

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

SEP 04 2012

**Sahtu Land Use Plan (SLUP) – GNWT Detailed Analysis**

Please find attached the Government of the Northwest Territories (GNWT) analysis of the Board's June 2012 Sahtu Land Use Plan (SLUP) discussion document. This analysis gives further detail to the GNWT's broad Plan Approval Principles submitted on August 24, 2012.

The GNWT analysis is consistent with our longstanding interests with respect to approving the Plan. As stated in our previous letters, the underlying concern is the need for the plan to fully respect the authorities, roles and responsibilities set out in the *Sahtu Dene and Metis Comprehensive Land Claim Agreement* (SDMCLCA) and the *Mackenzie Valley Resources Management Act* (MVRMA).

The GNWT remains committed to seeing a completed SLUP that meets the interests of all parties. The comments and recommendations are based on an interdepartmental review; they are without prejudice and are subject to change. The GNWT looks forward to constructive dialogue at the upcoming meeting on September 6 and 7 and hope that everyone's interests are able to be discussed and met.

If you have any questions please do not hesitate to contact Ms. Michelle Swallow, Manager of Lands, at 920-6485.

Sincerely,



Ernie Campbell  
Deputy Minister



## Attachment

- c. Ms. Kathryn Bruce  
Regional Director General, Aboriginal Affairs and Northern Development Canada

Ms. Ethel Blondin-Andrew,  
Chair, Sahtu Secretariat Incorporated

Mr. David Little,  
Executive Director, Sahtu Secretariat Incorporated

# GNWT DETAILED COMMENTS ON PROPOSED CHANGES TO DRAFT 3 SAHTU LAND USE PLAN

## ***Introduction***

This document has been developed to provide a more detailed set of coordinated GNWT comments for achieving an acceptable land use plan. The comments and recommendations provided below are based on an interdepartmental review. These comments are without prejudice and subject to change pending further discussion among the parties at the tri-partite meeting.

### ***1.0 Overall comments on the proposed revisions and path toward Plan approval***

The comments and recommendations provided below are based on an interdepartmental review process and using the following broad criteria for final Plan approval:

- Consistency with relevant GNWT legislation, policy, and GNWT initiatives (e.g., *Forest Management Act*, *Species at Risk (NWT) Act*, Protected Areas Strategy, the regulatory improvement initiative etc.).
- Consistency with roles and responsibilities within the integrated system of land and water resource management system as contemplated in the Sahtu Dene and Metis Comprehensive Land Claim Agreement (SDMCLCA) and the Mackenzie Valley Resource Management Act (MVRMA); and
- Consistency with the planning objectives and principles as set out in the SDMCLCA;
- Factual accuracy, clarity, readability, and ease of implementation for developers and regulators alike.

### ***2.0 Detailed Comments***

Detailed comments are organized using the following format:

- Description of the issue and reference to the Planning Board Document
- GNWT analysis including response to specific questions from the Board
- Requirement for an approvable land use plan

#### **A. Application of the Plan to Protected Areas**

**Issue:** Dual designation of Protected Areas (pg. 2)

Currently, the study areas for Ts'ude niline Tu'eyeta Candidate protected area and the Naats'ihch'oh are identified as Proposed Conservation Initiatives (PCI) in the draft land use plan. Parties must agree on the zoning or management rules that will or will not apply in a PCI, both at the time of plan approval and when part of the PCI is established under the legislation of the sponsoring agency (in this case as a National Wildlife Area under Environment Canada's legislation and a National Park Reserve under Parks Canada Agency's legislation).

**GNWT Analysis:**

- For clarity, the GNWT supports a single management system for any PCIs, including Territorial Parks and National Wildlife Areas. The GNWT supports Option 1 of June 12 SLUP Discussion Document. Once PCI’s receive final designation as established protected areas, the management system of that designation should prevail. The Plan should not direct management in these areas, but refer to them as Protected Area Zones, or some such name, so as to indicate that there is a different management system in place.
- If the Minister responsible for the proposed protected area wishes to request additional subsurface protection for a conservation area, this should be requested of the land owner through processes outside of the Land Use Plan, on a case by case basis.
- The GNWT recognizes that the areas in question are not likely to be designated until after Plan approval, so the designation would remain “Proposed Conservation Initiative Zone” until the areas are established. Once a PCI is established under its legislation (e.g National Wildlife Area), there should be a joint decision by approving parties on the LUP zone designation for areas cut out of the final boundary (in this case, areas cut out of the Ts’ude niline Tu’eyeta and Naats’ihch’oh will be Special Management Zones).

**Requirement for an Approvable Land Use Plan:** The GNWT supports a single management system for protected areas.

**B. Exemption for Existing Uses**

**Issue:**

The Sahtu Land Use Planning Board (SLUPB) has proposed an approach to grandfathering existing rights and previously authorized land use. (pg.6)

**GNWT Analysis:**

- The GNWT has considered the proposed approach in light of future responsibilities as the land owner, once responsibilities for lands and resources have been devolved from the federal government to the GNWT through the devolution process.
- The GNWT supports the proposed approach to grandfathering as described in the June discussion paper.
- For further clarity, the GNWT’s support for the approach to grandfathering is specific to this plan and context and the GNWT reserves the right to support a different approach in different circumstances, i.e., within a different regional LUP.

**Requirement for an Approvable Land Use Plan:** The GNWT supports the SLUPB’s proposed approach to grandfathering existing rights in the Sahtu Land Use Plan.

**C. Authorizations that Implement the Plan**

**Issue:** The Board has disagreed with past GNWT submissions to exclude certain GNWT authorizations. (pg. 10)

**GNWT Analysis:**

- In the interest of certainty, clarity, and ease of plan implementation, the GNWT wants an exhaustive list of all GNWT authorizations that must be issued in accordance with the plan as per s. 46(1) of the MVRMA and as per 25.2.9 of the Claim.
- The Board has disagreed with some of the GNWT submissions to exclude certain GNWT authorizations, and has instead asked the GNWT to submit analysis of the application of specific Conformity Requirements (CRs) to each of the GNWT authorizations. The GNWT has not yet completed this detailed analysis, however we are providing the board with additional rationale on authorizations that do not apply to the plan.
- GNWT is of the view that research permits should not be included in the list. In most cases, the Board has agreed with this. The specific cases of Commercial Wildlife Harvesting and Archaeology permits are explained below.
- Authorizations related to personal use should not be included in the list. This category includes permits related to trapping (e.g. member of a registered trapping area permit, etc.), as this is subsistence use.

The GNWT disagrees with the Board's proposal in the June discussion document to include the following authorizations. Reasons are stated below.

**Licences Relates to Commercial Harvesting**

Roles and Responsibilities for Wildlife Harvesting and Management in the Sahtu Settlement Region are set out in Chapter 13 of the Claim. Section 13.7.1 describes the role of the Sahtu Renewable Resource Board (SRRB) to determine whether commercial harvesting is permitted in a particular area for a particular species or population. The SRRB may also prescribe terms and conditions for such harvesting. It is the GNWT's view that to include Commercial Harvesting licences on the list of Authorizations would give a roles and responsibilities to the SLUPB that duplicates the role of the SRRB as assigned under the Claim.

Licenses issued under the following legislation fall under this category:

- Wildlife Business Regulations
- Sale of Wildlife Regulations
- Trapping Regulations

**Archaeology Permits:**

The purpose of Class II Archaeological Permit is to authorize Archaeologists to conduct Archaeological research in the NWT and to regulate how that research is done. Archaeological sites are evidentiary, and the Class 2 Permit allows professional archaeologists to document and evaluate the evidence of past human cultural activity that they contain. It is a scientific process through which archaeological evidence is documented, assessed, and when necessary, systematically removed to protect the information.

The GNWT is of the view that research permits as a class of permits should not be subject to the Plan. In the GNWT's view, they do not fall under the category of regulatory authorizations contemplated in s. 46

(1) of the MVRMA. In the SLUPB June discussion document, most research licenses are not on the list of authorizations subject to the Plan, including Scientific Research Licence, Wildlife Research Permit, and Forest Research Permit. The Class 2 Archaeologists Permit falls within this class of research permits.

The Board proposals for excluding the other research permits vary but tend to suggest that the research does not comprise a land use of sufficient scale to be included in a regional plan. The same argument can be made for Class 2 archaeological research, however this argument is secondary to the argument that research permits as a class should not be included. In the vast majority of cases, Class 2 archaeological research is carried out to make sure that ground disturbance associated with development projects will not impact archaeological sites. Thus, the tiny amount of ground disturbance required to find and characterize archaeological sites is typically done in areas that will already be disturbed by development.

It is true that archaeological projects often require camps to be set up, air travel to remote areas, etc., but if these activities meet the minimum threshold to trigger a land use permit application, the LUP will be triggered through this process. The Class 2 permit really only applies to the act of conducting research at an archaeological site.

Notwithstanding these arguments, some of the PWNHC's processes meet the intent of some of the proposed SLUP CRs.

- The PWNHC's current consultation process is as follows: Permit applications are sent to SSI, who then coordinates consultation with district land corporations and community governments. According to Sections 6(2) and 7(2) of the *Northwest Territories Archaeological Sites Regulations* (NWTASR), the permits can be issued if (among other things) the applicant has complied with all conditions precedent to obtaining such a permit set out in any applicable land claims agreement.
- The NWTASR do not specifically address community benefits but Section 26.2.8 of the SDMCLCA states that participants will have preference in being hired at heritage resource projects, archaeological works, etc., which appears to fit with the intent of CR3 (Community Benefits). In practice, this will likely mean that an archaeologist will hire someone from the local community as a field assistant, which is already standard practice in the NWT.
- The NWTASR address archaeological site protection, which is one of the special values included in CR14 (Protection of Special Values). Section 7(2)(b) of the NWTASR states that the territorial Minister should only issue a Class 2 Permit if the scientific and cultural benefits of the project outweigh the adverse impacts of the project on the archaeological site, which appears to fit with the intent of CR14. Our concern with CR14 is that it might exclude archaeological research in Conservation Zones/PCIs and Special Management Zones. The discussion document suggests that archaeological sites must be 'protected' in these zones, where 'protect' is defined as the feature in question being completely unaffected by the proposed activity. A Class 2 permit allows excavation of an archaeological site.

**Requirement for an Approvable Land Use Plan:** The plan should not apply to the issuance of:

- Research Permits including Class 2 Archaeological Permit
- Licences Related to Commercial Harvesting
- Authorizations related to personal use should not be included in the list.

The Department of Environment and Natural Resources, has proposed a new *NWT Wildlife Act*. Other changes to legislation or regulations are also likely after Plan approval. The list of authorizations will require updating when any new or amended legislation or regulations come into force. The GNWT suggests that this requirement be noted in an appropriate place in the Plan.

## D. Application of CRs and Minimum Thresholds

### Issues:

**Respecting Roles and Responsibilities:** Some authorizations can implement all or parts of the Plan’s conformity requirements, while others cannot.

**Clarity & certainty:** As a regulator, the GNWT needs to know what its responsibilities are after plan approval.

**Scalability:** Some CRs are impractical for the scale of land use activities that some of the GNWT’s most commonly issued authorizations cover. For these, some CRs (zoning, community engagement) are appropriately considered for all authorizations. Other CRs should apply when proposed land use activities are of large enough scale to require a land use permit, in addition to a GNWT authorization.

### GNWT Analysis:

As requested by the Board, the GNWT has begun the work to analyse each of its authorizations against the Plan’s CRs to determine whether the GNWT’s legislation and regulations provide mechanisms to implement each of the Plan’s CRs.

Once the GNWT has completed this detailed analysis we will provide the board with this additional information. For land use activities that require multiple authorizations, the GNWT is also considering whether it is practical and in the interest of regulatory efficiency for regulators to consider the proposed activities against each CR.

**Requirement for an Approvable Land Use Plan:** The GNWT wishes to work with parties prior to finalizing the Final Draft to arrive at an agreed upon list of authorizations showing its application to each CR.

## E. Conformity Determination Process

### Issues:

- Timing of the Board’s Conformity Determination
- Automatic referral
- The June discussion document includes CR wording that precludes a front end conformity determination
- The SLUPB has proposed the concept of Conditional Conformity

### GNWT Analysis:

#### Timing of the Board’s Conformity Determination

In the interest of regulatory efficiency and respecting roles and responsibilities set out in the MVRMA, the GNWT supports a front end conformity determination process, consistent with “Generalized Best

Practices Regarding Conformity with the Land Use Plan” as described in the draft revised 2010 Gwich’in Land Use Plan. The GNWT supports the front-end process as described in the SLUPB June discussion document (pg. 29).

At the same time that an application is checked for completeness, regulators or authorities responsible for issuing surface rights will ensure that proposed land use activities (or land uses), as described in the application, conform to the Plan. If required, an activity may be referred to the Board at this time.

A LUP has the potential to provide additional clarity and certainty to the regulatory processes. The Plan and its conformity requirements should be written with sufficient clarity that applicants and regulators will know in advance whether or not a proposed land use activity is permitted or prohibited (i.e. conforms with zoning CRs). Where proposed land use activities are permitted, applicants should be able to refer to the Plan’s conformity requirements and plan their proposed land use activities in a manner that complies with the Plan.

Applicants should demonstrate how the proposed activities will conform to the plan in their application for an authorization. Regulators must ensure that proposed activities comply with the plan before issuing their authorizations. If there is disagreement or uncertainty, a proposed activity can be referred to the Planning Board as described in S 47(1) of the MVRMA. The GNWT is of the view that the Plan should be written with sufficient clarity that a referral would not normally be necessary.

Currently there are some CRs that are worded in such a way that if a proposed activity were referred prior to the commencement of the preliminary screening (applicant deemed complete), the Board would not be able to determine conformity. Also, in situations where a project undergoes an Environmental Assessment (EA), a referral to the Board after the completion of an EA could lead to a situation where the Planning Board could make a decision on an activity’s conformity that overrides the findings and recommendations of the Review Board and the Responsible Minister’s decision. Specific CR comments will be provided below.

### **Conditional Conformity Comments**

The GNWT does not support the concept of conditional conformity. The GNWT is of the opinion that a finding of conditional conformity is not within the authority of the SLUP, as contemplated in the MVRMA. The GNWT supports further discussion of this topic at the tripartite meeting.

The GNWT supports a front-end conformity determination and is of the view that this is the intent of the SDMCLCA and the MVRMA.

- There is nothing in the wording of section 47 that suggests that that a “conditional” determination was contemplated. To the contrary, the wording clearly contemplates a “final” determination (section 47(4)). The MVRMA is clear on the timing of the referral (section 47(2)), and the wording of subsections 47(1)(a) and (b) suggest an intention that the determination would be made upon referral. These considerations both suggest that Parliament intended a final, unconditional decision occurring BEFORE the issuance of any licence, permit or authorization required for the activity.
- Subsection 47(1) requires the Board to make the determination or “whether an activity is in accordance with a land use plan”. This appears to require a binary “yes” or “no” answer. In the

GNWT's view, there does not appear to be room here for a "maybe" depending on something that has yet to happen.

- The use of the word "determination" itself is instructive. The word determination "implies an ending or finality, the end of a controversy". A conditional conformity determination would not have this effect, and would defer finality to some future decision point.

### **Referral Process for Commissioner's Land**

The GNWT does not support automatic referral to the Planning Board for a formal conformity determination by the Board prior to the issuance of surface rights under the *Commissioners Land Act*.

The Department of Municipal & Community Affairs (MACA) will issue surface rights as per its responsibilities under the Commissioner's Lands Act, and in accordance with Plan Zoning as required under s. 46 of the MVRMA and s. 25.2.9 of the SDMCLCA. Clearly written zoning descriptions should provide for ease of plan interpretation.

The GNWT has the following concerns with the automatic referral for surface rights:

- **Timeliness:** Automatic referrals could cause delays. A priority for MACA as a landowner is that the land issuance process proceeds in a predictable and timely manner. Although they are not legislated timeframes, there is an expectation that applications for Commissioners land in the Sahtu region will take generally from 60 to 90 days.
- **Respecting roles and responsibilities:** MACA is responsible for ensuring that surface rights for Commissioner's land are issued in accordance with the Plan, as per s. 46 of the MVRMA and 25.2.9 of the SDMCLCA. Incorporating an automatic referral to the Board would create an additional role and responsibility beyond that which was apparently contemplated under the SDMCLCA and the discretionary referral found in Part II of the MVRMA, creating unnecessary duplication.

For the purposes of promoting consistent plan implementation, MACA will, as required, work collaboratively with SLUPB staff to ensure the plan zoning is being consistently interpreted. This is consistent with the process that is currently followed with local government staff when issuing rights to Commissioner's land within community boundaries.

### **GNWT's Requirements for Plan Approval:**

- Front end conformity determination process as contemplated in the SLUPB June Discussion Document.
- If required, a regulator will make a s. 47(1) referral to the Board at this time. This is consistent with "Generalized Best Practices Regarding Conformity with the Land Use Plan" as described in the draft revised 2010 Gwich'in Land Use Plan.
- There should not be conditional conformity.
- There should not be an automatic referral for the first couple of years.

## F. Specific Revisions to CRs

### CR#1 – Land Use Zoning

Revised Wording:

1) *Land must be used in accordance with the land use zones shown in Map 4 and Table 6. The zone types consist of General Use, Special Management, Conservation, and Proposed Conservation Initiatives. Map 4 and Chapter 5 Zone Descriptions identify the location of each zone. Bulk water removal is a prohibited land use in all zone types. The prohibited land uses in Conservation Zones and Proposed Conservation Initiatives are mineral exploration and development, oil and gas exploration and development, quarrying, power development, and commercial forestry. Any land use not prohibited in a zone is permitted, subject to the conditions of this Plan.*

2) *Despite the land use prohibitions that apply in Conservation Zones and Proposed Conservation Initiatives, quarrying, transportation and infrastructure development that would be prohibited, or any water use other than a bulk water removal that would be prohibited is permitted in such zones if and to the extent that it is demonstrated that:*

a) *such activity is necessary in order to carry out a permitted land use outside the zone, and the user will be authorized to conduct the land use outside the zone (for example, subject to other applicable Plan conditions, water may be taken from a Conservation Zone to the extent necessary to carry out authorized oil and gas activities in a Special Management Zone or General Use Zone, and a pipeline may be built in a Conservation Zone in order to transport hydrocarbons lawfully produced in a Special Management Zone or General Use Zone, or to connect authorized pipelines in other zones);*

b) *no feasible alternative to carrying out the activity in the Conservation Zone or Proposed Conservation Initiative exists;*

c) *the activity takes place outside known or suspected significant ecological and cultural areas as identified in the Zone Descriptions (Chapter 5), Background Report or by community organizations (First Nation, charter community, renewable resource council or land corporation) ; and*

d) *its location, design, construction, operation and maintenance minimize any foreseeable adverse impacts on the ecological and cultural values identified for the zone, including subsistence use, either by avoiding such impacts or mitigating them to the extent possible.*

#### **GNWT's Requirements for Plan Approval:**

The GNWT supports CR#1 provided the issues associated with GNWT authorizations are addressed. The GNWT want to be involved in the decision making for the zoning classification of areas outside of the established Naats'ihch'oh boundary.

### CR#2 – Community Engagement and Traditional Knowledge

Revised Wording:

1) *Before any land use activity is authorized, Regulators shall ensure that land corporations, the first nation and/or community council, and renewable resources council and potentially affected community members have been adequately engaged with respect to:*

- a) *The proposed activities,*
- c) *Specific locations and issues of concern, and*
- d) *Traditional knowledge that is relevant to the location, scope and nature of the proposed activities.*

2) *Regulators shall ensure that a land use activity is designed and carried out with due regard for community concerns, and incorporates relevant traditional knowledge.*

**Suggested rewording:**

See comments on CR #4 which recommends moving CR#4's reference to important heritage resources to this CR and including it in c) to read "Specific locations and issues of concern, ***including important heritage resources***, and..."

**GNWT's requirement for Plan approval:** The GNWT supports CR#2 with suggested wording.

**CR#3 – Community Benefits**

Revised Wording:

*Before any land use activity is authorized, Regulators shall be informed by applicants how residents and communities will benefit from the proposed land use. In the absence of any definable benefits to residents or communities, Regulators may consider how the activity will benefit the broader public interest.*

**GNWT Analysis:**

The GNWT is supportive of the intent of this CR and finds that wording is flexible and acceptable.

**GNWT's Requirements for Plan Approval:** The GNWT supports CR#3.

**CR#4 – Heritage Resources**

Revised Wording:

- 1) *Regulators shall ensure that land use activities are not located within 500 m of known burial sites, or within 150 m of other known heritage resources, unless measures are developed in cooperation with the Prince of Wales Northern Heritage Centre (PWNHC), affected communities, or in the case of burial sites, with affected families where possible, to fully mitigate all impacts to the site.*
- 2) *In areas where there is a high risk of impact to recorded and/or unrecorded heritage resources, as determined by the PWNHC, an archaeological impact assessment must be conducted prior to commencement of a development project.*

**GNWT Analysis:**

The GNWT supports the intent of the CR, including both the appropriateness of the setbacks and the value of community engagement during project planning to identify important heritage resources.

As written, the CR implies that the PWNHC has authority over the management of heritage resources by directing applicants to the PWNHC. This is not the case. The PWNHC only has authority over specific components of heritage resources, namely archaeological sites, which includes burial sites that have been deemed archaeological sites. The CR must be written in a way that respects the legislative mandate of the PWNHC, under the *Northwest Territories Archaeological Sites Regulations* (pursuant to the *Northwest Territories Act*). The GNWT suggests the following wording would be acceptable:

- 1) *Regulators shall ensure that land use activities are not located within 500m of known or suspected burial sites, or within 150m of known or suspected archaeological sites, unless measures are developed in cooperation with the Prince of Wales Northern Heritage Centre, affected communities, or in the case of burial sites, with affected families where possible, to fully mitigate all impacts to the site..*
- 2) *In areas where there is a high risk of impact to known or suspected archaeological sites, as determined by the PWNHC, an archaeological impact assessment must be conducted prior to commencement of a development project.*

To reflect this change, the title of this CR should be changed from Heritage Resources to Archaeological Sites.

With regard to heritage resources that are beyond the authority of the PWNHC, such as historic sites, sacred sites, etc., the GNWT suggests these be dealt with through CR #2. Community Engagement and Traditional Knowledge, as there is currently much overlap between the community engagement required for CR#2 and for the this CR. Specifically CR# 2 could state “c) Specific locations and issues of concern, **including important heritage resources**, and...

**The GNWT also has concerns with the Criteria for Conformity determination as written. It states:** *where an applicant intends to carry out activities within those setbacks, by demonstrating that impacts to the actual sites will be **completely avoided** and that those mitigation measures were developed cooperatively with and are supported by the PWNHC, affected communities, and if burial sites are involved, the affected families where they can be located.*

The GNWT does not agree with this statement. There are instances where impacts to each specific site cannot be entirely avoided, and mitigation includes documentation and removal of the artifact. The Plan must account for this reality (emphasis added).

<b>GNWT’s Requirements for Plan Approval:</b> CR#4 must accurately reflect PWNHC’s authority over archaeological sites.
---

## **CR# 5 – Watershed Management**

Revised Wording:

*A land use activity must not substantially alter the quality, quantity and rate of flow of surface or ground water within Special Management Zones, Conservation Zones, and Proposed Conservation Initiatives.*

**GNWT Analysis:**

The GNWT supports this statement as a broad policy objective. It is consistent with the NWT Water Stewardship Strategy, to which the GNWT is a signatory. The GNWT wants to work with approving parties to find ways to meet the intent of this statement.

GNWT has concerns with putting this statement into a legally binding plan as a conformity requirement, as it may have implications to MVRMA roles and responsibilities, especially for larger projects that go through an Environmental Assessment.

**GNWT's Requirements for Plan Approval:** In the interest of clarity, the GNWT requires Plan wording that accurately reflects the provisions in the SDMCLCA. Proposed wording by AANDC would address the GNWT's concerns in this regard.

**CR#6 – Drinking Water**

Revised Wording:

*1) Regulators shall prohibit any land use activity that would result in the contamination of surface or groundwater within community catchments as shown in Map 6 is prohibited.*

*2) Where there is reasonable potential for any land use activity to affect a downstream drinking water source:*

- a. the affected community must be informed and engaged with respect to potential impacts, the design of mitigation measures and monitoring programs;*
- b. baseline water quality data must be collected from the drinking water source prior to the start of any activity; and*
- c. regular water quality testing of the source watershed must be conducted to monitor potential impacts.*

**GNWT Analysis:**

The GNWT supports the intent of the CR and recognizes the importance of considering community drinking water as a part of land use planning. As per s.25.2.4(c) of the SDMCLCA, water resource planning is an integral part of land use planning.

The GNWT is in the process of refining and finalizing drinking water catchment mapping within the Sahtu region. The GNWT wants to continue to work with the Planning Board in providing the most up to date information as it becomes available.

**GNWT's Requirements for Plan Approval:** The GNWT supports CR #6.

**CR#7 – Wildlife**

Revised Wording:

*1) Land use activities must be designed using the most current information for identified*

*species of interest and species at risk as obtained from ENR, CWS, DFO, the SRRB and the local Renewable Resource Councils.*

*2) Impacts to wildlife, their habitat and migration patterns, and important community harvesting areas must be prevented or mitigated to the extent possible.*

*a. In particular, all reasonable steps must be taken to follow the horizontal setbacks and minimum flight altitudes identified in Table 8 when near habitat sites during sensitive periods described in that table, unless human safety is of concern, and measures are developed with the appropriate organizations and the RRC to mitigate impacts to these species and their habitat.*

*b. In addition, DFO has established in-water construction timing windows for the protection of fish and fish habitat. These are updated from time to time and are available at <http://www.dfo-mpo.gc.ca/regions/central/habitat/os-eo/provinceterritories-territoires/nt/os-eo21-eng.htm>. During these periods, no in-water or shoreline work is allowed except under site- or project-specific review and with the implementation of protective measures.*

*c. Barren-ground caribou and boreal woodland caribou are especially important to communities and have been shown to be sensitive to disturbance. Map X shows important rutting and wintering habitat for the Bluenose-East and Bluenose-West barren-ground caribou herds (Oct 8-Mar31). Map Y identifies the range of boreal woodland caribou, which is considered to be critical habitat (year-round). All land use activities occurring in these areas during the specified times are required to address impacts to caribou and their habitat.*

**GNWT's Requirements for Plan Approval:** The GNWT supports CR #7.

## **CR#8 – Species Introductions**

Revised Wording:

*Regulators will ensure that land use activities do not result in the intentional introduction of non-native plant and animal species, or of domestic animal species or subspecies, except by special approval by the appropriate authority. All reasonable precautions must be taken to prevent the introduction of non-native species or sub-species.*

**GNWT Analysis:**

The GNWT recognizes that the SLUPB has taken previous wording suggestions into account.

**GNWT's Requirements for Plan Approval:** The GNWT supports CR#8.

## **CR# 9 – Sensitive Species and Features**

Revised Wording:

*1) Regulators shall ensure that any land use activity requiring a land use permit or water license must be designed using the most current available information on the location of rare or maybe-at-risk plants, hot and warm springs, mineral licks, karst features, amphibian sightings, and ice patches and carried out in a manner that minimizes impacts to these features.*

*2) Specifically, land use activities:*

*a) must not take place within 1000 m of any known mineral lick, unless the activity cannot feasibly meet this requirement, and it can be demonstrated that alternative mitigation measures will protect the lick.*

*b) that are situated within the boundary of glacial refugia or within 500 m of known hot or warm spring(s), and have the potential to impact rare or may-be-at-risk plants as identified in Table X shall require a plant survey. Any rare or may-be-at-risk plants found in the survey shall be monitored for impacts from the activity.*

*c) situated within the area of ice patches identified in Map X must contact the PWNHC (archaeology@gov.nt.ca) to determine if any ice patches are in the vicinity of the activity. Activities must not take place within 150 m of the edge of ice patches unless authorized by the PWNHC.*

*3) The location of any hot or warm spring or mineral lick discovered while carrying out an authorized activity must be reported to nwt\_pas@gov.nt.ca, and any amphibian sightings to nwtsoer@gov.nt.ca.*

**GNWT Analysis:**

We concur with AANDC's suggestions and that the protection in the original wording will still be met through their revised wording. Reference to information sources that are subject to change should be to sources outside of the Plan (i.e., community catchments).

**GNWT's Requirements for Plan Approval:** The GNWT supports CR#9 as written, but also supports AANDC's recommendations to meet the intent.

**CR#10 – Permafrost**

Revised Wording:

*Any land use activity requiring a land use permit or water license must be designed and carried out in a manner that prevents and/or mitigates adverse environmental impacts resulting from the degradation or aggradation of permafrost.*

**GNWT analysis:**

Slight wording change would make it extremely clear that the CR deals with matters appropriate to project planning. There are challenges in making a conformity determination with respect to an activity once an authorization has been issued.

**Suggested wording:**

Any land use activity requiring a land use permit or water license must be designed ~~and carried out~~ in a manner that prevents and/or mitigates adverse environmental impacts resulting from the degradation or aggradation of permafrost.

**GNWT's Requirements for Plan Approval:** The GNWT supports CR#10.

**CR#11 – Project Specific Monitoring**

Revised Wording:

1) Regulators shall ensure that any land use activity includes a site-specific monitoring program, developed in cooperation with affected communities that is sufficient to monitor the effectiveness of the activity's proposed mitigation measures and any impacts to in protecting zone the values in the surrounding area, as defined in the Plan's Background Report, zone descriptions and in discussions with communities.

2) In the Great Bear Lake Watershed, the monitoring program will be sufficient to monitor the ecological integrity of the watershed.

**GNWT Analysis:**

We agree that monitoring plays an important role in the regulatory process. We have suggested wording that allows for scalability.

**Suggested wording:**

Regulators shall ensure that ~~any~~ land use activities **are designed to** include a site-specific monitoring program **that is appropriate for the size and scale of the activity**. This should be developed in cooperation with affected communities and is sufficient to monitor the effectiveness of the activity's proposed mitigation measures and any impacts to the values in the surrounding area, as defined in the ~~Plan's Background Report, zone descriptions and in discussions with communities~~.

2) In the Great Bear Lake Watershed, the monitoring program will be sufficient to monitor the ecological integrity of the watershed.

**GNWT's Requirements for Plan Approval:** The GNWT requires that this CR be rewritten in a manner that reflects the scope and scale of the land use activity and is therefore not too onerous on activities that have little or no impact.

**CR#12 – Financial Security**

Revised Wording:

*The LWBs shall ensure that financial security is posted and maintained with the Minister Aboriginal Affairs and Northern Development Canada for all activities requiring a land use permit or water license under the Mackenzie Valley Resource Management Act that is not carried out by a local government or the territorial or federal government, in an amount sufficient to cover the full cost of reclamation, including shutdown, closure and post-closure activities.*

**GNWT's Requirements for Plan Approval:** The GNWT supports CR#12.

**CR#13 – Closure and Reclamation**

Revised Wording:

*On termination or abandonment of a land use activity, Regulators shall ensure that any area*

*affected by the land use activity is restored to a viable, self-sustaining ecosystem consistent with the surrounding ecosystem or expected future uses of the area as determined in consultation with residents, communities and responsible authorities. Progressive reclamation is encouraged.*

**GNWT Analysis:**

GNWT does not understand how a conformity determination can be made for an activity that will happen in the distant future. Our understanding is that conformity determination must be capable of completion prior to the issuance of an authorization which does not appear to be possible for this CR.

GNWT has previously provided wording that has been accommodated i.e., *or expected future uses of the area as determined in consultation with residents, communities and responsible authorities.*

**GNWT’s Requirements for Plan Approval:** The GNWT understands the intent of CR #13 but would like further discussion at the tripartite.

**CR#14 – Protection of Special Values**

Revised Wording:

*Any land use activity proposed within a Special Management Zone, Conservation Zone or Proposed Conservation Initiative must be designed and carried out in a manner that protects, respects or takes into account the values of the zone as directed in the Plan’s Zone Descriptions.*

**GNWT Analysis:**

Roles and responsibilities: must be appropriate to project planning.

**Suggested wording:**

*Any land use activity proposed within a Special Management Zone, Conservation Zone or Proposed Conservation Initiative must be designed ~~and carried out~~ in a manner that protects, respects or takes into account the values of the zone as directed in the Plan’s Zone Descriptions.*

**GNWT’s Requirements for Plan Approval:** The GNWT supports CR #14 with suggested wording.

**CR#15 – Ecological Integrity**

Revised Wording:

*Any land use activity in the Great Bear Lake Watershed must be consistent with the maintenance of the ecological integrity of the watershed, and the present and future well-being of affected residents and communities.*

**GNWT Analysis:**

No specific concerns have been raised, but notes that the guidance is complex and a plan should be straightforward and simple to implement.

**GNWT’s Requirements for Plan Approval:** The GNWT supports CR#15.

## **CR#16 – Fish Farming and Aquaculture**

Revised Wording:

*Fish farming and aquaculture are prohibited within the Great Bear Lake Watershed.*

**GNWT’s Requirements for Plan Approval:** The GNWT supports CR#16.

## **CR#17 – Disturbance of Lakebed**

Revised Wording:

*A land use activity that would disturb the lakebed of Great Bear Lake is prohibited, except:*

- a) the installation of environmental monitoring equipment; and*
- b) the installation of public, private or commercial wharves and docks.*

**GNWT Analysis:** The GNWT supports the suggestion by AANDC to address the maintenance of the Community of Deline water intake.

**GNWT’s Requirements for Plan Approval:** The GNWT supports CR #17, with the inclusion of AANDC’s suggestion.

## **CR#18 – Uses of Du K’ets’Edi (Sentinel Islands)**

Revised Wording:

*All land use activity is prohibited on Du K’ets’Edi (Sentinel Islands) except for the installation, maintenance and repair of research and monitoring equipment.*

**GNWT’s Requirements for Plan Approval:** The GNWT supports CR#18 providing that there is no restriction on low-impact tourism activities.

## **CR#19 – Water Withdrawals**

Revised Wording:

*The withdrawal of water for industrial purposes from Lac Belot, Stewart Lake or Tate Lake is prohibited.*

**GNWT’s Requirements for Plan Approval:** The GNWT supports CR#19.

## **Actions: Overall Requirements for Plan Approval**

**GNWT analysis:**

The SLUPB June discussion document states:

“Actions are measures directed at the Sahtu Secretariat Incorporated, GNWT or the Government of Canada that do not regulate land or water use (e.g. research, meetings). Actions were developed to resolve larger issues or data gaps needed to move the Plan forward during

future review cycles. By approving this Plan, the Parties agree to make reasonable efforts to complete all Actions pertaining to them.”

**GNWT’s Requirements for Plan Approval:**

GNWT will require that the non-discretionary language of Actions and Recommendations be replaced with language that appropriately reflects the intent that agencies will make reasonable efforts. For greater clarity, “shall” must be replaced with “will make reasonable efforts”, or other appropriate discretionary language.

**G. Proposal to distinguish between Special Management Zones (SMZs) and General Use Zones (GUZs)**

The GNWT would like to discuss this further at the tripartite meeting.