

**SAHTU LAND USE PLAN (SLUP)
WORKING DRAFT 2 – SECTION 1 (AUGUST 2007)
GNWT FOLLOW-UP COMMENTS**

The following comments are follow-up to a meeting held with SLUP Board consultants on August 1, 2008. These comments are provided as considerations during the finalizing of Draft 2 in the fall of 2008.

Comments are provided regarding: context (vision, goals and objectives; integrated system; and background information); zoning or exemptions/exceptions; definitions and terminology used; and approval and implementation.

CONTEXT

General

Generally, it may be helpful to add some context regarding the development of the plan; this may be a condensed version, more of which could be in a background report. Consider providing information that lets the reader learn things such as: the kind of analysis undertaken; how valued ecosystems (2.7.1) were identified; consultation in the plan's development, including how feedback was addressed; how zoning decisions were made; and sources for specific information.

It is suggested that the factual information contained in the first six pages be reviewed carefully and overly generalized statements avoided.

Section labelling and numeric systems also need review.

A "scope of application" section could clearly lay out where or when the plan applies. There is a statement on page 13, in section (8.), that notes that recreational and tourism activities that do not require any type of permit, licence or authorization are allowed. Are all activities that do not require any type of permit, licence or authorization exempt? Please see additional comments in the zoning section.

Vision, Goals and Objectives

In its last submission, the GNWT provided a list of examples of public interests that the GNWT addresses within its mandates that often serve as a lens in the review of various drafts of regional land use plans, as well as other initiatives undertaken by public boards created under the Mackenzie Valley Resource Management Act.

While earlier comment did not explicitly state public interests of sustainable development, ecological integrity, and wise management of land and resources,

the GNWT sees a regional land use plan as a means to promote these interests that are widely held by NWT residents.

As well, it is observed that while a goal and mission statement have been added, the vision currently does not include anything about Sahtu culture or traditional lifestyles, even though "Building a Vision" talks about traditional land use, cultural areas, and stories about the land. Related to this, it adds to the attraction of the plan if sections could be highlighted that portray quotes of prominent regional people on land use or stories are told. One source of information on these could be the Sahtu 'Rakekee Gok'e Godi: Places We Take Care of' report (1999) and the Sahtu Atlas.

Cumulative Effects

Cumulative effects from community and industrial development is an important concept not yet addressed in the plan. The SLUPB held a workshop in 2007 on this. Advances are being made through discussions on the evolving Dehcho Land Use Plan. It is suggested that some of these notions be brought forward in future drafts of the SLUP.

Integrated System

The final plan should be clear, easy to use, transparent, and fit well with other land and water management instruments so that planning objectives are well evident and the manner in which these would be achieved is clear too. It may be helpful to include a section on what a land use plan is and what it means, perhaps drawing from language in Part 2 of the MVRMA Section 46.

National Parks

The MVRMA (Part 2 Section 34) recognizes that there are other planning and management regimes within a region and a regional plan does not apply in respect of land in a settlement area that comprise a national park to which the National Parks Act applies, that have been acquired pursuant to the Historic Sites and Monuments Act or that are situated within the boundaries of a local government. The national park scenario is not mentioned in Working Draft 2. The use of the term "local government" is inconsistent in Working Draft 2.

Plan Implementation

The plan is to apply within the Sahtu settlement area. However, it remains unclear if or how the SLUP will link with other land and resource management planning in the area such as the Great Bear Lake Management Plan or guidelines regarding lands administered by the Sahtu Land and Resources administrative body of the Sahtu Secretariat Incorporated. It will be important during the development of a Sahtu regional land use plan to clarify connections and explicitly inform the public of these through the regional land use plan. Again, this is not yet evident in the current draft. Use of schematics that include Sahtu public boards that deal with land and resources could help. Sections of the Sahtu Dene and Metis Land Claim (SDMCLA) and the implementation plan

could help in these regards. It may be that the powers and duties of specific boards could be contained in appendices.

Promotion of Laws of General Application and Guidelines

There is reference to “general laws applicable to trespass” on page 3, 1.6. This is confusing; there is no NWT Trespass Act. Overall, laws of general application apply for any aspect addressed in the plan. A contextual statement could be made in these regards and this specific reference removed.

Other publications that offer guidance are helpful to developers and regulators; those produced for the NWT could be promoted generically within the plan and information provided on them in an appendix; this is much easier to update than the body of a plan.

At this time we call your attention to the following guideline that exists: <http://www.nwtwildlife.com/pdf/LowFlyingAircraft-Brochure.pdf> . We will flag any others as they are developed. or are under development:

However, it is again re-iterated that prescriptive language should not be used in the plan.

Background Information

There is no doubt that land use decision-making is most effective when well informed regarding the land and resource values of the area. A regional land use plan can help lead developers, regulators and others to this information. Often this can be conveyed in a background report, appendices, or reference to other documents.

As plan development moves forward, the GNWT will continue to offer assistance and support for GIS information.

The GNWT continues to amass information in these regards. At this time the following information, much of which is/will be geographically referenced, are highlighted as useful during the development of Drafts 2 and 3:

| | |
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| karst | A map of known and potential karst sites and a ranking of their significance (early 2009) |
| Community public water supply watersheds | Now, please see community names at: http://maps.gnwtgeomatics.nt.ca/portal/watershedmaps.jsp |
| ecoregions | Accurate map of ecoregions: Taiga Plains (http://www.nwtwildlife.com/taigaplains/taigapdf.htm) and Taiga Shield (completed); Cordillera expected for summer 2009; southern and high arctic expected for summer 2011 |
| Important wildlife areas | Maps of important wildlife areas, including mineral licks and hot springs (early 2009) |

Should there be particular information you are looking for, departmental contacts would be pleased to help you find this.

ZONING OR EXEMPTIONS/EXCEPTIONS

General

Regional land use planning zones need to clearly state what activities are prohibited or allowed where. In its original submission, the GNWT noted generally that governments require an adequate land base from which to access the land and resources necessary to build public infrastructure and the necessary land base to allow sufficient government revenue to be generated such that governments could provide services, such as health and education, to its residents. We understand that there have been some adjustments made to the zones proposed earlier that may accommodate these interests more fully. We will review the proposed zoning when such becomes available.

Zone Goals and Objectives

There remains work to be done to increase clarity about what zones are and what activities are allowed where. "General Management Goals and Objectives" are stated for Special Management Zones; this would be helpful for other zones, including context on how these goals and objectives will be achieved. The approved Gwich'in plan and the draft of the Dehcho plan that is being worked on now may assist in these regards.

Land Near Communities

Land in the vicinity of communities required for community public infrastructure, granular resources and quarry materials for community infrastructure, community public transportation and utility needs, and expansion of community boundaries needs to be addressed in the Plan. In order to support evolving community government operations to effectively serve community residents, we suggest wording that will allow: i) existing community infrastructure located outside of current community boundaries to continue as an existing use for as long as required; ii) applications for new community infrastructure outside community boundaries to be subject to current regulatory requirements but to be permitted under the Plan; iii) applications for the removal of quarry material outside of community boundaries for community operations and the construction of community infrastructure to be permitted under the Plan; and iv) applications to expand or amend community boundaries to be reviewed in accordance to the GNWT's Community Boundaries Policy and to be permitted under the Plan.

Ecoregions

In the earlier version of the draft, zones did appear to account for representative ecoregions. In order to maintain ecological integrity of the region (see section 2.4, 2.7 and 2.8), it will be useful to ensure core representative areas are retained as conservation zones. As well these areas can be useful in ensuring that there are undisturbed areas that provide long-term monitoring data for

comparison purposes to baseline and ongoing data collection related to development elsewhere.

Scope of the Plan

The scope of application of the plan needs to be clearly stated. Because the plan does not apply to current third party interests at the time of approval, these could be clearly mapped, including tourism and outfitting operations.

Land Withdrawals

There needs to be a means in place to be sure that the plan accounts for lands withdrawn for a specific purpose such activities allowed are consistent with these surface and sub-surface withdrawals. In the case of protected areas, including under the NWT PAS system or the national park system, that are being advanced through the system as the plan develops, these areas could be labelled accordingly, noting the process that will define boundaries and management objectives for those zones. Zones should also accommodate major projects in the regulatory system as well, most specifically the Mackenzie Gas Project. In the Dehcho plan, this is labelled as a special infrastructure corridor.

Zoning Compatibility with Adjacent Regions

While no doubt challenging, is there a way to ensure that the proposed zones for the Sahtu in some way are compatible with the adjacent boundary zones in the Dehcho (proposed) and the Gwich'in (approved)?

Other

At this time, the following more specific comments are offered on the zoning section:

- Consider adding some goals and objectives related to traditional use, burial and archaeological sites.
- Under 2.7.2, some of the numbered items appear to be sub-bullets of others.

DEFINITIONS AND TERMINOLOGY USED

Any regional land use plan needs to have clear, common understanding to be effectively implemented. Consistent terminology is important. There is some work to be done to define words and phrases used. In general, it is suggested that scientific terms, such as "cryosolic" (1.1.3) are avoided.

For instance, consider and work with the GNWT to revise wording or define what is meant by:

- "commercial hunting"
- "commercial forestry"
- "semi-migratory wildlife species"
- "caribou" – clarification regarding barrenground caribou, boreal woodland, or mountain woodland

- “municipalities” – this is inappropriate wording for the NWT; the SDMCLA (25.2.5) and the MVRMA use “within local government boundaries” to describe specific areas
- “municipal lands” (page 4, 1.2.4) should read “Commissioner’s Lands”
- “co-management” – system set up by MVRMA is are public boards where appointees represent the public, not agencies as in the Inuvialuit Settlement Region
- “settlement lands” – page 20 – there are Sahtu “settlement lands” located in the Dehcho region in the vicinity of Blackwater Lake. Would the SLUP apply to these “settlement lands” which are outside the Sahtu Settlement Area?
- “North Slave Region” in 1.1.1 – this is a GNWT administrative area; suggest alternative reference using Tlicho designations for the land being described

APPROVAL AND IMPLEMENTATION ASPECTS RELATED TO THE GNWT

Consistency with Regulatory Regime

It was stated in our earlier submission that regulatory instruments are key vehicles to effectively implement a regional land use plan such as the approved Sahtu Land Use Plan. It will be important that ambiguity does not arise if information or terms expressed in the land use plan do not conform to those expressed in legal or regulatory instruments, or policy directives. Once a SLUP is approved, on rare occasion, such as was the case in the recently amended Canada Mining Regulations to give regard to land use plans, there may be a need to update or change regulatory instruments if the approving party under whose jurisdiction the subject matter may fall agrees to do so. In general, use of objective-based terminology that is consistent with the current regulatory regime would expedite both approval and implementation of a final Plan.

Implementation

Objective based wording should avoid ambiguities with current legislation and should clearly state a landscape objective; regulatory instruments would be the primary means to achieve these objectives. In its review of a proposed final draft, the GNWT will want to ensure that there is an effective means (instrument and resources in place) to carry out what is proposed in the plan or that such means can be readily developed. It is useful to keep this in mind as draft plans are developed.

More specifically, the following observations are offered at this time:

- Page 16 section p offers an example of an objective based term (conduct and schedule activities in such a way that minimizes impact on caribou). Page 18 Section 2.8.1 does not. Environment and Natural Resources is working with other regulators to clarify what terms and conditions are appropriate in land use permits or water licences as opposed to other instruments; however there is agreement that the body of a regional land

use plan is inappropriate. Given significant wildlife values in the area, it may be worthwhile to consider an action or recommendation that would define a means to address the more specific guidance necessary. A proposed approach could be discussed in future meetings with the GNWT; and, in the case of wildlife, more specifically with Environment and Natural Resources.

It will be important for Parties that approve a final Plan to have a common understanding of how other land planning and management instruments fit together. For instance, any instruments borne of or such as:

- district land corporations
- Parks Canada(Nahanni Watershed, Tuktu Nogait)
- NWT Protected Areas Strategy partnership
- SDMLCA proposal for Territorial Park for Canol Trail and Dodo Canyon
- Great Bear Lake Watershed Management Plan.

Discussions in these regards should continue.

APPENDIX A:

CURRENT GNWT PERSPECTIVE ON LAND USE PLANNING

(NOTE: THIS IS AN EDITED VERSION OF WHAT WAS PROVIDED AT TIME OF DRAFT . WHILE SOME POINTS ARE RE-ITERATED ABOVE, THERE ARE GENERAL NOTIONS THAT ARE NOT AND IT IS INCLUDED HERE FOR YOUR CONVENIENCE.)

GNWT OBJECTIVES FOR A FINAL SAHTU LAND USE PLAN

GNWT expectations for a finalized Plan are that it will have:

- a clear and transparent fit within the NWT land and water management system
- zone designations that state clearly prohibit or permit well-defined uses
- clear, unambiguous guidance for those agencies and authorities who will implement an approved plan
- clear, transparent, unambiguous guidance to developers who must use the plan to plan their projects for submission to the regulatory regime
- regard for NWT public interests and opportunities, such as:
 - transportation development
 - energy development
 - public water supply and waste management
 - community and social development
 - economic development
 - sustainability of government services, including revenue generation.

FEEDBACK REQUESTED BY SAHTU LAND USE PLANNING BOARD

The GNWT's review of Draft 1 of the Plan was guided by the request of the Chair of the Sahtu Land Use Planning Board in her letter of February 16, 2007 to Sahtu Stakeholders. Hence, the review focused on setting the context, zones and conditions. Rationale for desired changes is provided; so are proposed solutions or means to work towards such solutions.

Setting the Context

The GNWT feels that the early sections of the Plan should provide the context necessary for all readers and users of the Plan to understand how the Plan applies throughout the region and how it fits within NWT land and resources management regimes. Presently Draft 1 starts right into numerous detailed conditions, many of which the GNWT feels are inappropriate for a land use plan. This is discussed further in the section "Conditions".

The GNWT offers the following suggestions to improve the Plan's clarity and ease of use (application and implementation):

- *Goals and Objectives:* Clearly state regional land use planning vision and goals early, including who should use the Plan and the Plan's fit within the land use planning and management regime. For instance, information in Appendix 1 (Section 6) could be mapped out in a diagram and built upon.

We note that some good visuals appeared in Preliminary Draft Sahtu Land Use Plan (2003).

In Draft 1 of the Plan, sections 2, 3 and 4 clearly state objectives for specific geographic areas. These could be moved ahead in the document.

- *Plan implementation (Section 5)*. Consider use of exemptions as well as exceptions. Consider pulling together the “various recommendations contained within the Land Use Plan” into a consolidated section. Those with roles to apply and implement the Plan should have cooperative opportunity to discuss this section and any actions and recommendations.
- *Scope of Application of the Plan*: By clearly stating that the threshold to apply the Plan are activities that require land use permits or water licences, a considerable number of conditions (primarily in 1.3.3.1, 1.3.3.2, 1.3.4.1 G, V, W, X, Y and Z) could be removed from Draft 1 because terms and conditions will be stated in these authorizations.
- *Other Public Infrastructure Interests*: There are some public interests in land required for such infrastructure as airports, roads, water and sewage facilities, telecommunications, and granular sources, as well as access routes to such infrastructure that lie outside “local government boundaries”,. exemptions or exceptions or a special management zone designation should be further discussed with a number of GNWT departments and agencies.
- *Definitions - Land Uses and other Terms*: Land uses are absent or not clearly defined in language consistent with the MVRMA and other legislation that authorize uses of the land. Clearly state categories of land use using language consistent with existing legislation. As well, clearly state where such uses are prohibited or allowed.

Examples of such terms that need further clarification include, but are not limited to:

- “commercial hunting” (1.3.3.2 Section 6)
- “commercial renewable resource harvesting” (1.3.3.2 Section 7.)
- “municipalities”, “municipal corporations” and “municipal lands”

Further to the final bullet, Section 1.2.1 third paragraph reads: “The Board’s mandate extends over all lands within the Sahtu Settlement Area, exclusive of municipalities.” The legal status of community governments in the Sahtu region vary, e.g. Colville Lake is a Settlement that is technically not a municipality. The SDMCLA uses the terminology “within local government boundaries” (25.2.5). It is unclear whether the “municipal lands” in 6.2.19 refers to particular lands owned by the community or land within the local government boundary. It is unclear whether the term “municipal corporations”

refers to "community councils". Land ownership and management in the Sahtu should be presented in a manner consistent with current decision-making authority.

Zones

GNWT observations are made considering:

- zones portrayed on map: conservation, special management, multiple use
- context: Sections 2, 3 and 4 of Draft 1
- consistency: with PAS, initiatives planned by GNWT or its agencies, proposed major projects such as the Mackenzie Gas Project (MGP).

- *Zone objectives*: Sections 2, 3, and 4 describe zone objectives well and could be visually linked on the map, possibly through use of an alphanumeric system (for example, D=Deline, T=Tulita, K=K'asho Gotine)

- *Zone information on resource potential*: Draft 1 only contains brief statements on oil and gas or mineral potential in each zone. Existing and potential for other land or resource development should be included; for instance, forests, public water supply, outfitting and tourism, hydroelectric and transportation corridor potential. A cross-reference to more detailed GIS information and process for resource assessments should also be considered. The GNWT acknowledges that there is a limit to information that is currently available.

- *Conservation Zones (CZ)*: include in the legend and on the map an indication of which CZs are in NWT PAS or other process. The GNWT acknowledges that almost all current PAS candidate areas in the Sahtu are represented. Conservation zones in the vicinity of communities or where transportation or energy developments are contemplated could be problematic. For instance, along the Bear River, presently portrayed as a conservation zone, the winter road, used for community re-supply, runs along the Great Bear River between Tulita and Deline and winter road re-alignments have been recommended by Deline. As well a need for new infrastructure to supply renewable energy to Deline has been identified and options are being investigated. An SMZ designation may be more appropriate.

- *Special Management Zones (SMZ)*: Would be strengthened with geo-spatial information about those protection objectives identified in sections 2, 3 and 4 where this information is known and location information is not sensitive. Comprehensive information sources or authorities, such as Sahtu Renewable Resource Council with ENR regarding wildlife, could be identified. This would allow Plan users to more readily identify conditions that apply to a specific area.

- *Multiple Use Zones (MUZ)*: Limited amount of land open to multiple use development may hinder future opportunities for revenue generation for all levels of government.
- *Lands in the Vicinity of Communities*: The Plan applies to lands not within “local government boundaries”. For lands close to, but not within “local government boundaries”, the Plan should provide for growth opportunities. Perhaps land use near communities could be considered exempt from the plan. Decision-making in these regards could be left to current authorities. Within the GNWT, Municipal and Community Affairs (MACA) have existing process to extend community boundaries. Related to this, 6.2.19 should be revised to reflect current decision-making related to community development, recognizing that a community council makes decisions regarding land use within the community (i.e. through their general plan/zoning bylaw) and MACA's role is only to administer the issuance of land tenure, not to make decisions on local land use.

The GNWT proposes that applications to expand or amend local government boundaries are reviewed in accordance with the GNWT's Community Boundaries Policy and would be permitted under the Plan.

The GNWT proposes that all existing community infrastructure located outside of current community boundaries would continue as an existing use for as long as it is required, including any extensions to the area required for this current use.

The GNWT proposes that applications for new community infrastructure outside community boundaries would be permitted under the Plan, subject to current regulatory requirements, and reflected as exemptions.

The GNWT proposes that applications for the removal of quarry material outside of community boundaries for community operations and the construction of community infrastructure would be permitted under the Plan, and reflected as exemptions.

- *Contemplated Development of Public Infrastructure*: energy and transportation projects. There is a need for more discussion with respect to the Bear River re: hydro and transportation proposals, and Mackenzie Valley re: transportation routes and pipeline development such as the Mackenzie Gas Project. Land links between communities has significant support in the Mackenzie Valley. Trunk access to mainline routes should also be considered.
- *Surface and sub-surface withdrawals*: Draft 2 Plan should include clear statements on surface and sub-surface withdrawals and how these relate

to Plan zones, perhaps in the implementation section. This is of particular importance along linear zones such as the Canol Trail.

Conditions

- *Objective Based Conditions:* The GNWT uses Section 41 (3) of the MVRMA as a guide to what it anticipates would be contained in a regional land use plan. Section 41 (3) (b), “written statements, policies, guidelines and forecasts” is interpreted broadly to include what could be considered general conditions. However, the GNWT does not perceive this item to mean terms and conditions that could be repetitive to those normally found in a land use permit, water licence or other regulatory instrument.

Draft 1 of the Plan contains a number of detailed conditions that go beyond guidance. Prescriptive detail is given; especially in 1.3.4 section S (for raptors), T (Ungulate Habitat), and U (Furbearer Habitat); this becomes redundant to means available through other processes. Clearly stated objectives with respect to a particular valued feature or resource should be used. For example in 1.3.4.1 section A and Q it is implied that the objective is to “to protect the surface water and underground water”.

Guidance for developers in the planning stages is often captured in regulatory guidelines, best management practices, or codes of conduct. The Plan could refer to existing guidance documents where appropriate.

Where gaps exist new ones could be collaboratively developed by appropriate agencies, but not placed in the body of the Plan. The GNWT notes that specific agencies may need to consult on any guidance documents prepared. For example, in the case of wildlife, including raptor, management, under the SDMLCA, ENR would be obliged to consult with the Renewable Resource Council on any land use policies related to wildlife.

The GNWT proposes that the Plan contain guidance or general conditions only. There is opportunity for objective based guidance in the Plan through reference to more detailed guidelines, codes of conduct or best management practices documents. The GNWT encourages the Planning Board to further discuss an approach to conditions collaboratively with appropriate agencies. Sample conditions could be developed, and additional work on conditions then undertaken.

As information, the development of additional best management practices is underway. For example, the GNWT is currently developing best practices with respect to its areas of authorities (wildlife and its habitat, forests, environmental protection, including public water supply watersheds), especially as related to oil and gas exploration and

development. Suggestions posed in Draft 1 of the Plan, especially with respect to wildlife and wildlife habitat, could be considered as these best practice documents are developed.

In order to emphasize any required work to address gaps, agreed upon actions or recommendations could be documented and placed in the Plan.

Buffer zones: From dialogue with the Planning Board, the GNWT notes that the number of conditions may appear excessive as some of these are only intended to apply where certain values exist on the landscape. However it was further noted that in some cases, there is insufficient or sensitive information making it difficult for developers or regulators to clearly define where measures to protect a certain value need to be applied. In these cases, the use of buffers could be considered.

Summary of Proposed Follow-Up Actions:

The following summarizes GNWT follow-up interests so that timely and effective progress can be made towards a Draft 2 Plan. The GNWT would like to work with the Planning Board at their request to address:

- *Public Interests that Require Land:* As information becomes publicly available, further insight to contemplated public land uses that would fall within the scope of application of the Plan can be provided.
- *GIS Information:* Considerable GIS information is available through the NWT Centre for Geomatics that may be useful to the Planning Board. Currently initiatives are underway to increase access to a number of layers that are useful in land management, for example, layers related to public water supply watershed protection. Data sensitivity and means to keep information current would need to be considered.
- *Opportunities for Collaborative Discussion:* Venues to discuss the plan's fit with other instruments and planning initiatives; contemplated land uses; proposed zones and land withdrawals, approaches to conditions, plan implementation, including exemptions, exceptions and amendment process; and guidelines would be helpful. Of particular interest to the GNWT are lands near communities and lands required for public infrastructure.