

MAY 31 2007

Mr. John T'Seleie
Executive Director
Sahtu Land Use Planning Board
PO BOX 235
FORT GOOD HOPE X0E 0H0

Dear Mr. T'Seleie:

Sahtu Land Use Plan - Draft 1

On February 16, 2007, the Sahtu Land Use Planning Board (the Board) Chair invited Sahtu Stakeholders to provide input on the Sahtu Land Use Plan (the Plan) - Draft 1. Since that time the Board has provided digital information to the Northwest Territories (NWT) Centre for Geomatics; further information and perspective on process to the Government of the Northwest Territories (GNWT) working group; and met with the group on April 20, 2007, to discuss context for GNWT input on Draft 1. Thank you for taking these opportunities to work with the GNWT and for your work to date.

GNWT comments contained in this letter and the enclosed submission are intended as suggestions towards a revision of Draft 1 in order to build a solid plan that provides for conservation and development in the Sahtu Settlement Area.

The GNWT's Draft 1 review provides feedback on the Plan's clarity, fit within the current land and water management regime, and regard for NWT public interests. The review is based on the GNWT Sustainable Development Policy that recognizes environmental conservation is essential to long term economic prosperity while at the same time economic development can contribute significantly to the achievement of conservation goals. The GNWT applies this sustainable development policy to all its decisions and actions related to natural and heritage resources in the NWT.

In general, there is work to be done to provide more complete context for the Plan. Chapter 1, that sets out context for the whole plan, needs further work to be sure that expectations are clear regarding the area where the Plan applies and the identification of those who must use the Plan. Draft 1 captures land use objectives for specific zones in the three "district planning zones": Deline, K'ahsho Go'tine, and Tulita. However, the GNWT feels that the Plan should also include a clear, specific statement of the overall land use vision and goals for the Sahtu Settlement area in the introductory section. The Plan should also include a section/s that clearly describe/s how the Plan relates to other land and water management instruments or structures in the Sahtu region. Documentation on consultation to date, perhaps in an appendix, would also give the reader a good sense of the plan's roots.

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Regarding zones, the GNWT sees that Draft 1 Conservation Zones reflect NWT Protected Areas Strategy candidate areas proposed for the Sahtu. Further, the Plan connects conservation zones to enhance the objectives of wildlife habitat conservation and representation of ecoregions. However, currently proposed zones do not appear to sufficiently allow for contemplated community, transportation and energy infrastructure development, nor the potential for resource development in the Sahtu.

Regarding conditions, the GNWT wants to ensure that conditions are not overly prescriptive or redundant with regulatory instruments. The Plan should provide clear planning guidance that does not blur roles and authorities. To meet this objective, the GNWT has a number of suggestions: that the Plan clearly state that zoning and conditions in the Plan apply only to those developments that require a land use permit or water license; that prohibited uses in conservation zones be more clearly defined; and that detailed, prescriptive conditions be avoided.

The GNWT appreciates the effort of the Board and the working relationships you have established with Environment and Natural Resources (ENR) and the GNWT as a whole to date. The GNWT understands that the Board intends to continue its regional meetings and have a second draft of the Plan available for review in summer 2007. In the submission the GNWT points out where there is a need for future collaborative discussion in order to move forward in a timely and effective manner. As you are aware, Ms. Jane McMullen, Senior Advisor, Policy, Legislation and Communications of ENR (867-920-8069) coordinates GNWT communications and reviews regarding the SLUP. Please continue to use her as a contact.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. P. Bailey', with a large, sweeping flourish extending to the right.

R. P. Bailey
Deputy Minister

For

Attachment

c. See List Attached

Copy List

Mr. Bob McLeod, Secretary to Cabinet
Executive

Ms. Gabriela Sparling, Deputy Minister
Aboriginal Affairs and Intergovernmental Relations

Mr. Dan Daniels, Deputy Minister
Education, Culture and Employment

Ms. Margaret Melhorn, Deputy Minister
Finance

Mr. Mark Cleveland, Secretary to the Financial Management Board
Financial Management Board Secretariat

Mr. Chuck Parker, Deputy Minister
Health and Social Services

Mr. Peter Vician, Deputy Minister
Industry, Tourism and Investment

Mr. Don Cooper, Deputy Minister
Justice

Ms. Debbie DeLancey, Deputy Minister
Municipal and Community Affairs

Mr. Mike Aumond, Deputy Minister
Public Works and Services

Mr. Russell Neudorf, Deputy Minister
Transportation

Mr. Leon Courneya, President and CEO
Northwest Territories Power Corporation

GNWT REVIEW OF SAHTU LAND USE PLAN - DRAFT 1

Sahtu Land Use Plan - Draft 1 (February 16, 2007) (the Plan) represents the efforts of the Sahtu Land Use Planning Board who have consulted with many individuals and organizations, and are now working together to produce a coherent regional land use plan for the Sahtu Settlement Area. The Plan and its appendices are an informative and solid base for the development of a second draft of the Plan. The importance of living and learning on the land to the people of the Sahtu is a common theme that is recognized and supported by the Government of the Northwest Territories (GNWT).

GNWT PERSPECTIVE ON A FINAL REGIONAL SAHTU LAND USE PLAN

The GNWT Sustainable Development Policy recognizes that environmental conservation is essential to long term economic prosperity while at the same time economic development can contribute significantly to the achievement of conservation goals. The GNWT considers this interdependence between conservation and development and applies this concept of sustainable development to all its decisions and actions related to natural and heritage resources in the Northwest Territories (NWT), including the review and approval of land use plans.

The GNWT's observations on the Plan are submitted to build upon the strengths of Draft 1 and help develop a revised second draft that is clear, easy to use, transparent, and fits well with other land and water management instruments. This would allow users to readily apply and implement a Sahtu regional land use plan.

The GNWT expects that such a regional plan will consider broad public interests, for instance those related to: sound wildlife and forest management; effective environmental protection; sustainable community development and economic opportunity; and effective transportation, energy, public water supply and waste management, and telecommunications systems. A viable land use plan should also provide for sufficient access to aggregate resources and rights-of-way necessary to develop these public systems, including transmission lines.

The GNWT also expects that a regional plan will provide ample opportunity for natural resource development and associated economic development. This development provides opportunities for residents and governments to generate revenues. Governments, including the GNWT, need sufficient revenues to provide government services, such as health and education, to its residents.

FRAMEWORK FOR REGIONAL SAHTU LAND USE PLANNING

As Draft 1 acknowledges, land use planning in the Sahtu is provided for in:

- the *Mackenzie Valley Resource Management Act* (MVRMA), and
- the Sahtu Dene and Metis Land Claim Agreement (SDMLCA).

The GNWT has considered how the Plan fulfills the requirements of Part 2 of the *Mackenzie Valley Resource Management Act* (MVRMA) where parameters are set for:

- land use plan purpose and guiding principles for land use planning, noting a need for conservation, as well as development and use of land, water and other resources in a settlement area
- special attention to residents of the region with regard to the interests of all Canadians
- participation of regional residents, communities and First Nations
- the Sahtu Land Use Planning Board
- plan objectives developed through consultation with those who will approve the Plan: the Sahtu Secretariat Incorporated, the Minister of Environment and Natural Resources, the Minister of Indian and Northern Affairs Canada (INAC)
- a land use plan to contain:
 - maps, diagrams and other graphic material
 - written statements, policies, guidelines and forecasts
 - descriptions of permitted and prohibited uses of land, waters and resources
 - authority for the planning board to make exceptions to the plan and the manner of exercising that authority
 - other information the planning board deems appropriate.
- public consultation on a draft(s) plan
- GNWT approval of a regional Sahtu Land Use Plan once approved by Sahtu Secretariat Incorporated (SSI)
- Minister of Indian and Northern Affairs Canada (INAC) consideration

The GNWT has considered how the Plan fits with elements of the MVRMA and the SDMLCA that set a management regime for lands and resources, which includes:

- land and water use and disposal of wastes
- wildlife and forest management (renewable resources)
- land management
- preliminary screening under various land, water and resources legislation
- environmental impact assessments
- follow-up programs, including environmental impact monitoring.

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Associated regulatory instruments are key vehicles for efficiently implementing land use planning objectives set in a regional land use plan such as for the Sahtu Settlement Area.

The GNWT continues to assess how the Plan fits with other planning and management initiatives that the people of the Sahtu are using to address land use planning and management, 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.

GNWT OBJECTIVES FOR A FINAL SAHTU LAND USE PLAN

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

- a clear and transparent fit within the NWT land and water management system
- zone designations that state clearly prohibited or permitted use
- clear guidance to those agencies and authorities who must implement the plan
- clear, transparent guidance to developers who must use the plan in project planning
- regard for NWT public interests and opportunities, such as:
 - transportation development
 - energy development, including transmission lines
 - public water supply and waste management
 - community and social development
 - economic development
 - sustainability of government services, including revenue generation.
 - NWT Protected Area Strategy.

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 to focus on the overall intent of the land use plan, especially zones and conditions. Rationale for desired changes is provided; so are proposed solutions or means to work towards such solutions.

Setting Context

The GNWT supports an objective to have any introductory sections of the Plan provide the full context necessary for all readers and users of the Plan so that they may understand how the Plan applies throughout the Sahtu Settlement Area and how it fits within existing NWT land and resources management regimes.

With this in mind, the GNWT offers the following suggestions to improve the Plan's clarity and ease of use (application and implementation):

- *Goals and Objectives:* Clearly state the regional land use planning vision and goals early, including who should use the Plan and the Plan's fit within the existing land use planning and management regime. For instance, the MVRMA stresses the necessity of participation by several groups in regards to land use planning, including residents and communities in the settlement area and the participants. Broad land use values and objectives should be clearly stated in the Plan for the whole Sahtu Settlement Area using language that complements and reflects both the MVRMA and the SDMLCA. It may be helpful to use sections found in the Preliminary Draft Sahtu Land Use Plan (2003) to provide full context.

In Draft 1 of the Plan, sections 2, 3 and 4 state Reasons for Protection for specific geographic areas. These could be used to help formulate more comprehensive Sahtu land use plan goals and objectives clearly stated in the introductory section, including specific intent to protect certain types of areas that are important to Sahtu residents. These could include for instance fisheries areas, mentioned in the more detailed text of sections 2, 3 and 4.

- *Definitions - Land Uses and other Terms:* Specific land use and zone definitions are absent or not clearly defined in language consistent with the MVRMA, the SDMLCA 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.

By way of example, the SDMLCA uses the term conservation areas and the Plan uses the term conservation zones. It should be clear if or how these terms relate.

Another example is the use of the undefined terms "commercial hunting" in 1.3.3.2 Section 6) and "commercial renewable resource harvesting" in 1.3.3.2 Section 7 so that it is unclear what activity is intended to be prohibited where.

Further, an appropriate defined term will have to be used to capture the various types of local government entities such as municipalities, communities, and hamlets. The Plan uses terms like “municipalities”, “municipal corporations” and “municipal lands”. For instance, Section 1.2.1 third paragraph reads: “The Board’s mandate extends over all lands within the Sahtu Settlement Area, exclusive of municipalities.” Community governments in the Sahtu vary in legal status. By way of example, 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.

- *Scope of Application of the Plan:* The Plan should clearly state that only activities that require land use permits or water licences fall within the scope of application of the Plan. Then, 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 the Plan because terms and conditions would be stated in these authorizations.
- *Plan implementation (Section 5):* Consideration should be given to use exemptions, as well as exceptions currently provided for in the Plan.

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 or recommendations put forward in the Plan.

- *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”. Tools to address these circumstances, such as exemptions, exceptions or a special management zone designation, should be further discussed with a number of GNWT departments and agencies.

Zones

When the Plan refers to the key concepts of Conservation Zones, Special Management Zones and Multiple Use Zones, the GNWT prefers that each type of zone be defined clearly and completely. Currently the Plan appears to only guide what these terms may include without providing definition. This makes it difficult for the reader to have a full understanding of the characteristics of each type of zone.

GNWT observations are made considering:

- zones portrayed on the map of the Sahtu Settlement Area: conservation, special management, multiple use
- context: Sections 2, 3 and 4 of Draft 1
- consistency: with PAS, initiatives planned by GNWT or its agencies, and proposed major projects such as the Mackenzie Gas Project (MGP).
- *Zone objectives*: Sections 2, 3, and 4 describe specific zone objectives well and these areas could be visually linked using the main 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 the NWT PAS or other process. The GNWT acknowledges that current PAS candidate areas in the Sahtu are represented.

Conservation zones in the vicinity of communities or where transportation or energy developments, including transmission lines, are contemplated could be problematic. For instance, a corridor of land along the Great Bear River is presently portrayed as a conservation zone, yet the winter road, used for community re-supply, runs along this 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 along the Great Bear.

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

- *Multiple Use Zones (MUZ)*: Leaving only a small portion of the total land area open to multiple use development may hinder future economic and revenue generation opportunities.
- *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; however currently these lands are either conservation zones or special management zones.

Perhaps land use surrounding communities could be considered exempt from the plan with decision-making on these lands left to current authorities. Within the GNWT, Municipal and Community Affairs (MACA) has an existing process to extend community boundaries in the Communities Boundary Policy. Related to this, 6.2.19 should be revised to reflect current decision-making related to community development; that is to say, a community council makes decisions regarding land use within the community (for instance, through use of a community’s general plan/zoning bylaw). 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 be reviewed in accordance with the GNWT’s Community Boundaries Policy and would be permitted under the Plan through current authorities.

Further, 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.

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

Similarly, 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, subject to current regulatory requirements, and reflected as exemptions in the Plan.

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- *Contemplated Development of Public Infrastructure:* energy and transportation projects. There is a need for more discussion with respect to existing and contemplated expansions to public infrastructure such as hydroelectricity, including transmission lines, and transportation, for instance along the Great Bear River and through the Mackenzie River valley. Pipeline development such as the Mackenzie Gas Project should be considered as well. Transportation land links between communities have significant support in the Mackenzie Valley. Trunk access to mainline routes should also be considered.
- *Surface and sub-surface withdrawals:* The second draft of the Sahtu Land Use Plan should include clear statements on surface and sub-surface withdrawals and how these relate to Plan zones; this could perhaps be included 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 to guide land users. However, the GNWT does not perceive this item to mean terms and conditions that would be repetitive in intent 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. An example of this approach is used in 1.3.4.1 section A and Q where it is implied that the conditions stated are for the purpose of meeting the objective “to protect the surface water and underground water”; however detail could be used elsewhere.

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.

The GNWT encourages the Planning Board to further discuss an approach to conditions collaboratively with appropriate agencies, including the GNWT. Through such discussions, sample conditions could be developed, and additional work on conditions undertaken. It is the GNWT’s view that the Plan would only contain guidance or general conditions that are objective-based.

There could be reference to more detailed guidance such as guidelines, codes of conduct or best management practices.

Should collaborative work identify gaps in available guidance, new ones could be developed through cooperative work amongst appropriate agencies; though these should not be placed in the body of the Plan. In order to emphasize any work that approving parties agree should be addressed, associated actions or recommendations could be placed in the Plan.

Whether guidance on how to use the land appears in the Plan or in other guidance documents, the GNWT notes that specific agencies would need to consult on specific guidance if it extends beyond current policy and legislation. For example under the SDMLCA, ENR would be obliged to consult with Renewable Resource Councils on any land use policies imposed that would impact on wildlife management, including raptors.

By way of 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 in matters related to oil and gas exploration and development. Suggestions posed in Draft 1 of the Plan, especially with respect to wildlife and wildlife habitat, can be considered in the development of these best practices.

Buffer zones: Through dialogue with Planning Board staff, the GNWT notes that the number of conditions in the current Plan may appear excessive as some of these are only intended to apply where certain circumstances exist on the landscape, such as karst or sensitive wildlife areas. However discussions also noted that in some cases, there is insufficient or sensitive information currently available, thereby making it difficult for developers or regulators to clearly define where specific conditions are to apply. In these cases, the use of buffer zones could be considered through Special Management Zones.

Summary of the GNWT's 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. At the request of the Planning Board, the GNWT can assist regarding the following matters:

- *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 for approving parties and appropriate agencies to discuss further aspects of the Plan can be convened. It would be helpful to collaboratively discuss such matters as: the Plan's fit with other instruments and planning initiatives; contemplated land uses, proposed zones and land withdrawals; approaches to conditions and plan implementation, including exemptions, exceptions and amendment process. Of particular interest to the GNWT are lands near communities and lands required for public infrastructure.

Additional Information:

Mackenzie Valley Highway Extension includes a map that may be useful to the Planning Board. This document, that includes a map, can be found at: http://www.dot.gov.nt.ca/live/documents/documentManagerUpload/PROJ_%20MacHwy_Enviros_coping_sept1999.pdf.