



FEB 17 2017

Ms. Heather Bourassa, Chair
Sahtu Land Use Planning Board
P.O. BOX 235
FORT GOOD HOPE NT X0E 0H0

VIA EMAIL

Dear Ms. Bourassa:

Review of the Sahtu Land Use Plan Amendment Application

The Government of the Northwest Territories (GNWT) is pleased to provide the Sahtu Land Use Planning Board (the Board) with the GNWT's comments and recommendations for the Sahtu Land Use Plan Amendment Application (Amendment), filed by the Board on January 9, 2017. The GNWT has reviewed the Amendment using the following criteria:

- Consistency with northern legislation [e.g., Mackenzie Valley Resource Management Act (MVRMA); Sahtu Dene and Métis Comprehensive Land Claim Agreement (SDMCLA), the Vision and Goals of the Sahtu Land Use Plan, GNWT policy (e.g., Land Use and Sustainability Framework (LUSF)), and GNWT strategic initiatives (e.g., Mineral Development Strategy);
- Regulatory fit of the Zone 41 Amendment within the land and water resource management system as contemplated under the MVRMA;
- Consistency with the concluded boundary decisions for Nááts'ihch'oh Park Reserve;
- Consideration of the balance between conservation goals and potential economic opportunities in the Sahtu;
- Consistency with other regional land use plans in the Northwest Territories;
- Factual and contextual accuracy, clarity, readability, and ease of implementation for land users and regulators; and
- Consideration of the GNWT's written comments regarding the 2015 Draft Amendment submitted to the Board on March 8, 2016.

The Board filed the Amendment for public review and has requested written comments from parties regarding the proposed rezoning of lands in Proposed Conservation Initiative Zone 41 – Nááts'ihch'oh that were not included in the final boundary of the Nááts'ihch'oh National Park Reserve (NANPR). Overall, the GNWT supports the Board's approach to the Amendment of proposing Special Management Zone in all land parcels outside of NANPR and replacing Conformity Requirement #14 for Conformity Requirement #20 (CR20) in Zone 41. However, the GNWT has identified some challenges with CR20. Approval of the

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Amendment is contingent on the following concerns with CR20 being addressed: (1) the Conformity Requirement should not be the sole responsibility of regulators; (2) the proposed language creates uncertainty to the regulatory process; (3) CR20 does not include mountain goats as a species to consider, despite their observed presence within Zone 41 in areas outside the boundaries of NANPR. The GNWT's comments and recommendations are described in further detail in the attached Appendix A.

The GNWT focused comments on what it interpreted to be within the scope of the Amendment process and looks forward to having an opportunity to continue working with the Board, the Sahtu Secretariat Incorporated (SSI), and the Government of Canada (Canada) on resolving any outstanding issues related to the Amendment to bring the process to a timely conclusion. In particular the GNWT is committed to working with its planning partners on specific language in CR20. The GNWT strongly recommends a Board-led meeting or teleconference with approving parties at the conclusion of the public review process and in advance of an Amendment being submitted for final approval. As a public government, the GNWT will also review and consider the results of the Board's public review process in the Amendment approval.

The GNWT commends the Board for its efforts in working towards a final Amendment. If you have any questions or wish to set up a meeting to discuss these issues, please contact Darha Phillpot, Manager, Land Use Planning, by email at Darha.Phillpot@gov.nt.ca or phone at (867) 767-9183, ext. 24077.

Sincerely,



Terry Hall
Director
Land Use and Sustainability

Attachment

- c. Mr. Mark Hopkins, Director General, Northern Affairs Office, Natural Resources and Environment Branch, Indigenous and Northern Affairs Canada

Mr. David Little, Executive Director, Sahtu Secretariat Incorporated

APPENDIX A

Comments and Recommendations

The GNWT has identified the following three concerns with Conformity Requirement #20. Recommendations and rationale are provided for each comment that is believed to be within the scope of the review. With consideration given to each comment, the GNWT has proposed language for CR20 in the Conclusion of this submission that it would accept if agreed to by the Board and the other approving parties. The GNWT is willing and available to continue working collaboratively with the Board, Canada, and SSI on finalizing language for CR20 if required.

1. Parties responsible

Comment:

CR20 specifies that only regulators have a responsibility to ensure proposed land uses comply with the provisions of CR20. However, directing the conformity requirement to all proposed land users will take the onus off of regulators and provide for a more efficient process.

Recommendation:

The GNWT recommends 'Regulators' be removed from CR20 and replaced with 'Any land use activity proposed'.

Rationale:

Proponents proposing a land use activity should be expected to consider the values specific to the area and ensure that their application meets the conditions outlined in the conformity requirement. This should not be the sole responsibility of regulators. Specifying that any proposed land use activity is required to consider the provisions in CR20, rather than leave this responsibility to the regulators, will create a more efficient process and take the onus off of regulators to ensure all conditions within CR20 are being met. This approach is also consistent with the other Conformity Requirements of the Plan.

2. Impacts to wildlife

Comment:

CR20 states that land use activities should be designed and carried out in a manner that sustains existing populations of mountain woodland caribou, grizzly bears, Dall's sheep, and

moose. The GNWT has several concerns with the term ‘sustains existing populations’ as it could create many uncertainties with regards to management of these species.

Recommendation:

The GNWT recommends that any land use activity proposed within SMZ Zone 41 include specified measures to avoid or mitigate impacts to the listed species, their habitat and migration patterns, and important community harvesting areas. An appropriate measure would be a detailed plan explaining how impacts to those species will be avoided or mitigated.

Rationale:

The GNWT is concerned that the use of ‘sustains existing populations’ could have negative implications on economic opportunities in Zone 41. ‘Sustains’ has not been previously used or defined in the Sahtu Land Use Plan; therefore, the Board’s interpretation and expectations are unknown. Further, the GNWT anticipates challenges with this language as populations of these species are not naturally stable; and if a development project did advance through different phases, it is unknown at what point ‘existing’ applies to.

The GNWT is recommending that CR 20 require a detailed plan for how impacts to wildlife will be avoided or mitigated. The GNWT believes this will provide clarity to proponents to pursue development opportunities without compromising the integrity of the listed species, their habitat and migration patterns, and community harvesting areas.

3. Inclusion of mountain goats

Comment:

Mountain goats, among other wildlife species, are currently listed as a value to be protected in Proposed Conservation Initiative Zone 41. While mountain woodland caribou, grizzly bears, Dall’s sheep, and moose are all recognized in CR20, mountain goats are not.

Recommendation:

The GNWT recommends that mountain goats be included in CR20 in the same regard as mountain woodland caribou, grizzly bears, Dall’s sheep, and moose.

Rationale:

Data collected by the Department of Environment and Natural Resources (ENR) as well as observations from outfitters suggests that the NANPR final boundaries do not entirely cover mountain goat habitat in Zone 41. Given that mountain goats are currently included in PCI Zone 41, the inclusion of this species in CR20 will ensure that the wildlife values specific to Zone 41 are considered in future proposed land use activities. All mountain goat data can be provided by ENR at the Board’s request.

Conclusion

The GNWT appreciates the Board's consideration of comments submitted March 8, 2016, regarding the previous Draft Amendment proposal. The GNWT wants to ensure that an amendment to Zone 41 is consistent with the objectives of the SDMCLA, SLUP, and LUSF and considers all values required to protect the Sahtu for current and future generations. The GNWT supports the Board's proposed Special Management Zone for all land parcels within the Amendment but respectfully proposes the following language for Conformity Requirement #20:

CR #20 – South Nahanni Watershed

Any land use activity proposed in SMZ Zone 41 – South Nahanni Watershed must be designed and carried out in a manner that:

- a) Includes a detailed plan for how impacts to mountain woodland caribou, grizzly bears, Dall's sheep, moose, and mountain goats, their habitat and migration patterns, and important community harvesting areas will be avoided or mitigated; and*
- b) Does not substantially alter quality, quantity, or rate of flow for waters within the South Nahanni Watershed.*

The GNWT respects the legislation that gives the Board authority and jurisdiction for developing a land use plan for the Sahtu and for reviewing and proposing approvals exceptions, and amendments to the SLUP.

The GNWT respectfully asks that the Board consider the proposed changes to Conformity Requirement #20.