Aquaculture & Marine Planning in Nova Scotia

Meinhard Doelle
Professor of Law, Schulich School of Law
Director, Marine & Environmental Law Institute
Dalhousie University, Halifax, Canada
Mdoelle@dal.ca

Overview

- State of Marine Planning in NS
- Aquaculture Review Process as Marine Planning
  - Mandate
  - Process
  - Goals, Principles
  - Foundational Elements
  - Key Changes to the Regulatory System
- What we learned about ICZM & Marine Planning

Significant Ocean Uses in NS

- Offshore Fishing
- Inshore Fishing (lobster)
- Shipping
- Oil and Gas Exploration (offshore)
- Tourism
- Tidal Energy (Bay of Fundy)
- Aquaculture (Fin-fish, Shell-fish)
- Angling (Salmon)

State of ICZM in NS

- Federal Efforts
  - Oceans Act (networking rather than legislative)
  - ESSIM (offshore, not implemented)
  - Maritimes Regional Oceans Plan (early stages)
- Provincial Efforts
  - Pressure from Project EA Panel: Whites Point Panel Report (2007)
  - Draft Coastal Strategy (not comprehensive) (2011)
  - Federal-provincial MOU
  - Still no Coastal Act
- Municipalities
  - Some are working on Climate Adaptation

Ocean Zoning

- Fishing Zones
  - Lobster, herring, scallops, …
- Exclusion Zones for Oil & Gas
  - George's Bank moratorium
- Marine Protected Areas
  - Gully near Sable Island
  - Protected coastal areas (Seaside Adjunct)
  - Others?
- Aquaculture
  - Proposal for Red, Yellow, Green Zones depending on biophysical, and social suitability

Aquaculture & Ocean Planning Regulatory Review Mandate

- Design a state of the art regulatory system for aquaculture industry in NS
- Fin-fish, shell-fish, and plant-based
- Land-based and marine-based
- Long-term best interest of the province
- Include full range of social, environmental and economic considerations
- Guided by priorities, principles in EGSPA

Aquaculture Review Process

- Monthly Advisory Committee Meetings
- 42 Community Meetings (July – Aug)
- 20 + Individual Stakeholder Meetings
- Individual Submissions Throughout
- Round Table (Nov – May)
- Knowledge Roster (Aug – April)
- Release of Draft Report (July 3)
- 4 public meetings
- Final Report (Sept)

7 Principles For Regulatory Design

1. Effectiveness
2. Openness
3. Transparency
4. Accountability
5. Proportionality
6. Integration
7. Precaution

10 Regulatory Goals

1. Environmental protection & sustainable use
2. Fairness in allocating public resources
3. Low impact high value use of resources
4. Compatible with other sectors
5. Benefits proportional to resources used/affected
6. Protection of wild salmon
7. Meaningful public engagement
8. Attentive to local communities
9. Supporting sustainable growth of the industry
10. Enforceable, affordable, efficient and effective regulations

8 Foundational Elements of Effective Regulations

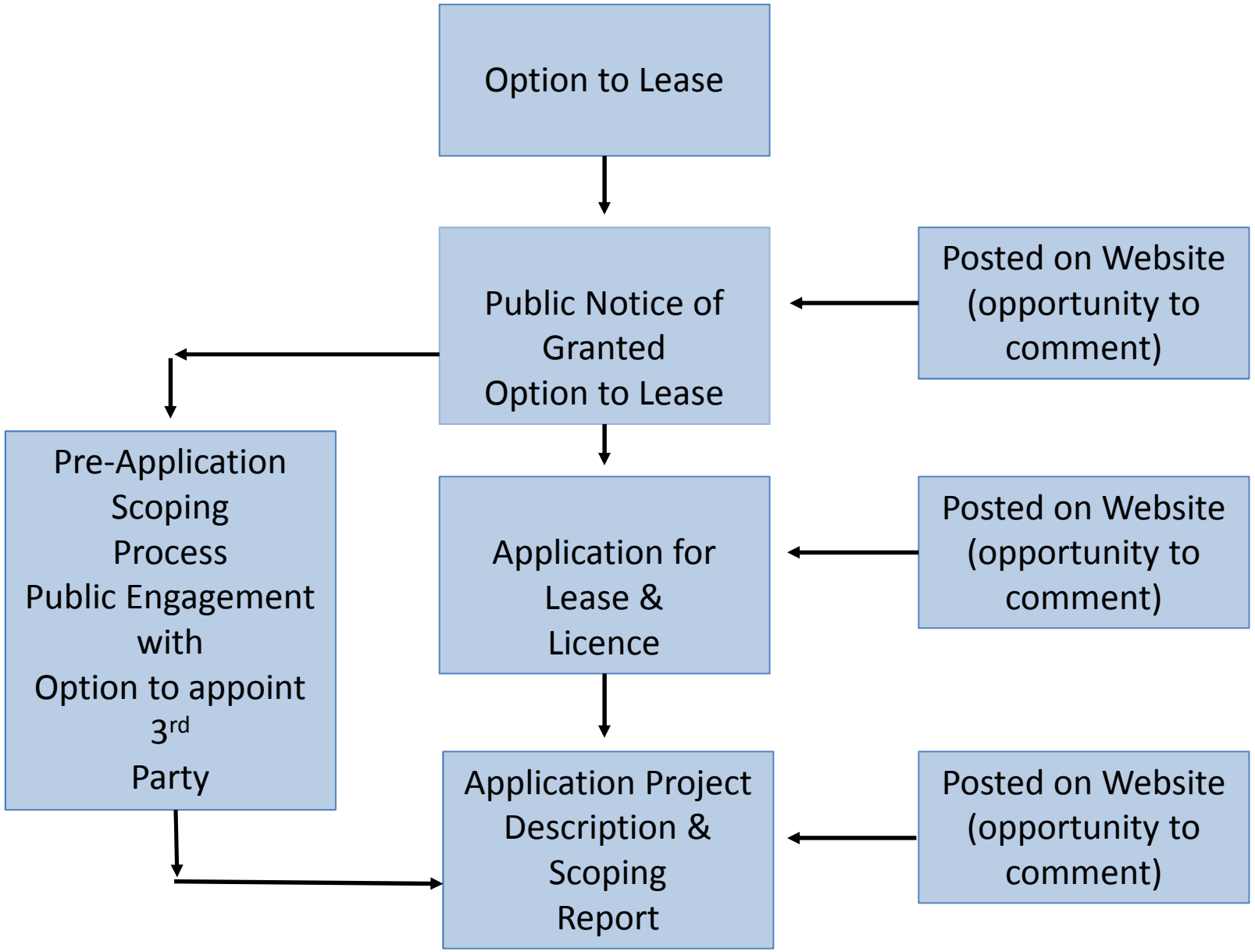
- Constructive Attitudes
- Regulations That Enhance Social Licence
- More Limited Discretion
- Enhanced Regulatory Capacity
- Emphasis on Compatibility With Other Uses
- Research To Fill Knowledge Gaps
- Regional Cooperation Where Appropriate
- Continuing Commitment

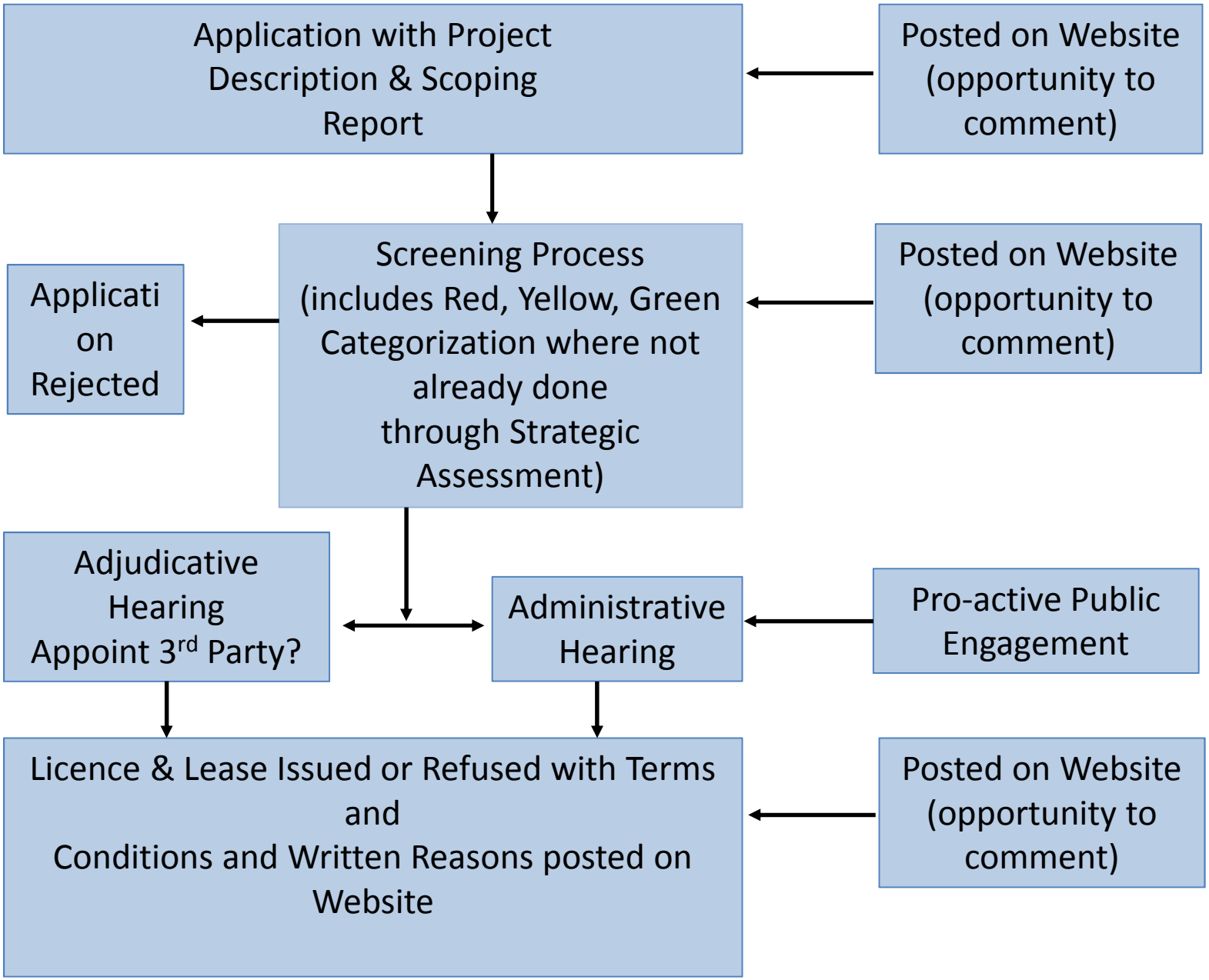
Key Changes to Site Selection

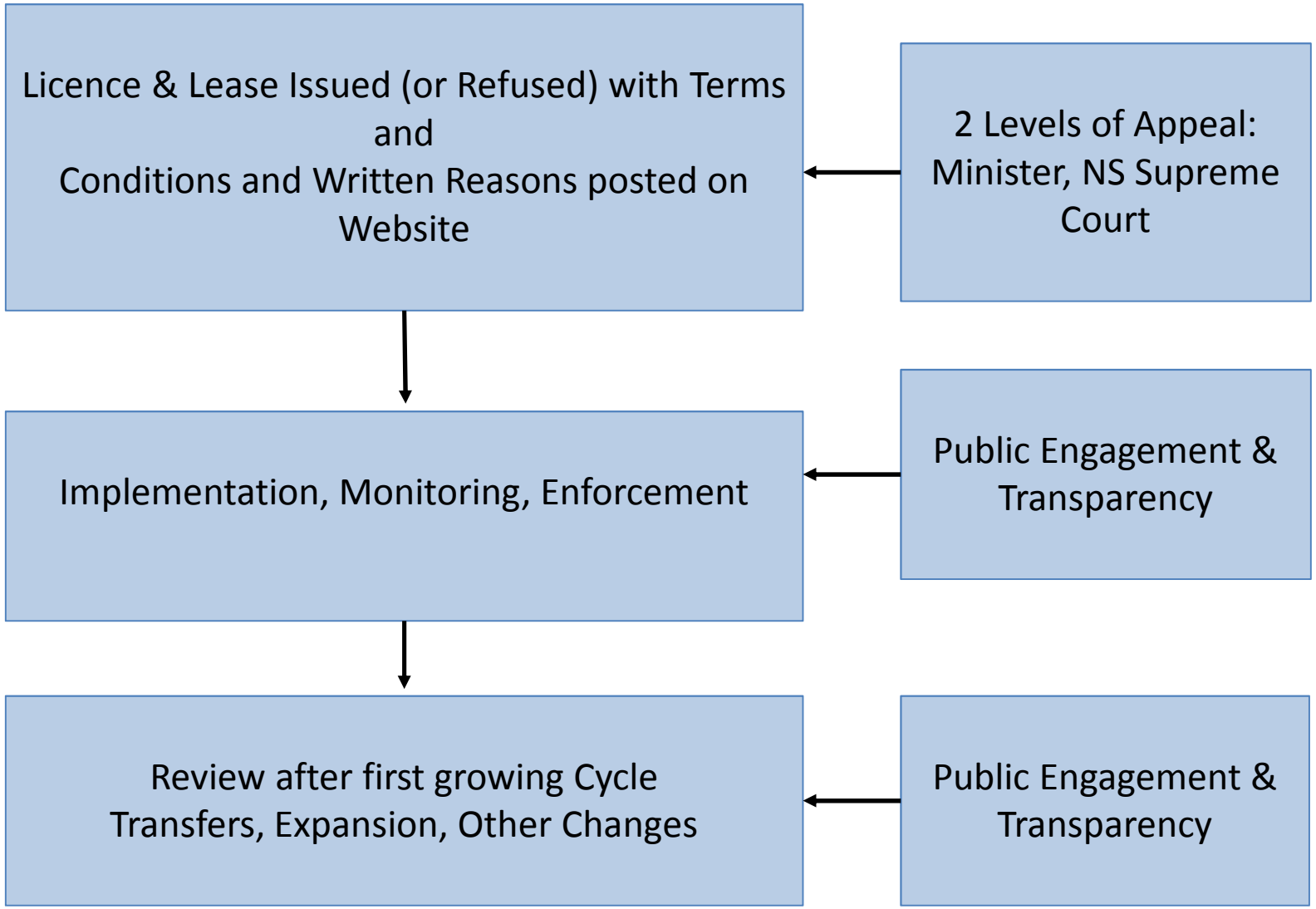
- Proposed Red, yellow and green zones for marine based fin-fish operations
- Based on biophysical suitability & potential for use conflict
- Regulatory process and outcomes will differ depending on red, yellow or green classification
- Removal where sites prove unsuitable

Other Key Changes

- Clarification of leaseholder rights and strengthened enforcement of terms and conditions of leases
- Standing Multi-Stakeholder Regulatory Advisory Committee
- Independent Science Advice Mechanism (academic & community)
- Five-year Review


Option to Lease
Public Notice of Granted Option to Lease
Posted on Website (opportunity to comment)
Pre-Application Scoping Process Public Engagement with Option to appoint 3rd Party
Application for Lease & Licence
Posted on Website (opportunity to comment)
Application Project Description & Scoping Report
Posted on Website (opportunity to comment)


Application with Project Description & Scoping Report
Posted on Website (opportunity to comment)
Screening Process (includes Red, Yellow, Green Categorization where not already done through Strategic Assessment)
Applicati on Rejected
Posted on Website (opportunity to comment)
Adjudicative Hearing Appoint 3rd Party?
Administrative Hearing
Pro-active Public Engagement
Licence & Lease Issued or Refused with Terms and Conditions and Written Reasons posted on Website
Posted on Website (opportunity to comment)


Licence & Lease Issued (or Refused) with Terms and
Conditions and Written Reasons posted on Website
2 Levels of Appeal: Minister, NS Supreme Court
Implementation, Monitoring, Enforcement
Public Engagement & Transparency
Review after first growing Cycle
Transfers, Expansion, Other Changes
Public Engagement & Transparency

What We Learned About ICZM

- Lack of integrated coastal planning and management makes regulation of aquaculture more difficult, less efficient, less effective
- Short of comprehensive integrated planning and management, public information sharing can be very helpful (mapping of uses, risks & impacts, …)
- Zoning could be a useful tool in NS context to deal with competing use issues
- Sector by sector public engagement process a good interim step towards ICZM
- Jurisdictional challenges and past experience with ESSIM main barrier to ICZM in NS
- Fear by each sector that ICZM process will exclude them from promising areas

For More Information

www.aquaculturereview.ca