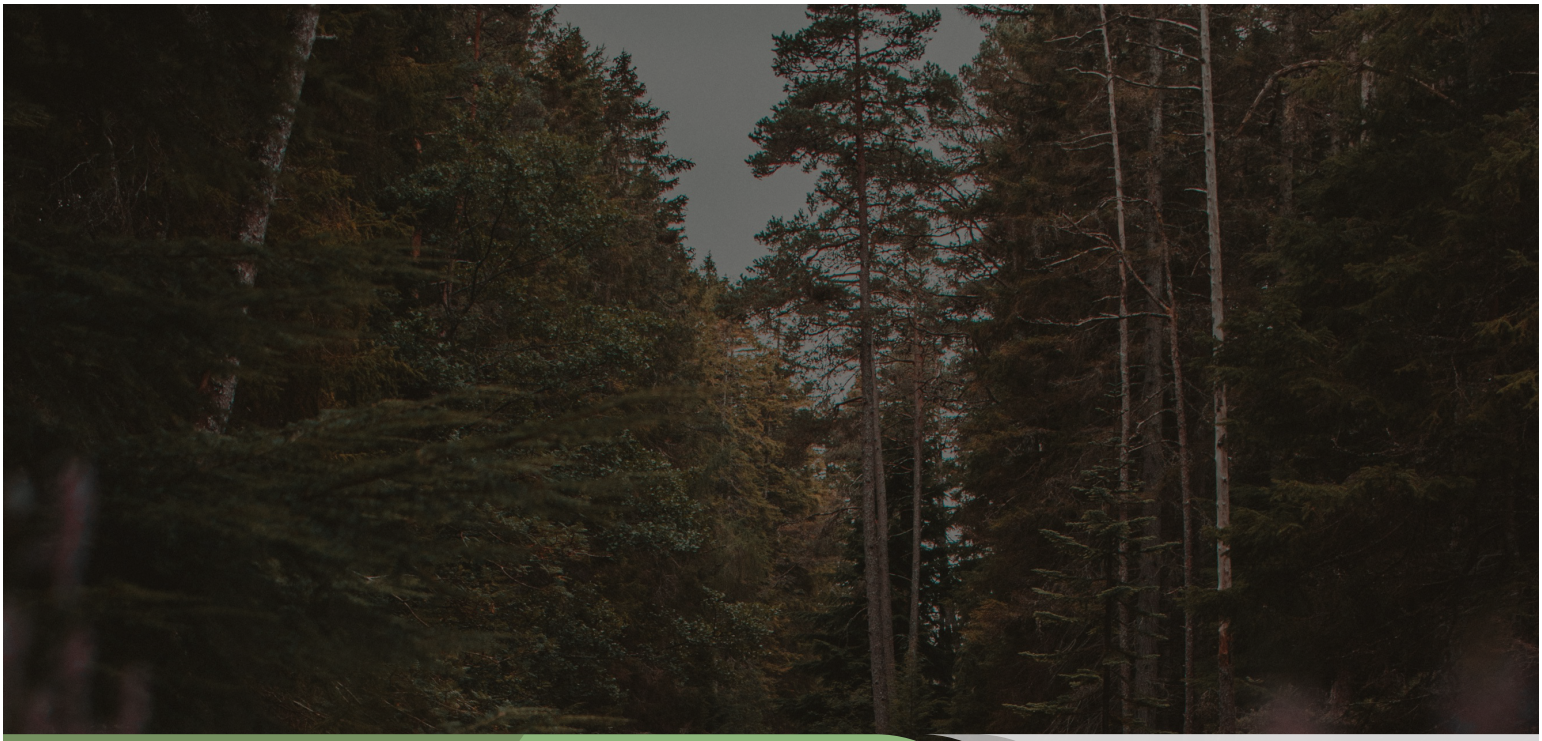
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(taken from IUCN Guidelines for Privately Protected Areas *(Mitchell et al 2018))*

In the context of protected areas, management refers to what is being done in pursuit of given objectives (i.e. the means and actions to achieve such objectives); governance refers to who decides what these objectives are, what to do to pursue them, and with what means.

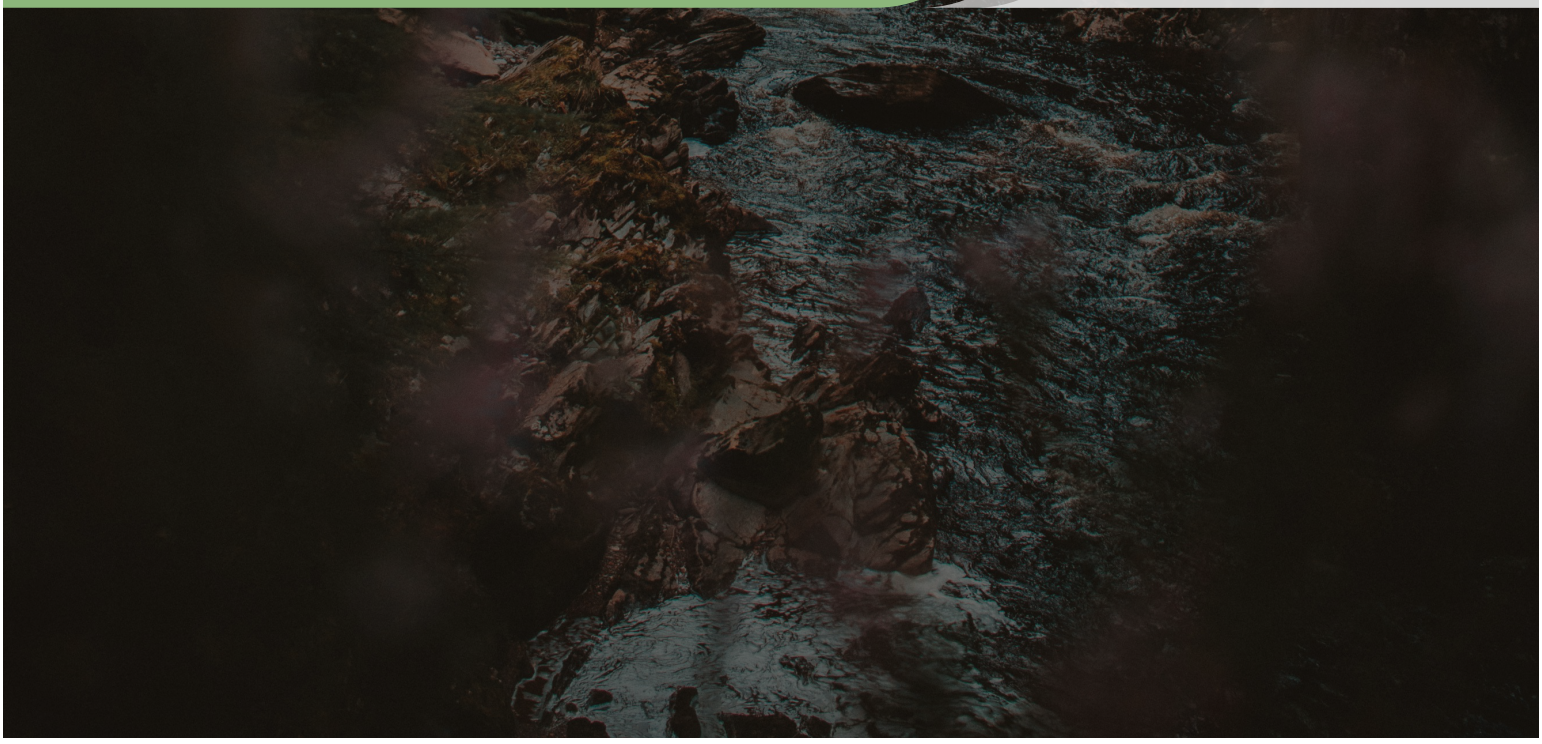
Examples of governance decisions can include:

- The establishment of a protected area;
- The long-term goal (vision) of the protected area;
- Main management objective;
- How objectives will relate to local livelihoods and development;
- Sanctioning a management plan and/or system;
- Deciding who will implement management;
- Ensuring human and financial resources to pursue management are in place;
- Establishing how the rule of law and broader international legislation (including human and indigenous peoples' rights) are to be respected and enforced (Borrini-Feyerabend et al., 2013).



APPENDIX 10:

Management Intention



Appendix 10: Management Intention

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Because a number of factors related to the management and condition of a private parcel may ultimately be out of the control of the land trust (e.g., other rights holders, expropriation, climate change), the Pan-Canadian Conservation Initiative has been clear that management "intention" is an important part of assessing properties for inclusion in the Canadian Protected and Conserved Areas Database (CPCAD).

> *Intention* refers to the clear indication that enduring protection of the property's conservation values underlies the management approach.

For a land trust, this will relate to the current use, the management plan, the term of the agreement, restoration plans, re-sale of conserved properties.

Current Use

The current use of the property should be one that supports conservation and produces biodiversity outcomes. In this case, the "intention" for it to some day produce biodiversity outcomes, while laudable, is insufficient for it to be recognized as an area-based conservation project.

Management Plan

A management plan may be a part of a conservation easement, and must be a part of a fee-simple conservation area in order to demonstrate the management intention is aligned with the requirement to provide sustained *in situ* conservation of biodiversity.

The management plan's principles and required actions must show how land use and management practices will be restricted or prescribed with the intent of *in situ* conservation of biodiversity for the long term. The management approach should also require and enable regular monitoring of the status of the conservation values (see *Appendix 6: Showing Primacy of Biodiversity Conservation in a Conservation Easement* and *Appendix 7: Showing Primacy of Biodiversity Conservation in a Property Management Plan*, for more detail).

Agreement Term (Time Frame)

A key element of management intention for conservation easements is the time frame of an agreement, and the clauses related to that. The intent of a conservation easement agreement should be that the time frame is perpetual. Temporary agreements of 25-years or greater could be eligible if the management approach is clearly framed around long-term (perpetual) *in situ* conservation of biodiversity, there is a clear intent by all current parties for it to be renewed, and the agreement will be binding on all future landowners (see *Appendix 2: Enduring Commitment to Biodiversity Conservation*, for more detail).

Restoration

Areas with the potential to provide biodiversity outcomes when restored, would only be considered area-based conservation once that restoration has taken place, and desired biodiversity outcomes are occurring or imminent. Again, here the *intention* to restore is insufficient.

However, if the proposed area-based conservation project has demonstrable biodiversity value, and the restoration plan will *augment* that, it may be considered as a Privately Protected Area or private OECM.

Disposition of conservation properties

In the case of fee-simple properties, there are rarely conservation restrictions on title, so in the case of a sale it is more difficult to indicate that the conservation intention will follow the property.

To indicate the necessary management intention, holders of fee-simple properties should have board-level policies indicating one or more of the following:

- Properties listed in the databases will only be sold once conservation restrictions are placed on title (e.g., a conservation easement),
- Properties will only be sold when doing so will guarantee an opportunity to provide equal or greater biodiversity conservation, and
- The databases will be notified so the listing can be deleted or amended.

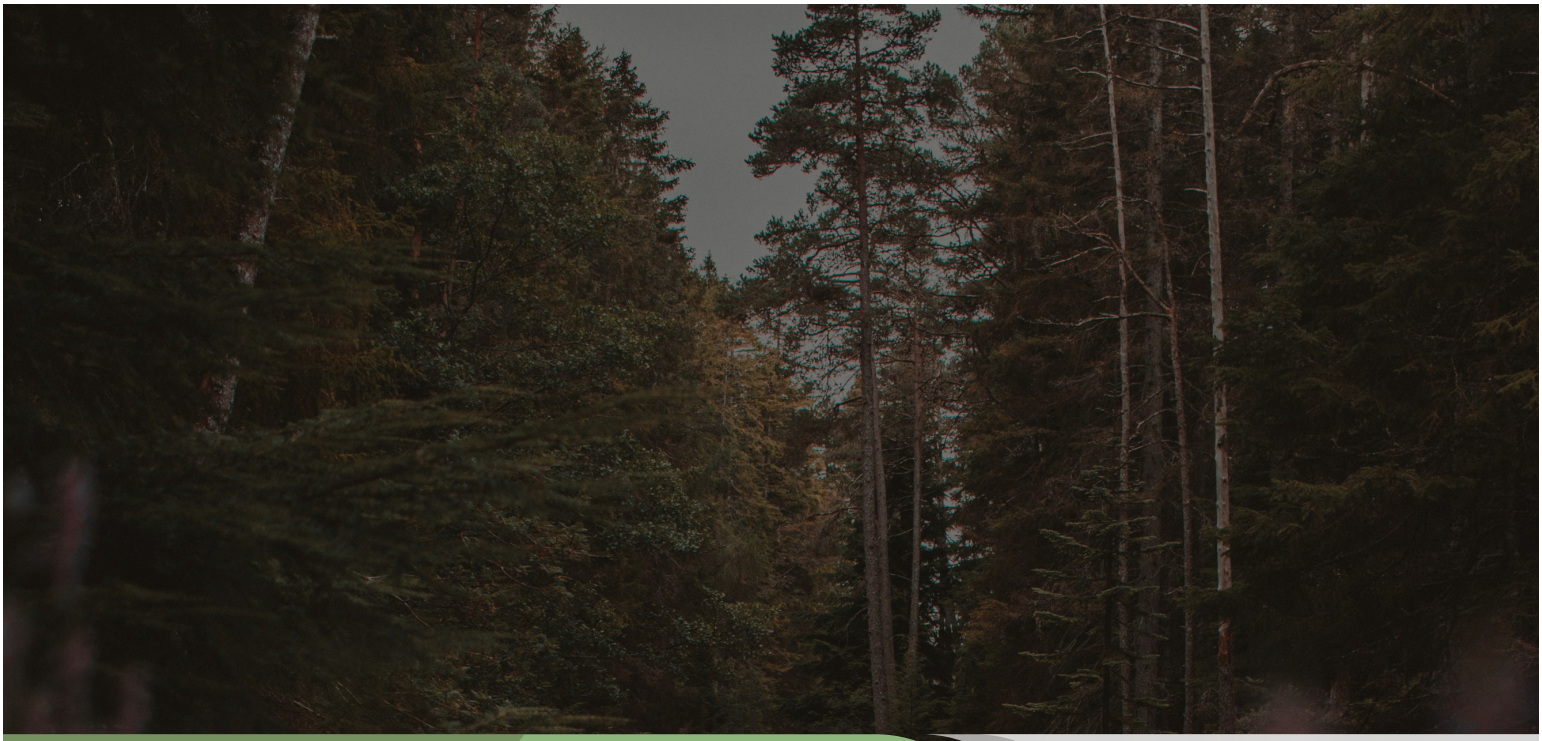
To prepare for a case where the land trust must cease operations, the organization should have policies in place that require:

- Identification within conservation easement agreements of another qualified conservation easement holder willing to accept the transfer of the easement, or a mechanism for this to transfer to occur,
- Fee-simple properties be transferred to another land trust or conservation agency capable of maintaining the ongoing in situ conservation of the property's biodiversity,

- Placement of a conservation easement on fee-simple properties prior to disposition, and
- Promotion of conservation easements above all other interests on the land title that might cause the property to be liquidated to service debts (e.g., mortgages).

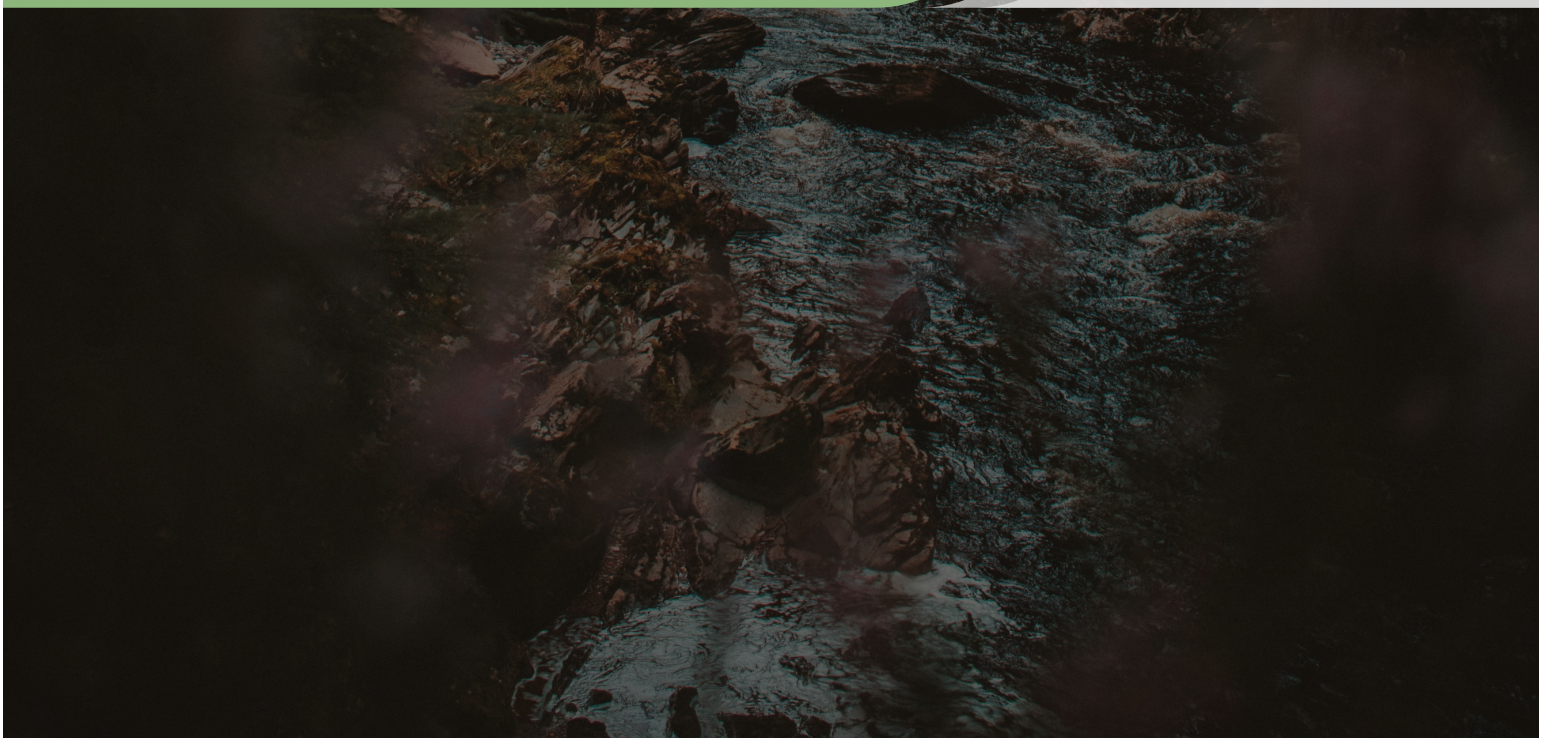
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APPENDIX 11:

Representative Land Trust
Standards and Practices



Appendix 11: Representative Land Trust *Standards and Practices*

The *Canadian Land Trust Standards and Practices* (CLTA 2019) is a comprehensive set of guidelines addressing all aspects of a land trust's operations, including fundraising, board oversight, human, resources, etc. While all of these are important for land trusts, not all are important for reporting to the national and international databases.

For the purposes of the WDPCA and the CPCAD, the following standards and practices are the most relevant, as they relate directly to ensuring area-based conservation projects will meet the biodiversity conservation goals and protection standards of the IUCN and the pan-Canadian 'Canada Conservation' Initiative.

STANDARD 1: Ethics, Mission and Community Engagement

B-1: Adopt a mission that advances conservation and serves the public interest

STANDARD 8: Evaluating and Selecting Conservation Projects

A-1. Identify specific conservation priorities consistent with the land trust's mission and goals

B-3. Document the conservation benefit of every land and conservation agreement[13] project

C-1. Visually inspect properties before buying or accepting donations of conservation land or conservation agreements to determine and document whether: a) There are important conservation values on the property

C-2. Evaluate and document potential threats to the conservation values on the property and structure the project to best protect those conservation values

D-1. Individually plan all land and conservation agreement projects so that: b) The property's important conservation values are protected

13 The *Standards and Practices* document erroneously uses the catch-all term 'conservation agreement' to refer to conservation-easement-type agreements (see 'Conservation Easements' in the Glossary). For practical application, land trusts should not conflate the two, and should assume the references are to conservation easements and similar devices.

STANDARD 9: Ensuring Sound Transactions

A-2: As dictated by the project, secure appropriate technical expertise, such as in financial, real estate, tax, scientific, indigenous and land and water management matters.

D-1: Determine both the legal description and physical boundaries of each property or conservation agreement

D-2: If a conservation agreement contains restrictions or permitted rights that are specific to certain zones or areas within the property, include the locations of these areas in the agreement document so that they can be identified in the field

E-1: For every conservation agreement: b) Identify the conservation values being protected; c) Allow only uses and permitted rights that are consistent with the conservation purposes and that will not significantly impair the protected conservation values; e) Include all necessary and appropriate provisions to ensure it is legally enforceable

I-1: When selling land, conservation agreements or other real property interests, a) Establish protections as appropriate to the property

I-2: When selling or transferring conservation land or conservation agreements to another charitable organization or public agency, consider whether the new holder can fulfill the long-term stewardship and enforcement responsibilities

STANDARD 11: Conservation Agreement Stewardship

B-1: For each conservation agreement, have a baseline documentation report signed-off by the necessary technical expertise, with written descriptions, maps and photographs, that documents: a) The conservation values protected by the agreement; b) The relevant conditions of the property as necessary to monitor and enforce the agreement

B-2(a): Baseline documentation reports that require technical data collection are prepared with the support of professional(s) having appropriate background and expertise

B-3: In the limited circumstances when there are significant changes to the land (such as a result of a wildfire or bank erosion) or the conservation agreement (such as a result of an amendment or the exercise of a permitted right), document those changes in an appropriate manner, such as through monitoring reports, a baseline supplement or current conditions report

C-1: Adopt a written policy and/or procedure for compliance monitoring of conservation agreements that establishes consistent monitoring protocols and recordkeeping procedures

E-1: Adopt a written policy and develop written procedures for documenting and responding to potential conservation agreement violations

F-2: Establish written procedures to guide the land trust's decision-making regarding approvals and permitted rights

H-1: 1. Adopt and follow a written policy or procedure addressing conservation agreement amendments so that they are consistent with the following principles: a) Are consistent with the land trust's mission, e) Are consistent with the conservation purpose(s) and intent of the conservation agreement, g) Have a net beneficial or neutral effect on the relevant conservation values protected by the conservation agreement

STANDARD 12: Land Stewardship

B-1. Develop a written land management plan for each conservation property within 12 months after acquiring the land to: a) Identify the property's conservation values, including any significant cultural, Indigenous, historical and natural features, and identify threats to those features; b) Identify the overall management goals for the property; c) Identify activities and timeline to achieve the goals and to reduce any risks or threats to the conservation values; d) Specify the uses that are appropriate for the property, in keeping with the property's conservation values, any restrictions and donor or funder requirements



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The Corvus Centre for Conservation Policy is a not-for-profit, charitable organization based in Calgary, Alberta, Canada.

Our mission is to ensure nature conservation is advanced through evidence-based land use, resource management, and financial decision making.

We pursue our mission through applied research and program facilitation, and by catalyzing critical dialogues.

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