



Sahtu Land Use Planning Board

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SLUPB Staff Report: Public Input into the Nááts'ihch'oh Amendment Process

Presented August 27th
SLUPB Meeting, Yellowknife

Overview of Public Input Process

At its March 19-20, 2015 meeting, the SLUPB put forth a plan to collect public input regarding possible amendments to the Sahtu Land Use Plan (SLUP) following the establishment of the Nááts'ihch'oh National Park Reserve (NANPR). Two methods for collecting this input were proposed:

- By preparing and distributing the *Background Report: Amending the Sahtu Land Use Plan following the creation of the Nááts'ihch'oh Nation Park Reserve* (referred in this document as the Background Report) for written comment; and
- Hosting three public meetings (Tulita, Norman Wells, and Yellowknife).

The Background Report was released on April 17 for a 60-day comment period. It outlined the Board's understanding of the development of the Nááts'ihch'oh National Park Reserve (NANPR), current status of Zone 41 and land use planning considerations, and description of the proposed amendment process. The Board received seven sets of written comments from:

- Wildlife Conservation Society Canada
- Canadian Parks and Wilderness Society
- Parks Canada Agency
- NWT & Nunavut Chamber of Mines
- Aboriginal Affairs and Northern Development Canada (AANDC)
- Government of the Northwest Territories- Lands (GNWT)
- Sahtu Renewable Resources Board

The three public meetings were held in Tulita (July 15), Norman Wells (July 16), and Yellowknife (July 20). In Tulita, nineteen (19) people signed the meeting attendance sheet, but a staff head count estimated attendance closer to 30 people. Five (5) people attended the Norman Wells meeting. Twenty-one (21) signed-in for the Yellowknife meeting.

During the Tulita meeting, there was a request to extend the public comment period on the Background Report. The period was extended until August 3, and was announced at each meeting as well as posted on the SLUPB website. No additional comments were received.

As proposed in March, the intent of the August SLUPB meeting is for the Board to consider all information gathered through research, written comments received, and the public meetings. The Board should now decide if it has all the information needed to prepare an amendment



application.

- If yes, the Board will prepare the draft the amendment application.
- If no, members will identify what additional information is required, including the need for Tri-partite consultations, and revise the schedule as appropriate.

Written Comments

Seven sets of written comments were received. These comments were made available to members at the June 19 SLUPB teleconference. Comments were then posted to the SLUPB website to allow for public viewing prior to the July public meetings. Content of the submittals were considered to inform the agenda of the public meetings and improve the accuracy of information presented by the SLUPB staff.

Of the 7 considerations listed in the SLUPB Background Report (pages 11-17), most comments regarded issues on: Watershed and Ecosystem Protection, Wildlife Habitat, Mineral Resource Potential, and Infrastructure.

Positions supporting Conservation Zoning for all or parts of Zone 41 came from the Wildlife Conservation Society Canada, Canadian Parks and Wilderness Society-NWT, and Sahtu Renewable Resource Board. Comments focused on wildlife habitat protection, in particular mountain woodland caribou, as well as Dall's sheep and grizzly bear. Concerns were also raised on potential impacts of mineral exploration and development should roads and mining activities be allowed.

The NWT and Nunavut Chamber of Mines recommend that the area be preserved for their development potential, and not locked away from development. Comments referenced historical Sahtu and NWT mining activities, and the potential for new economic and employment benefits. In their view, mining may be an alternative economic driver to diversify a region that has recently focused on oil and gas development and production. There was also a recommendation to create a Sahtu Mineral Development Strategy.

Comments from the Parks Canada Agency clarified details regarding the History and Background Section of the report, but did not offer comments for future land uses in areas left out of the NANPR.

Written comments were received from two of the three *Mackenzie Valley Resource Management Act (MVRMA)* approval parties. Aboriginal Affairs and Northern Development Canada (AANDC) stated that: "...it is the Government of Canada's expectation that any amendment to the Sahtu Land Use Plan will permit resource development opportunities in those areas excluded from the *Nááts'ihch'oh National Park Reserve*." This was a reaffirmation of the government's position submitted in April 2013 during its review of the final draft SLUP.

The submission from the Government of the Northwest Territories Department of Lands (GNWT) commented on the Land Selection Process and the Zone's Mineral Potential and Tourism Potential. The GNWT also provided an Ecological Representation Map. The GNWT did not provide any specific input on wildlife, stating that it would evaluate the implication of re-zoning during later steps in the process.



The other approval party, the Sahtu Secretariat Incorporated (SSI), did not provide written comments. SSI did request the SLUPB Executive Director present the Background Report at its June 24th meeting. Following the presentation, the SSI Chair stated that SSI would need to further discuss the SLUP amendment process with its membership. To date the SLUPB has not received any written comments from SSI.

Public Meetings

SLUPB agenda, maps and presentation materials for all three meeting were identical. The only noted exception being that the SLUPB provided a translator for the Tulita and Norman Wells meetings. It was clarified at the onset of each meeting, that these were not decision making meetings. Rather this was an opportunity for the public to review the information the Board had previously collected and to provide input that would inform the Board's later decision making process. The agenda was as follows:

- A) Opening
 - i. Overview of agenda and event purpose
 - ii. Introductions
- B) SLUPB Staff presentations
 - i. Land use planning in the Sahtu
 - ii. History of the park reserve development
 - iii. Overview of information gathered by SLUPB (mapping presentation)
 - iv. SLUPB identified values for amendment consideration
- C) Public Comment
 - i. Discussion and recording of participant input
- D) Closing
 - i. Wrap up summary of key public issues raised
 - ii. Next steps in process

As directed by the Board, the meeting was chaired by a member of the Board. His role was to provide an introduction and ensure that the meeting was conducted in an orderly manner. The Executive Director represented the Board by presenting all information and facilitating the public comment sessions. The Board's GIS Analyst/Planner projected maps and GIS data during the presentation and recorded notes during the public comment session. Following the meetings, the PowerPoint presentation was posted to the SLUPB online registry.

In Tulita and Norman Wells, a majority of attendees (21 of 24, based on sign in sheets) identified themselves as a member of a Designated Sahtu Organization (DSO), Renewable Resource Council (RRC) or other community based designation. There were 2 mining industry representatives at the Tulita meeting. In Yellowknife, there were no community representatives signed in. That meeting was attended by representatives of governments (11), co-management boards (6), not-for-profit organizations (3), and one consultant. The Government of the Northwest Territories Department of Lands was the only participant that sent a representative to all 3 meetings.

The following is a summation of questions and comments raised during all three meetings, as assembled from SLUPB staff notes. The following indicate which meeting(s) the subjects were raised: **T** = Tulita **NW** = Norman Wells **YK** = Yellowknife



Clarification of SLUP, zoning and amendment process

- General questions on existing SLUP zoning (GUZ, SMZ, CZ, PCI, EPA) and conformity requirements. **(T, NW, YK)**
 - Response: Review of SLUP zoning map.
- How are Board members appointed and can they make decisions on their own? **(T)**
 - Response: Members are appointed by the Minister of AANDC. They do not represent the parties that nominated them, but are independent members who carry out their responsibilities under the mandate set by the *Sahtu Dene and Metis Comprehensive Land Claim Agreement (SDMCLCA)* and MVRMA.
- Request for clarification on the application of the SLUP in the NANPR. **(T, NW, YK)**
 - Response: After coming under legislation in December 2014, per the MVRMA Section 34, the SLUP no longer applies to lands within the NANPR. Those lands are now managed as legislated.
- What information is available? **(T, NW, YK)**
 - Response: Visit the on-line registry on the SLUPB website. It will be updated with important information as the process advances.
- Multiple questions on Proposed Park Boundaries. **(T, NW, YK)**
 - Response: The entire PCI zone was not intended to be the park reserve's final boundaries. The PCI Zone was established in the SLUP to allow for the park planning process to determine the boundaries within. The PCI zone boundary was based on the federal land withdrawal established to limit land use activities during the park development planning process. For clarification, the 3 boundaries proposed and presented on the slide were for the Parks Canada consultation purposes. It is important to understand the park development is a separate process and has come to a conclusion. The SLUP amendment process is to consider appropriate land uses for the areas not included in the NANPR.
- Are there any Sahtu lands in Zone 41? **(YK)**
 - Response: No. All lands in Zone 41 are crown lands.
- Can the PCI Zone be changed? **(T)**
 - Response: Yes. That is the purpose of an SLUP amendment.
- Are PCI zones available for mineral claims? **(T)**
 - Response: No new mineral claims maybe staked within a PCI.
- How soon after an amendment could development be allowed? **(T)**
 - Response: An amendment would not take effect until after it is approved by all three MVRMA approval parties. It's coming into effect date would be the date approved by the Minister of AANDC.
- Do the areas have to be re-zoned all one way, or can there be multiple zones? **(T, YK)**
 - Response: Multiple zones could be designated.



- Why was the SW corner excluded from NANPR? **(YK)**
 - Response: The SLUPB's understanding is that there were previous mineral claims in that area.
- Recommendation from the Tulita meeting is that the SLUPB come back and conduct a 2-day workshop so that community members could provide additional information on specific areas. There was too much information to absorb in one evening meeting. **(T)**
 - Response: Acknowledged. Staff will take this recommendation back to the Board.

Wildlife Habitat

- Tulita Elders recommend that important Redstone calving grounds be protected in the northern section of Zone 41. **(T)**
 - Acknowledged
- Concerns were raised about resident hunters, and the potential for the area to become another Mile 222. Could the SLUP prohibit hunting if a conservation zone was established? **(T, NW)**
 - Response: No. The Board is not mandated to regulate hunting.
- Additional clarification was asked on buffers mentioned in the presentation. **(NW)**
 - Response: Conformity Requirement #7- Fish and Wildlife establishes setbacks, minimum Altitude and Sensitive Periods in all zones for grizzly bear dens, Dall's sheep lambing areas and mountain goat kidding areas.
- The entire area is important wildlife habitat for caribou, grizzly bear, Dall's sheep, and mountain goat and should be made a conservation area. **(T, NW)**
 - Response: Acknowledged.

Watershed Protection

- Request for protection for areas that make up the upper most reaches of the Keele and Redstone Watersheds that are located in the north and western edges of Zone 41. **(T)**
 - Acknowledged
- Concerns were raised regarding the lack of conservation protection for the portions of the Little Nahanni and Lened Creek watersheds left out of the NANPR. These are important headwaters for the Nahanni watershed. **(T, NW, YK)**
 - Acknowledged
- Concerns raised over future mining development and impacts of potential pollution sources in the headwaters of ecologically significant watersheds. **(NW)**
 - Acknowledged



Mineral Development

- It was suggested that if mineral resources were to be developed, community benefits could be maximized under local control and ownership. If opened to exploration and development, could Sahtu beneficiaries have right of first access, or could there be other ways to slow down outside industry interests that are better resourced to quickly take advantage of new opportunities? **(T)**
 - Response: Uncertain how an amendment could address this, and most likely is beyond the authority of the SLUP. Conformity Requirement #3 in the current Plan does address community benefits.
- Regional plans need to address mineral development strategies to diversify and create economic opportunities. **(YK)**
 - Response: Acknowledged.
- It was pointed out that the MERA study identified areas of highest mineral potential. Closing off these areas to exploration and development would hinder the region's ability to attract new investment, and associated economic and employment benefits. **(YK)**
 - Response: Acknowledged.

Infrastructure (Howard's Pass Access Road)

- General questions on the history and current status of Howard's Pass Access Road? **(T, NW, YK)**
 - Responses: Acknowledged that the access road was originally built in the 1970s. There were active land use permits and water licences in place to improve water crossings when the plan was approved in August 2013, which were grandfathered as they predate the land use plan. There are new land use permit and water licence applications to make further improvements. This activity is currently under an environmental assessment. The SLUP applies to 19 KM of the road, extending from the boundary of the NANPR boundary to the Yukon border.
- What access is provided for other roads in the area? **(T, YK)**
 - Response: SLUP zoning allows for roads to be built, and historically it is believed that there were other roads in the area that are no longer in use. Staff review of data shows that they may exist but that current condition is unknown. It was noted that legislation limits road construction within the NANPR, which may influence future road development in Zone 41.
- Will the road have access for tourists? **(T, NW, YK)**
 - Response: The SLUP does not have a role in determining road access.

Traditional Uses

- It was said that governments and industry have too much grandfathering power. Aboriginal trails and hunting areas should have more grandfathered protection as the people who used them were here long before government and industry. **(T)**
 - Response: Acknowledged.



- Is there protection for traditional uses and people with cabins? **(YK)**
 - Response: The SLUP does not affect traditional uses granted through the SDMCLCA. Its intent is to reaffirm those rights.

Multiple-Issues

- Multiple concerns were raised that significant decisions are to be made by the Board for areas that overlap with high mineral potential and important wildlife areas. Will there be future opportunities to comment? **(T, NW, YK)**
 - Response: It is the SLUPB's intent to collect and consider public comments before it prepares a SLUP Amendment Application. Should the Board advance an Amendment Application, the SLUPB Rules of Procedure require providing a public notice. This would create another opportunity for the Board to receive and consider public comments. If the Board moved to adopt an amendment, the amendment would still require approval from SSI, GNWT, and AANDC to take effect.
- Concerns were raised that Redstone and South Nahanni caribou herds would be impacted if all areas are left open to development. Recognizing that there are existing mineral claims and the Howard's access road, it was recommended there be a balanced approach by considering conservation zones and habitat mitigation measures in these areas. **(YK)**
 - Acknowledged
- As the area borders the Deh Cho and Yukon, what input is being sought from outside the Sahtu? **(YK)**
 - Response: The SLUPB has made its best efforts to collect publicly available data and information for lands boarding the Sahtu. Public notices were widely circulated to inform all potential planning partners, and the Board will consider any public input received.
- Is there any land use planning activity on the Yukon side of the border adjacent to the NANPR, as to have zone continuity? **(YK)**
 - Response: There is no land use plan for the areas adjacent to the NANPR on the Yukon side of the border. The Yukon Land Use Planning Council has not established a planning commission for this area.
- Multiple questions on Grandfathering, in particular relating to existing mineral claims and the Howard's Pass Access Road. **(T, NW, YK)**
 - Response: Legacy land uses are covered under SLUP 2.5D. The SLUP (or any amendment) cannot have a retro-active effect. Specifics on applying SLUP 2.5D, are best done on a case by case basis.
- What options does the SLUPB have to maximize biological values by connecting areas of the NANPR? **(YK)**
 - Response: The SLUPB would welcome those recommendations from biologists. The most likely method would be through identifying and describing the values for protection through zoning. There are also Conformity Requirements (CR #'s 7 and 9) already in the plan to consider impacts to fish and wildlife, and sensitive species and features.