

Sahtu Land Use Plan

The First 5 Years:
A Look Back to Move Forward

Prepared as component of the SLUPB's mandate
under MVRMA Section 50



SAHTU LAND USE PLANNING BOARD

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List of Abbreviations

- “ENR” means the Department of Environment and Natural Resources (GNWT).
- “EPA” means Established Protected Area.
- “GNWT” means the Government of the Northwest Territories.
- “MVRMA” means the Mackenzie Valley Resource Management Act.
- “PCI” means Proposed Conservation Initiative.
- “SDMCLCA” means the Sahtu Dene and Metis Comprehensive Land Claim Agreement.
- “SLUP” means the Sahtu Land Use Plan.
- “SLUPB” means the Sahtu Land Use Planning Board.
- “SSA” means the Sahtu Settlement Area, the area within the Northwest Territories described in Appendix A of the *SDMCLCA*.
- “SSI” means The Sahtu Secretariat Incorporated.

List of Definitions

- “**Action**” means a measure directed at various bodies, including Designated Sahtu organizations, departments and agencies of the federal and territorial governments, and co-management boards, to advance planning issues or fill data gaps needed to move the SLUP forward during future review cycles. By approving the SLUP, the Approving Parties agree to make reasonable efforts to complete all Actions pertaining to them.
- “**Applicant**” means an individual, company or organization applying for an authorization relating to the use of land.
- “**Approving Parties**” means the Sahtu Secretariat Incorporated (SSI), and the territorial and federal Ministers who are responsible for approving the SLUP.
- “**Authorization**” includes a licence, permit or other authorization relating to the use of land, water or resources or the deposit of waste, issuable under any federal or territorial law.
- “**Designated Sahtu Organization**” means a Sahtu organization designated pursuant to chapter 7 of the *SDMCLCA* and includes the Sahtu Secretariat Incorporated, or any successor organization.
- “**Disposition**” means the issuance of a lease or interest relating to the use of land and water as per S. 25.2.9 of the *SDMCLCA*, and includes an equivalent interest granted by a district land corporation.
- “**Land**” includes land, waters and other resources.

- **“Land Owner”** means a district land corporation, the territorial government or the federal government.
- **“Legacy Land Use”** means a land use activity that is defined and exempted from some or all of the Conformity Requirements as per S. 2.5 D.
- **“Planning Partners”** means residents, communities, Designated Sahtu Organizations, departments and agencies of the territorial and federal government, co-management boards, industry, businesses, non-government organizations and members of the general public who are affected by or interested in participating in the planning process.
- **“Recommendation”** means a statement that identifies additional factors or measures for applicants and regulators to consider or act on during project reviews. Recommendations are not legally binding, and approval of the SLUP by SSI, the GNWT and Canada does not make Recommendations legally binding.
- **“Regulator”** means a body having authority under any federal or territorial law to issue an authorization, whether or not the body is a “designated regulatory agency” under Part 5 of the *MVRMA*.
- **“Traditional Knowledge”** means knowledge and values, which have been acquired through experience, observation, from the land or from spiritual teachings, and handed down from one generation to another.
- **“Wildlife”** means all *ferae naturae* in a wild state including fish, mammals and birds.

The First 5 Years: A Look Back to Move Forward

This document was prepared to communicate the approach of the Sahtu Land Use Planning Board (SLUPB) as it advances land use planning in the Sahtu Settlement Area. The SLUPB is mandated to conduct a comprehensive review no later than 5 years after the Sahtu Land Use Plan (SLUP) took effect on August 8, 2013.

The purpose of this document is to define the 5-Year Review in two parts. The first part is the comprehensive review. This has been accomplished through ongoing monitoring work over the past 5 years, and summarized in this document by answering questions posed in SLUP Section 5.8. This SLUP section also states that a result of the comprehensive review is to make a determination of one of two outcomes regarding the need to amend the SLUP. **The SLUPB has determined that amendments are required.**

The second part of the review is to establish a means to scope the amendment process. The SLUPB has described within these pages its opinion on the minimal amendments required, as well as indicated other areas that an amendment process could expand upon. While it is the SLUPB's mandate to conduct the 5-Year Review and amendment process, the SLUPB is of the opinion that there must be agreement from the 3 MVRMA Approving Parties at the onset. This is based on lessons learnt from the SLUP development and ongoing amendment process. Furthermore, to develop and approve amendments to the SLUP, the SLUPB and its Planning Partners will be required to identify and allocate resources suitable to achieve the agreed upon task.

The SLUPB is inviting interested parties to submit comments on this document by July 27, 2018. Comments received will inform an amendment scoping session. This will be a SLUPB hosted meeting with the Sahtu Secretariat Incorporated, Government of the Northwest Territories, and Government of Canada. The outcome of this meeting is intended to be a set of action steps that will scope the amendment process and will result in amending the SLUP in a timely manner.

Mandatory 5-Year Review (MVRMA Section 50)

The SLUPB is required to conduct a Comprehensive Review no later than 5 years after the SLUP took effect.

Comprehensive Review (MVRMA Section 50)

A planning board shall carry out a comprehensive review of a land use plan not later than five years after the plan takes effect and thereafter every five years or at any other intervals agreed to by the federal Minister, the territorial Minister and the first nation of the settlement area.

This document is a review of the SLUPB's overall opinions on the SLUP's effectiveness during the first 5 years of implementation, providing recommendations for future planning activities. The SLUPB has arrived at the opinions in this review through ongoing monitoring activities of SLUP implementation by the Board and its staff. This included hiring a contractor in 2016 to conduct the SLUP Assessment released in January 2017. The next recommended stage involves gaining input from the three MVRMA Approving Parties and Planning Partners on their response to the SLUPB's opinions, and scope a process for amending the SLUP.

SLUP Background Information

The SLUP came into effect on August 8, 2013, after sequential approval by the 3 MVRMA Approving Parties. In the 3 years since approval, the SLUPB has focused its efforts on initial implementation of the Plan. There have been notable successes in this respect. Key accomplishments include:

- Printing and distribution of the approved Plan, and roll out of the SLUP at the August 2013 SSI annual assembly in Tulita (2013).
- Webpage redesigned to communicate planning activities, online zoning map created and GIS files available to the public for download, and hosting an online registry to post information regarding the SLUPB decision making process (2014-2015).
- Drafting and adoption of Rules of Procedure regarding conformity determinations, exceptions applications, amendments to the Plan, and public hearings (2014).
- Revision of GIS Zoning shapefile to a unified 1:250,000 scale (2014).
- Referral of first conformity determination with decision delivered (2014).
- Revising land use zoning maps following the creation of the Nááts'ihch'oh National Park Reserve (2015).
- Initiated a Plan amendment process following the creation of the Nááts'ihch'oh National Park Reserve. Issued the Background Report for public comment, hosted 3 public meetings, and prepared the Draft Amendment Application for MVRMA Approval Party Review (April-Oct 2015). Hosted a follow-up public meeting (June 2016), and gathered additional Planning Partner input. Released an amendment application for public comment (January 2017), and produced a report summarizing comments received and proposed next steps. Process suspended (April 2017) with the cancellation of a SLUPB/Approving Party meeting at SSI's request for additional time.

- Conducted a Sahtu Land Use Plan Assessment (released January 2017), through an outside contract. The Assessment was a review of quantitative and qualitative information on Plan Implementation. This included a review of SLUPB files, gathering data on authorizations and dispositions issued since Plan approval, and surveys and interviews with key planning partners to understand their implementation successes and challenges.
- Further revision of GIS Zoning Shapefile to 1:50,000 scale (*GIS Protocols, Methodology and Physical Limits Zone Description- Trial for Review 2016*). Independent review by external consultant completed (April 2017). Planning Partner review of revised maps should be a component of the 5-Year amendment process.
- Digital archival of Traditional Knowledge collected through past SLUPB planning processes. This included the scanning of paper documents including 784 large format maps and 4282 pages of documents collected as part of community member interviews conducted from 1998-2000. (Summer/Autumn 2017)
- Providing information to applicants and regulators to support Plan implementation (ongoing). As an example of progress, the Sahtu Land and Water Board has issued over 20 land use permits and water licences with no conformity determination referrals to the SLUPB.
- Ongoing communication with Planning Partners through interactions with the three approval parties (i.e. presentations at SSI annual and regular meetings, participating in Government of the Northwest Territories Planning Forum), as well as engaging other Planning Partners (i.e. NWT Board Forums, MVRMA workshops (January 2016, February 2017), Northern Planning Conference (February 2016), and numerous Sahtu community meetings).

The accomplishments of the first 5 years of SLUP implementation should be considered in the context of the dynamic cultural, economic, and political environment in which the SLUP was developed. The SLUP is a document that represents the culmination of 15 years of land use planning with the purpose of protecting and promoting the existing and future well-being of the residents and communities of the SSA, having regard for the interests of all Canadians.

This open and inclusive process was based on a balanced approach that considered how land use impacts the economic, cultural, social, and environmental values of the SSA. Its approval as a first generation plan recognizes that future land use planning activities would be required as part of an ongoing process to:

- review SLUP effectiveness within the integrated system,
- re-consider planning topics that failed to gain consensus during SLUP development,
- consider new data and information (scientific research and traditional knowledge),
- respond to economic, social and environmental changes within the settlement area, and
- offer improvements through amendments and 5-Year Review.

Land Use Planning is a forward looking discipline. Leading into 2013 there were several key activities on the horizon happening outside of the SLUP planning process. The following are representative examples:

- **Devolution-** The SLUP was approved prior to the signing of the Devolution agreement between the Governments of Canada and the Northwest Territories. While the planning process anticipated this occurring, the SLUP and Implementation Guide were drafted based on the decision making processes in

place before devolution occurred.

- **MVRMA Amendments-** The SLUP was drafted prior to the MVRMA amendments in 2014. While there were no anticipated amendments to Part 2 of the MVRMA, the SLUP considered the then-proposed changes to other components of the co-management regime that would impact how the SLUP would be implemented.
- **Canol Shale Exploration-** The SLUP was finalized during a period of high exploration interest in the Central Mackenzie Valley. The oil and gas industry was an active planning partner at the time. From the time following the SLUP's approval, this exploration interest has waned, changing the tenor of the conversation on economic development and public investment in the SSA.
- **Proposed Conservation Initiatives-** The SLUP zoning includes 4 Proposed Conservation Initiatives. Since then, the Nááts'ihch'oh National Park Reserve of Canada has been established (2014). Furthermore, the Tsá Tué Biosphere was established under UNESCO. This designation was unanticipated, but further recognizes the community of Délneᑦ's commitment to protecting Great Bear Lake and its watershed.
- **Infrastructure Development-** SLUP development considered existing and major infrastructure proposals. This included the proposed Mackenzie Gas Pipeline, approved prior to the SLUP, as well as an all surface highway through the valley. While there has been minimal activity to advance these projects, the unanticipated Mackenzie Valley Fibre Optic Link was installed along the same general Mackenzie Valley corridor as the previously mentioned linear projects.

In addition to these high profile SLUP considerations, there have been a number of other current events and rising issues that may impact future land use. These include: mineral exploration potential, caribou population decline and habitat protection needs, changes in practice and institutional organization within government and co-management partners, shifting economic development priorities, proposed territorial environmental protection and mining legislation, and so on. Coupled with this have been changes in leadership and staff across the spectrum of Sahtu land use Planning Partners. There is new information in the form of scientific studies and traditional knowledge collection. With this, the 5-Year Review becomes an opportunity to revisit old issues with new eyes, and for experienced Planning Partners to consider new ideas and paths forward.

5-Year Review Key Considerations (SLUP 5.8)

The SLUPB is guided in this comprehensive review by SLUP Section 5.8. This section proposes a series of key considerations to guide the 5-Year Review. The SLUPB has chosen to address each of the questions posed in 2013. From this, the SLUPB has developed preliminary recommendations for consideration in scoping a SLUP amendment process.

Do the vision and goals still reflect the values of the region?

“Building a Vision for the Land” was released in November 2000. This SLUPB document reflects the earliest planning work done at the community level to formulate a vision and the goals for the SSA. That input, along with the incorporation of the Great Bear Lake Watershed Management Plan, remained fairly consistent throughout the 15 year development of the SLUP. The Sahtu Land Use Plan Vision and Goals are communicated as SLUP Section 1.5.

The Vision and Goals were reviewed as part of the SLUP Assessment Project. Based on input received from primary users of the SLUP, it was concluded that:

- The goals in the SLUP are too broad to say whether or not the SLUP itself was making a difference in meeting its goals.
- It is still too early to assess the progress towards these goals.
- Due to respondent hesitation to answer questions regarding the Vision and Goals, there is insufficient data to conduct a detailed analysis of how the SLUP is meeting its Vision and Goals.

The recommendation from the consultant that conducted the Assessment was to consider refining these goals during the 5-Year Review.

THE SLUPB RECOMMENDATION:

This is a key consideration to begin the discussion on the need to amend the SLUP. As Section 1.5 sets the direction for the SLUP, any potential changes to the Vision and Goals would influence how the remaining elements of the SLUP are to be discussed and amended as needed. It would be expected that the Vision and Goals of any planning process be generated by the primary beneficiaries of the SLUP.

- Consideration should be given to revising Goals as statements that can be measured and benchmarked to the implementation of other SLUP Sections, primarily conformity determinations, actions and recommendations.
- To accomplish this, at least one round of community consultations held in the 5 Sahtu communities and Yellowknife should be conducted to seek input on the SLUPB Vision and Goals.
- That input should be brought to the SLUPB to consider any amendments needed to Section 1.5.

Is the Plan achieving the vision and goals of the region and of the individual zones?

Looking towards the results of the SLUP Assessment, the SLUPB has heard that the SLUP’s Vision and Goals are broad and lack a means to be measured. To understand the reason behind this requires a review of SLUP Section 1.5.

SLUP Section 1.5:

“The Dene and Metis People’s vision and goals are holistic, covering all aspects of their future aspirations. Not all of these can or will be addressed by the Plan through conditions for land use (e.g. education vision and goals). This holistic vision and goals for the SSA are provided for consideration of organizations, departments and agencies as they carry out their respective mandates.”

As stated in the previous section, the SLUPB has limited information or data to measure the effectiveness of the SLUP’s Vision and Goals. As well, considering the holistic language used to draft the Vision and Goals, there lacks “measurability.” This means that the SLUP’s goals are not specifically tied to individual zones or the implementation of core SLUP elements (conformity determinations, actions and recommendations). Furthermore, they are purposely and ambitiously included to address institutions and their work that goes beyond the implementation of the SLUP.

This holistic approach presented challenges in the later stages of the SLUP development. This was well documented in input received on Draft 3. This included discussion on issues related to overlapping co-management responsibilities and perceptions that the SLUP was setting priorities for other organizations, and funding obligations the Governments were not willing to commit. Ultimately this input resulted in a number of actions and recommendations being removed from the SLUP.

THE SLUPB RECOMMENDATION:

- Support for a round of community consultations conducted to seek input on the SLUPB Vision and Goals.
- Consideration should be given to revising the Goals as statements that can be measured and benchmarked to the implementation of other SLUP Sections, primarily: zoning, conformity determinations, actions and recommendations.
- Input from Planning Partners should be brought to the SLUPB to consider any amendments needed.

Is the Plan achieving the purpose established for it under SDMCLCA and the MVRMA?

Based on input received through the SLUP Assessment, qualitative input from primary SLUP users suggest that the approval and implementation of the SLUP is achieving its purpose established for it under the SDMCLCA and the MVRMA. However, the degree of success is hard to tell. This is in part due to the holistic language of the Vision and Goals that make quantifying success challenging. In addition, the limited development activity in the SSA has resulted in a small pool of authorizations and dispositions to “test” the SLUP.

While there is no evidence the SLUP is operating contrary to the SDMCLCA and MVRMA, additional time may be required to fully integrate and assess the effectiveness of all elements of the SLUP.

SLUPB RECOMMENDATION:

- None.

Have there been any exception or amendment requests that signal a need for a change?

As of the date of this report, the SLUPB has received no applications for exceptions during the first 5 year planning cycle. There has been one amendment application brought forward by the SLUPB. The SLUPB also notes that inquiries have been made regarding zoning changes. However, no formal applications have been submitted.

Following the establishment of the Nááts'ihch'oh National Park Reserve of Canada in December 2014, the SLUPB initiated a process to amend the SLUP. In April 2015, the SLUPB released a background report that communicated information available, and proposed a public process to have an amendment application by autumn of 2015. Within 6 months (October 2015), a Draft Amendment Application was prepared and presented to the 3 MVRMA Approving Parties for an initial review.

Based on input received from the Approving Parties and other Planning Partners through the course of 2016, the SLUPB revised its approach. With additional input from interested parties, the SLUPB delivered and posted an Amendment Application for public comment in January 2017. Upon review of the comments received, the SLUPB proposed a March 2017 meeting with the 3 Approving Parties. This meeting was cancelled when one of the parties communicated it was not prepared to participate. As of the date of this document's release, the SLUPB awaits a response from that party to further the process.

SLUPB RECOMMENDATION:

During the first attempt to amend the SLUP, the SLUPB was able to deliver its first draft on its original schedule, respond to input received, and revise its approach to deliver an amendment application. However, the proposed amendments have not been adopted by the SLUPB nor presented for approval. There are lessons learnt from this and the development of the SLUP, which can be applied to developing amendments that would be as a result of the 5-Year Review consultations.

The primary lesson learnt from this process is the need for appropriate scoping and agreement on the amendment process. The MVRMA Section 40 calls for the planning board to consult with the Federal Minister, the Territorial Minister, and the first nation of the settlement area to determine the objectives to be considered and other factors to be taken into account in the preparation of the land use plan. The current Board is of the opinion that the "Building a Vision for the Land" (released in November 2000) served to meet that requirement. While that document served as a basis for developing the holistic vision and goals, it did not specifically outline a step by step way towards the final SLUP.

During the first SLUP Amendment, the SLUPB put forward its process for public comment (including input from the Approving Parties). However, the SLUPB did not go as far as seeking a formal approval of the process from the Approving Parties. As a result, the Approving Parties requested additional time to review and submit comments, resulting in a process that had to be revisited and revised multiple times. This caused issues for the SLUPB in terms of establishing consistency, appropriate sequencing of planning activities, and efficient use of its available resources. The following are a summary of the recommendations for moving forward.

- The ongoing amendment process should be rolled into the 5-Year Review amendment process.
- The 3 Approving Parties should be actively engaged at the onset of the scoping of the 5-Year Review Amendments.

- The Approving Parties should sign off on the scope of work to be undertaken by the SLUPB to amend the SLUP. That scope should have defined deliverables (consultations, reports, drafts amendments) that adhere to a set schedule (i.e. review timelines).
- The Federal Minister should resource the SLUPB to carry out the approved scope with adequate incremental funding.
- All Approving Parties and Planning Partners should have dedicated resources (i.e. staff/consultants/legal and travel) to fulfill their obligations (meeting participation, document reviews) of the approved scope.
- All Approving Parties and Planning Partners will adhere to a timeline that will keep the process advancing at a reasonable pace to achieve the objectives of the approved scope.

Is there new information available that needs to be considered in land use decisions?

In July 2010 the SLUPB released the SLUP Background Report. The Background Report was prepared to capture some of the main characteristics of the SSA, its people, the culture, special places, the biophysical environment, the economy and the regulatory regime. Above all, the Background Report was intended to help readers understand the Sahtu, the reports, and information that were considered in the decision making process to draft the Sahtu Land Use Plan. It should be understood that this was the “best available information” at the time.

Since 2010 the SLUPB has monitored and collected releases of new information that may have value to ongoing planning practices. Examples of new information include data from Statistics Canada and the NWT Bureau of Statistics to understand demographic trends, release of government framework and strategy documents, and as well as new reports and studies related to special values or areas of interest in the Sahtu such as wildlife, environmental/climate changes, natural resources of economic importance, etc. Furthermore, updating and maintaining Geographic Information Systems (GIS) datasets has been a priority for the SLUPB. This was demonstrated during the SLUP amendment process. The SLUPB used updated GIS datasets and studies to produce maps to inform the decision making process.

While the 2010 document remains relevant as a description of the “main” characteristics of the SSA, the information within it is now dated. Consideration to new data and information is key to any SLUP revision, however, the SLUPB has yet to determine how best to present this information or how it will factor into future amendments.

The SLUPB also conducted a comprehensive review of the SLUP Zoning, with the goal of defining metes and bounds, refining the scale of the GIS shapefile to 1:50:000, and correcting discrepancies. Users of the SLUP should understand that the zoning maps found in the approved document were based on mapping done at a scale of 1:250,000, or in some cases at 1:1,000,000.

With an objective to reproduce the SLUP zoning based on the original intent for establishing each zone, this work included reviews of SLUP development documents, meeting notes, communications with planning partners, and older versions of shapefiles used to create the current zoning maps. This was a yearlong effort carried out by SLUPB staff. The SLUPB’s GIS staff accessed improved datasets (i.e. topography, hydrology), established standards for uniformity across the region, refined zone descriptions for reproducibility (i.e. use of metes and bounds), and identified potential errors in the existing maps. The draft shapefiles were then sent for an external review by a contracted consulting firm.

This work has been completed and is ready for consideration as part of the 5-Year Review process. While the SLUPB believes it has a more technically sound product for its zoning work, it contains significant changes that have not been vetted by Planning Partners.

SLUPB RECOMMENDATION:

- As a component of scoping appropriate 5-Year Review amendments, discussions and decisions should be made regarding the incorporation of new information. The basic issue being how best to present this information. One option is for the SLUPB to conduct a comprehensive revision of the Background Report. This would capture and present the “big picture” in terms of current reports and information available to inform the scoping of the 5-Year Review amendments. The alternative would be to scope potential amendments and then selectively review only the relevant new information that would target the decisions to be made.
- There should be an opportunity for review and public comment on proposed 1:50,000 scale zoning maps. This should include focused work at the community level with Planning Partners that have knowledge of specific zones. This is to maintain the integrity of the zoning exercise and ensure the original and current goals for the zone(s) are carried forward through subsequent amendments that would lead to the adoption of the revised zoning.

Have there been changes in Proposed Conservation Initiatives that need to be updated in the Plan?

There are 4 Proposed Conservation Initiatives (PCI) in the approved SLUP. Since the SLUP’s approval, one new Established Protected Area (EPA), the Nááts’ihch’oh National Park Reserve of Canada, was added in the SSA. The current statuses of the 4 PCIs are as follows:

Zone 39 Do Et’Q (Doi T’oh Territorial Park and Canol Heritage Trail Reserve): Since Devolution, there remains ongoing work to restore and transfer lands from the Federal to Territorial government. It is the SLUPB’s understanding that there are no significant advancements that would require reconsideration of the PCI designation.

Zone 41 Nááts’ihch’oh: In December 2014, the Nááts’ihch’oh National Park Reserve of Canada (NANPR) was established. Per MVMRA Section 34 on Application of Part 2 (Land Use Planning), the SLUP ceased to apply within the NANPR. Per SLUP Section 2.2, the SLUPB has led a process to amend the SLUP to rezone lands within Zone 41 that were not included in the Park.

Zone 65 Ts’ude niline Tu’eyeta: It is the SLUPB’s understanding that considerations for permanent legislative protection are still being considered. The GNWT-Department of Lands has communicated to the SLUPB that once the existing land withdrawal expires (Dec. 2017), it will not be renewed. The SLUPB also understands that the GNWT-ENR is leading a process to develop new protected area legislation which may provide permanent protection options for consideration. The PCI designation will continue to provide a level of conservation protection, while discussions and planning for a permanent protection measures continue.

Zone 66 Tuktut Nogait (Sahtu Expansion): It is the SLUPB’s understanding that the Canada National Parks Act has not been amended to include the Sahtu Expansion of the Park. Until that happens, the Zone will remain a PCI.

SLUPB RECOMMENDATION:

- Amendments proposed by the SLUPB regarding Zone 41 should be brought forward and incorporated into the scope of amendments that may come from the 5-Year Review.
- The SLUPB shall continue to monitor and seek input from the various parties engaged in seeking permanent protection for PCI Zones 39, 65, and 66 to determine if there are any potential amendments to consider.

Are there new land uses, issues, or major projects on the horizon that need to be addressed?

The SLUP was approved as a living document, intended to be improved upon over time. During the development of the SLUP, a number of items raised in the planning process were set aside for future consideration as part of the 5-Year Review, or considered for amendments as they arose. As a result, a number of Draft 3 Actions and Recommendations were not included in the approved SLUP. As a commitment to the ongoing planning process, these past proposals may be reviewed to determine if they now have relevance.

When the SLUP was approved, the SSA appeared to be on the verge of significant oil exploration activity in the Central Mackenzie Valley. A number of issues were raised at the time regarding the practice of hydrologic fracturing, access to landfills, transportation of waste and hazardous materials, access and use of water, impact of development on wildlife, water quality, other environmental concerns, as well as general regional employment and population growth (i.e. crime rates, available housing, increased need and demand for community infrastructure and services). This interest faded by 2014, but the potential for future exploration remains.

The Sahtu has significant mineral resources that could provide economic development opportunities. However, in recent years, investment opportunities have been limited. It is understood that the Government of the Northwest Territories is developing a mineral strategy and undertaking a review of mining legislation. There may be value through the 5-Year Review for the SLUPB to receive input from the GNWT and Planning Partners on their views of future mineral exploration and potential for mine development.

For decades the Mackenzie Valley has been identified through various initiatives as a future Infrastructure Corridor. The Mackenzie Valley Winter Road and Enbridge Pipeline 21 were in place when the SLUP was approved. While the likelihood of being constructed is low, the Mackenzie Gas Project was recognized in the SLUP Implementation Guide as a legacy land use. Since the SLUP's approval, the Mackenzie Valley Fibre Optic Link Project was completed, linking Inuvik to Fort Simpson. For decades, an all-season highway has been discussed and proposed. The GNWT put forward an application in 2013, which was referred to an Environmental Assessment. Since then, the proposal has been modified. A project is under construction, building a 14 KM access road from Norman Wells to just past the Canyon Creek bridge, southeast of Norman Wells. The current zone descriptions include references to existing and proposed infrastructure. There is an opportunity through the 5-Year Review to update descriptions as well as bring clarity and define an infrastructure corridor through the valley.

Traditional teachings and practices leave no doubt about the link that the Sahtu Dene and Metis are intimately connected to the land and water. The people living there are inherently tuned to changes brought about to the landscape and natural cycles. Wildfires, low water levels along the Mackenzie River, unfavourable conditions for maintaining winter road, and changes to populations of important harvested species significantly impacts the livelihoods of people living in the region. Climate Change and its impacts are frequently communicated as an issue of concern. Fuel trucks breaking through ice crossings, low water levels cancelling barge service, poor air quality due to

wildfire smoke, and food security threats due to low caribou populations are only a handful of examples that are locally described as linkages between Climate Change and Landscape Health.

SLUPB RECOMMENDATION:

- Consider revisiting topics (Actions and Recommendations) raised during SLUP development that were not included in the approved SLUP.
- Review Oil and Gas and Mineral exploration interests to determine if the SLUP is consistent with current regional, territorial, and federal objectives. In addition consider industry needs for future development, as well as potential impacts to traditional land users, local communities, and environment.
- Seek to bring clarity by identifying a preferred Mackenzie Valley Infrastructure Corridor in the SSA.
- Revisit the linkage between land use planning and climate change. Does the SLUP adequately consider the attitudes expressed in the region to inform future land use activities?

Have there been any challenges related to the implementation of Conformity Determinations that need to be addressed?

Conformity Determinations was a subject reviewed as part of the SLUPB Assessment. As a quantitative piece of the assessment, the consultant reviewed the number of authorizations issued in the SSA. Through interviews and surveys, a qualitative assessment was also conducted to gain a sense of how conformity determinations were being incorporated into the regulatory regime. The conclusion drawn during the SLUPB Assessment was that overall Planning Partners are positive about how the SLUP has been implemented. Evidence of this being that regulatory agencies that are responsible to implement portions of the SLUP have successfully issued authorizations. However, with the limited development activity in the SSA since SLUP approval, there is a broad consensus that the SLUP has not fully been tested.

The SLUPB has only received 2 conformity determination referrals. Neither of the referrals fit the model 10-day practice proposed in the SLUP Implementation Guide. The first conformity determination took 1 month and 6 days to make a decision (referred March 26, 2014; decision issued May 2, 2014). The second referral was received on December 3, 2015. After 1 year and 3 months, the SLUPB applied Rule 4.6(1) and suspended a decision pending the completion of a Developers Assessment Report as part of the Environmental Assessment process. As of the date of this document, no further action has been taken.

SLUPB RECOMMENDATION:

To further clarify the SLUPB decision making process, the SLUPB developed rules of procedure. These were approved in 2014. In the SLUPB's view, the rules of procedure more accurately reflect the steps needed to return a decision in comparison to the Implementation Guide released in 2013.

- Through consultation with regulators, or as part of the Action #1-Working Group, the SLUPB may request additional input on how conformity determinations are being incorporated into decision making processes.
- It would be the SLUPB's opinion that no amendments regarding conformity determinations are needed at this time. What would be more appropriate is to review and update the SLUP Implementation Guide based on the current procedures being used, with an objective of seeking consistent interpretation of Conformity Requirements.

Are there areas of ambiguity that can be better clarified?

As the SLUP has been implemented, there have been questions raised on interpretation, application, as well as how the SLUP applies to changes that have occurred within the Northwest Territories regulatory regime since its approval.

The SSA covers 283,000 km². During the course of developing the SLUP, numerous changes were made between drafts. Through the editing process, errors were prone to be passed from one draft to another. For example, if a zone map change was made, then changes would need to be made to other maps, zone description texts, tables, etc. While many of these errors were caught through the final review process, the SLUPB has noted relatively minor errors in the SLUP. These and other minor typographical and grammar changes should be made to improve the overall clarity of the document.

Devolution also brought changes that should be addressed. For example Conformity Requirement #12- Financial Security states that financial security must be posted and maintained with the Minister of Aboriginal Affairs and Northern Development. Post-Devolution Security for land use permits and water licences are posted and maintained by the Government of the Northwest Territories Department of Lands (for land use permits) and Environment and Natural Resources (for water licences). This Conformity Requirement is clearly out dated. Furthermore, due to changes in regulatory practice since the Conformity Requirement was first proposed, it is debatable if it needs to remain in the SLUP.

The Sahtu Implementation Guide was developed as a SLUP supporting document to provide context and rationale for why aspects of the SLUP were in place. This supporting information included description of key regulators, land owners, authorizations and dispositions that implement the SLUP. Following Devolution and legislative changes that resulted from it, a number of significant changes are needed in this document. Of particular note are the Appendices.

As the SLUP has been implemented, the SLUPB has raised questions regarding ambiguity with the MVRMA. The SLUPB was a participant in the 2014 amendment process, which resulted in only one change to MVRMA Part 2. Since that time, the SLUPB has faced implementation questions as they pertain to shared implementation responsibility, in particular with the sequencing of conformity determinations and environmental assessments. These questions were submitted as comments as part of the 2017 MVRMA amendment process. While that process is ongoing, the SLUPB again does not anticipate many changes to Part 2.

SLUPB RECOMMENDATION:

Due to the limited development activity over the course of the past 5 years, there may be minimal need to suggest significant amendments to the SLUP. However it is of the SLUPB's opinion that any ambiguity on SLUP implementation should be raised at this time. Should these issues not result in SLUP amendment proposals, it would still be recommended that the Sahtu Implementation Guide be revised to reflect current legislation and regulatory practice.

- The SLUPB will present a list of identified errors (mapping, text) found within the SLUP. Through a public comment process, or as part of the Action 1-Working Group, the SLUPB would seek additional input on errors that others may have noticed.
- In coordination with the two governments, the SLUPB will conduct a review of existing legislation to consider potential amendments to SLUP Sections 5.2- *Authorizations that Implement the SLUP*, and 5.3-

Implementation of Conformity Requirements Through Dispositions. This would be accompanied by a review and update the SLUP Implementation Guide to incorporate legislative changes since 2013.

- Review implementation practices as they pertain to SLUP Section 5.1-*Shared Responsibility for Implementation*, and consider potential amendments. This should be done in consultation with the governments, co-management regulators and other appropriate parties, or as part of a SLUP Action #1- Working Group. It may be more appropriate to address these issues as part of an Implementation Guide review.

What progress has been made on Actions?

Of the four Actions in the SLUP, only *Action #1- Sahtu Land Use Working Group* was directed to the SLUPB. Leading up to SLUP approval, this action was viewed as a means to continue the dialogue on land use planning and address a number of topics that were not fully resolved during SLUP development. However, the two governments were clear that nothing in this Action implied a commitment for additional funding. The SLUPB refrained from convening the working group immediately after approval. The rationale being that a certain period of time was needed to better understand priority issues.

In April 2016, the SLUPB attempted to convene the working group in concert with the SLUP Assessment. A letter from the SLUPB Chair was sent to gauge interest and seek representation from the organizations listed in Action #1-2). The SLUPB received an underwhelming response. The Délı̄ne Land Corporation was the only Designated Sahtu Organization to respond. This was surprising to the SLUPB as the inclusion of this Action was driven by Sahtu interests. Industry and Environmental organizations expressed a desire to participate, however indicated that lack of travel funding would limit their participation. While the two governments offered to send representatives, the SLUPB did not feel that it had the balanced participation that the Action envisioned. In absence of the working group, the SLUPB has relied on its staff to coordinate with the various organizations independently on issues as needs arise.

Through the SLUP Assessment, the SLUPB sought information regarding the implementation of the other 3 Actions. The consultant concluded that the task of defining progress of the actions was challenging because the actions are not written in measurable terms. That is to say they lack implementation indicators or timelines. The Actions can be considered ongoing and could never be deemed complete. In the absence of a binding legal authority, they are also more likely to be placed at the bottom of the priority list.

SLUPB RECOMMENDATION:

The findings of the SLUP Assessment were predicted in input received during the SLUP's development, and does not come as a surprise to the SLUPB. It should be remembered that the SLUP was finalized and approved as a living document. The Actions, as written, can best be described as “compromises” of the SLUP development process. The questions that remain for the SLUPB centre on Planning Partners' interests in further developing the concepts that the Actions represent.

- In consultation with the three Approving Parties, the SLUPB seeks to review the Actions to determine a path forward. The fundamental question being: is there value in having non-binding actions directed to non-SLUPB actors in the hopes that they will recognize and advance the Action as presented in the SLUP, or should the Actions be re-written to include implementable indicators with reasonable timeframes for completion?

How effective are the current Recommendations?

It is the opinion of the SLUPB that SLUP Recommendations have received minimal attention during the first 5 years of SLUP implementation. SLUP Recommendations are non-binding and directed to applicants and regulators. The SLUP Assessment found no evidence of any significant implementation of recommendations through the SLUP.

As with SLUP Actions, Recommendations were identified as issues of importance. However for various reasons, they were not elevated to Conformity Requirements. In the case of *Recommendation #1- Air Quality*, there was a rationale to include this recommendation in the SLUP due to voiced concerns over air quality and lack of air quality regulations. At the same time, there were arguments put forward that Air Quality was not a land use issue as mandated by the SDMCLCA and MVRMA. The compromise was a “Recommendation”. Climate change was addressed in much of the same way. It was identified as an important issue, but consensus on how to best address it as conformity requirement could not be reached.

SLUPB RECOMMENDATION:

As with Actions, it should be remembered that the SLUP was finalized and approved as a living document, and the Recommendations written as “compromises” of the SLUP development process. The questions that remain for the SLUPB centre on Planning Partners’ interests in further developing the concepts that the Recommendations represent, as well as consider other initiatives outside of land use planning that may be accomplishing the same objectives.

- In consultation with the three Approving Parties, the SLUPB seeks to review the Recommendations to determine a course of action. The fundamental question being: is there value in having non-binding recommendations, or should the recommendation be revisited in terms of conformity requirements?

Outcome of the Five-Year Review

Per SLUP Section 5.8 the Five-Year Review may result in two possible outcomes:

- a. If the Board determines that no revisions are necessary, the previous SLUP will continue in effect.
- b. If the Board determines that amendments are required, the Board will adopt the proposed amendments, and submit them for approval to the three Parties, following the same approval process as set out in Section 43 of the MVRMA. The amended SLUP will take effect once it is approved by the federal Minister. The previous SLUP will remain in effect until then.

The SLUPB has determined that amendments are required. The Board has also determined that the scoping of the amendments should be conducted in consultation with the three MVRMA Approving Parties. In conjunction with scoping the amendments to the SLUP, the Board would seek to review and revise the SLUP Implementation Guide.

While it is the SLUPB's mandate to conduct the 5-Year Review and amendment process, the SLUPB is of the opinion that there must be agreement from the 3 Approving Parties on the onset to:

- Set reasonable expectations for the scope of the amendments,
- Set reasonable timeframes for bringing amendments forward in a timely manner that allows time for the SLUPB to conduct planning activities, for open and transparent engagement with all interested Planning Partners, and acceptable periods for review of draft and final amendment application, and;
- Commit appropriate financial resources to the SLUPB through SDMCLCA implementation funding.

The Board is of the opinion that at a minimum, the scope of the amendments should include:

- Correction of mapping and zone description irregularities, formatting, typographical, grammar, and other minor changes that bring clarity to the SLUP,
- Review of legislative and regulatory changes since 2013, in particular Devolution, to revise the SLUP so that it more accurately reflects the current status of the integrated resource management system,
- Update zoning maps to a 1:50,000 scale, accompanied by improved zone boundary descriptions, and
- Incorporate the ongoing Nááts'ihch'oh Amendment process.

In addition, the SLUPB will seek input from the 3 Approving Parties on potentially expanding the scope of the amendment process. In order to accomplish this, the SLUPB would require significant resources above and beyond its current levels. Expanded scope items to consider for amendments may include:

- Vision and Goals
- Conformity Requirements
- Actions
- Recommendations
- Zoning Changes
- Other elements of the SLUP as agreed upon by the SLUPB and 3 Approving Parties.

Next Steps

To begin the 5-Year Review amendment process, the SLUPB will seek input from the 3 Approving Parties and Planning Partners. This input will be first requested as written comments. These comments are intended to set the agenda for a facilitated meeting between the 3 Approving Parties and the SLUPB. The desired outcome of this meeting is a consensus on a direction for scoping the 5-Year Amendment Process. That should include a set of measured action steps and timelines, or alternatively an agreed upon intermediate step, that would support the SLUPB in meeting its mandate per MVRMA Section 50.

Timeline:

Jan. 23, 2018 SLUPB releases *The First 5 Years: A Look Back to Move Forward* for public comment.

Comments should be submitted to the SLUPB Chair by:

email: chair@sahtulanduseplan.org
post: PO Box 235, Fort Good Hope, NT X0E 0H0
fax: 867-598-2545
in person: SLUPB Office, Yamoga Building, Fort Good Hope, NT

July 27, 2018 Public comment period closes.

Summer 2018 SLUPB seeks and secures an independent contractor to facilitate a meeting between the 3 Approving Parties and the SLUPB. (PENDING FUNDING APPROVAL)

Fall 2018 Approving Parties and the SLUPB meet in the Sahtu Region.

Winter 2018 Facilitator prepares and delivers a summary report summarizing the meeting and agreed upon next steps for scoping the 5-Year Review amendment process.

Board Members and Staff Contact

This document was prepared under the direction of the SLUPB.

Members:

Heather Bourassa- Chair

Dakota Erutse- SSI Nominee, Vice-Chair

Rick Hardy- SSI Nominee

Edna Tobac- GNWT Nominee

**Vacant- Government of Canada Nominee*

Any questions on this document should be directed to SLUPB staff at:

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