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Nành' Geenjit Gwitr'it T'igwaa'in - Working for the Land: The Gwich'in Land Use Plan as Part of the Regulatory Process

I have been involved in land use planning since 1993. The Gwich'in Land Use Plan is based upon the best available information, and communities were very involved in the process through countless workshops and other events. People spent a lot of time determining the different areas and the significance of each area. The Board ranked natural and cultural values of areas with the potential for development.

How the Gwich'in Land Use Plan Works

- What the Gwich'in Land Use Plan looks like
- How it fits in the regulatory system
- Adaptability - responding to circumstance and keeping it effective over time

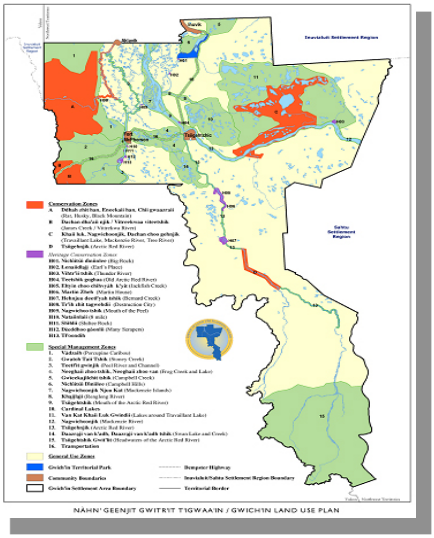
What Went Into the Plan?

- The best available information was gathered in each of the categories to the right.
- Communities mapped out areas of significant value and/or use.
- The Board ranked natural and cultural values of the areas with the potential for development.
- Areas that were given protection share the highest cultural and natural values:
    - Forestry/Plants
    - Water
    - Fish/Wildlife
    - Heritage/Culture
    - Tourism
    - Sand and Gravel
    - Oil and Gas
    - Minerals
    - Transportation
    - Communication and Utilities
    - Waste Management
    - Military Activities

The Plan Basics

- It's an integrated process, a good example of integration in terms of land use.
- There are three types of zones:
    1. General Use Zones (57% of GSA)
    2. Special Management Zones (33% of GSA)
    3. Conservation and Heritage Conservation Zones (10% GSA)

- Settlement Area is approx. 57,000 $km^{2.}$



Responsibility to Implement

Everyone must carry out powers in accordance with the land use plan:

From the Mackenzie Valley Resource Management Act:

Appendix C, 46. (1)

- The Gwich'in and Sahtu First Nations, departments and agencies of the federal and territorial governments, and every body having authority under any federal or territorial law to issue licences, permits or other authorizations relating to the use of land or waters or the deposit of waste, shall carry out their powers in accordance with the land use plan applicable in a settlement area.

Further Clarity on Responsibilities

From the Gwich'in Comprehensive Land Claim Agreement:

Section 24.2.10:

- Upon approval of a land use plan, those authorities with jurisdiction to grant licenses, permits, leases or interests relating to the use of land and water in the settlement area shall conduct their activities and operations in accordance with the plan.
- The inclusion of leases and interests is of special importance when looking at how to implement land use planning in unsettled land claim areas. The issues that arise are apparent when looking at how the Gwich'in land use plan fits within the regulatory system (below).

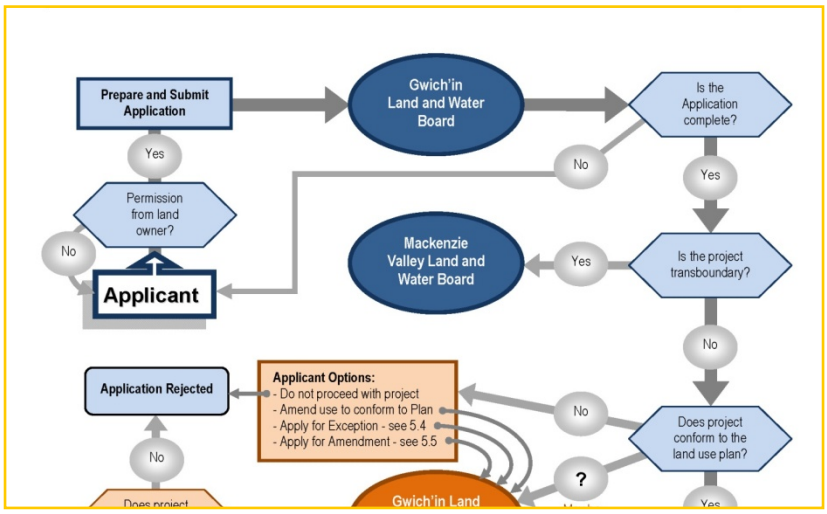
Process Chart Insights

The Land Use Planning Board does not see applications, but the bodies that do so check to ensure that they comply, and sometimes check with us. There are quite a few applicant options, and applicants can ask for an exception to the plan. Sometimes there are requests for amendments, such as for gravel pits on the edges of protected areas.

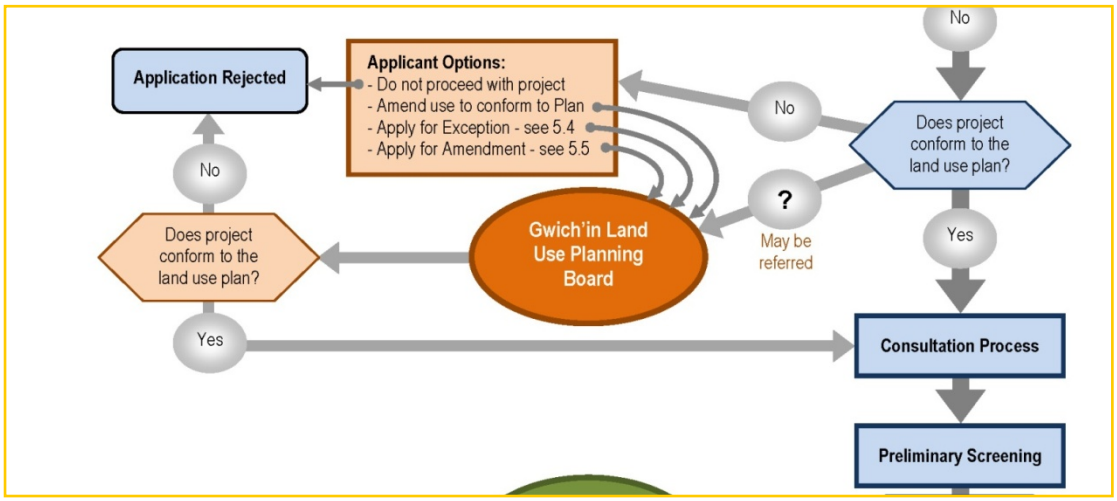
1. Permission from land owner: Landowner mangers should have an internal process for checking conformity of an intended land use when issuing an interest or land rights/access.
    - Mining recorders office: changes made to the Nunavut and Northwest Territories Mining Regulations to identify authority of land use plan zoning prohibition. (Liability issues).
    - AANDC Oil and Gas Directorate identifies Gwich'in Conservation and Heritage Conservation Zones as not eligible for nomination.

- AANDC Land Administration: refers land lease applications to the Planning Board for determination of conformance. (Have reviewed applications for private camps as well as Outfitter camps.)
- Gwich'in Tribal Council: usually internal check, sometimes informal discussion with Planning Board staff around an application.

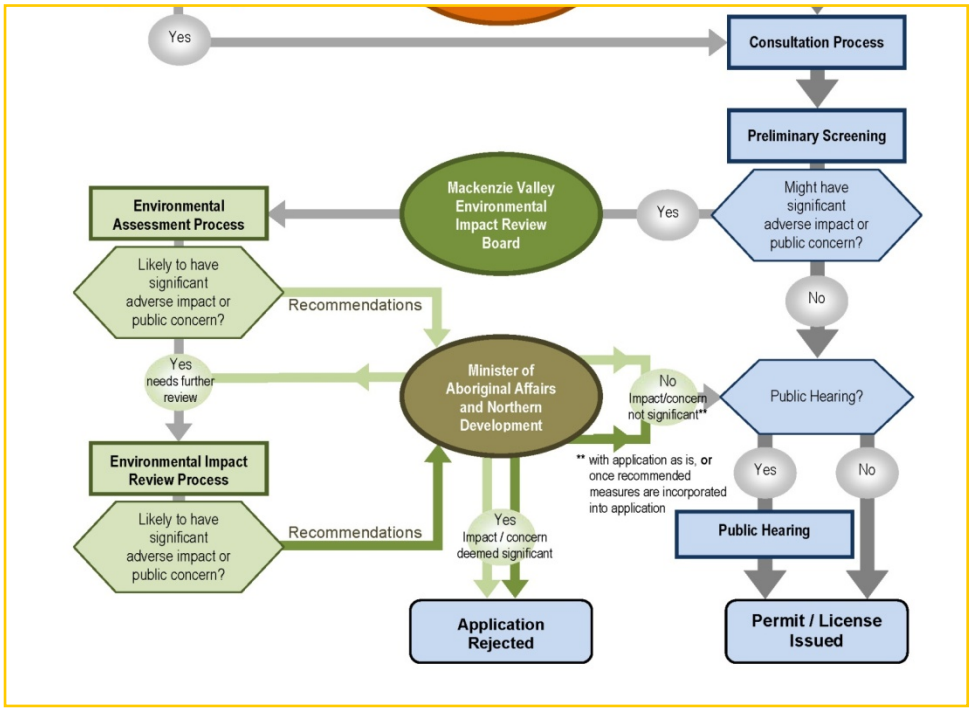
2. At the stage where a proponent is preparing their application to a regulatory authority they should have reviewed the Land Use Plan to see if their activity conforms, but also to see what issues the plan might identify as requiring special attention. The plan might also provide guidance and information regarding the regulatory process for proponents unfamiliar with the region. The Planning Board suggests that regulators have a recommendation for proponents to consult any applicable land use plan on their application templates and in any "guides."



1. Section 46 (1) requires Land Managers and Regulatory Authorities to check conformance of applications that they receive with the land use plan.
2. The Planning Board is given the responsibility for the decision regarding conformance under the following conditions: the land managers and regulatory authorities refer the application to the Planning Board for their decision, or an application for such a determination is made by any person directly affected by the activity identified in the regulatory application. (MVRMA Section 47 (1)).
3. The proponent has the following options with a non-conforming project:
    - Do not proceed with project
    - Adjust project to conform to the land use plan,
    - Apply to the Planning Board for an exception – a "one off" allowance for an activity that does not compromise the intention or integrity of the zone it is in. Decision made by the Planning Board. Timeframe: days to weeks.
    - Apply to Planning Board for an amendment – results in a change to the actual plan. Planning Board makes recommendation to the Plan signatories (GTC, GNWT, AANDC) who will make the decision.
    - Timeframe: months



1. Some conditions in the Plan are process oriented, such as a requirement of the Regulatory Authority to work with specific groups like the Gwich'in Social and Cultural Institute when developing or setting conditions to protect heritage resources in the project area. This type of condition usually only entrenches the policy that the GWLB uses when selecting contacts for its referral process.
2. While the Planning Board is mandated under the MVRMA to hold meetings and hearings as it deems necessary for the exception and amendment processes, the Board will look for opportunities to avoid duplicated efforts. Depending on the specific issues in an amendment or exception application, the Board hopes to potentially use the results of hearings held by a regulatory authority or the Mackenzie Valley Environmental Impact Review Board.



Long-Term Adaptability of the Plan

Comprehensive reviews occur every five years. This is the first plan ever approved of this nature. Received approvals from the Gwich'in Tribal Council, then GNWT, then stopped by feds, because of the free-entry system, re-establishing conservation zones between land use plan.

The review process spends a lot of time in the communities to see if perspectives have changed at the community level. It is a basic amendment process. The overall process is quite complex, but there is the general opinion that it works very well.

The Inuvialuit Settlement Region (ISR)

A couple of things are unique in the ISR. No legislation enables them, they are all entrenched in the Inuvialuit Final Agreement (IFA). There are quite a few co-management bodies: The Inuvialuit Game Council, Wildlife Co-management Body, North Slope Wildlife Co-management Body, Fisheries Joint Management Committee, Environmental Review Board. There is a strong relationship between co-management bodies and the Inuvialuit Game Council.

The Joint secretariat has become the body of first contact when issues arise; a body of convenience for government.

Post devolution: The Inuvialuit Game Council and co-management bodies will continue to be active participants in the management of resource development activities. This is also reflected in the Inuvialiuit Regional Corporation's participation as a party with Canada and GNWT in off-shore resource management and revenue sharing negotiations and agreements.

This is an intergovernmental agreement on resource management. Inuvialuit also entered into an agreement with GNWT to deal with issues in their region. There is a strong will to continue dialogue and meet everyone's interests. Joint Secretariat has been considered to be a coordinating body for on-shore and off-shore management systems.

- Comprehensive Review:
    - Happens once every 5 years
    - Begins by gathering updated regional information
    - Involves intensive consultation
    - Ensures the Plan is relevant and effective over time.
    - Any proposed changes receive approval through the amendment process
- The Planning Board is mandated to monitor implementation of the Plan. This includes reviewing decisions made by regulatory authorities and handling issues of enforcement of the conditions after authorizations are issued.