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Wednesday 21 October 2009

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Mercredi 21 octobre 2009

**Standing Committee on
General Government**

Far North Act, 2009

**Comité permanent des
affaires gouvernementales**

Loi de 2009 sur le Grand Nord

Chair: David Oraziotti
Clerk: Trevor Day

Président : David Oraziotti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 21 October 2009

Mercredi 21 octobre 2009

*The committee met at 1603 in room 151.*FAR NORTH ACT, 2009
LOI DE 2009 SUR LE GRAND NORD

Consideration of Bill 191, An Act with respect to land use planning and protection in the Far North / Projet de loi 191, Loi relative à l'aménagement et à la protection du Grand Nord.

The Chair (Mr. David Orazietti): Good afternoon, everyone. As we're continuing with the Far North planning bill, Bill 191, I'm going to ask Bill Mauro, the MPP for Thunder Bay–Atikokan, to take the chair, and I'll be able to fulfill my responsibilities as the PA to the Minister of Natural Resources. So if we could do that, we can continue on with clause-by-clause.

The Acting Chair (Mr. Bill Mauro): The first order of business, then, everyone, as I understand it, is a recorded vote on government motion 15.

Ayes

Kular, Mangat, Moridi, Orazietti, Rinaldi.

Nays

Bisson, Ouellette.

The Acting Chair (Mr. Bill Mauro): That is carried. Shall section 16, as amended, carry? All in favour? Opposed? Carried.

Section 17: There are no amendments. Shall section 17 carry? Opposed? Carried.

Section 18: We have NDP motion 15.1, Mr. Bisson.

Mr. Gilles Bisson: And it is withdrawn.

The Acting Chair (Mr. Bill Mauro): Motion 15.1 is withdrawn. So there are no amendments there.

Shall section 18 carry? All in favour?

Mr. Gilles Bisson: I still have an amendment under 18.

Interjection: Section 18.1.

Mr. Gilles Bisson: Oh, okay. Sorry.

The Acting Chair (Mr. Bill Mauro): That's a new section.

Shall section 18 carry? All in favour? Opposed? That's carried.

So we have the NDP, a new section, 18.1, motion 15.2. Mr. Bisson.

Mr. Gilles Bisson: I move that the bill be amended by adding the following section:

“Review of Act

“18.1(1) The minister shall undertake a periodic review of this act at least every five years, beginning from five years after this section comes into force, with a view to proposing amendments to this act.

“Participation of First Nations

“(2) In undertaking the review, the minister shall provide opportunities to First Nations to,

“(a) provide feedback on how the minister should undertake the review; and

“(b) provide meaningful input during the review.

“Report

“(3) The minister shall prepare a report of the review, lay the report before the assembly if it is in session, deposit the report with the Clerk of the Assembly if the assembly is not in session and provide a copy of the report to the First Nations.”

It's fairly straightforward. I think it would be fair to say that this is uncharted ground. We are going to be implementing, if this bill passes, a planning process for First Nations north of Highway 11 where none currently exists. I'm going to say that none of us can clearly say with certainty that, at the end of the day, we've got the process perfect. So what this tries to do is insert a process that says, “All right, what have we learned after this bill has been enacted? Actually, we've got the plans up and running to take a look at, does there need to be any change to the legislation that allows us to do that?”

The Acting Chair (Mr. Bill Mauro): Further debate?

Mr. David Orazietti: With respect to the motion that has been put forward, I certainly appreciate where the member is coming from on this motion. As the member knows, within the legislation, we have indicated that there will be a review at least within every 10-year period—as well, the policy statements that would be included.

There are a couple of other points I guess we could add on that. Forest management plans as well as provincial plans, such as the greenbelt and the review of the Oak Ridges moraine—those review periods are at least within 10 years. There's some consistency with existing legislation and precedent in that area.

So you might very well be right that the review may take place sooner than that—perhaps sooner than five—but I think we’re satisfied that the legislation has the mechanism in there where that can be reviewed, and it’s consistent with a number of other pieces of legislation and review practices already in place in the province of Ontario. That’s really why we can’t support this amendment.

The Acting Chair (Mr. Bill Mauro): Mr. Ouellette?

Mr. Jerry J. Ouellette: I just ask the member if he could give a further definition as to (2)(b), “provide meaningful input during the review.” If you could give it from two perspectives: What is meaningful in regards to the First Nations and meaningful in regards to the government or the ministry?

Mr. Gilles Bisson: Well, the fear is that what you end up with is more of the same when it comes to First Nations, that a consultation is deemed to be a fly-in meeting in some community, having a one- or two-hour conversation, and then everybody leaves and you say, “Okay, you’ve had your consultation.”

First Nations are taking this process seriously. They actually want to have a planning process, as you well know, but they want to make sure that it works in the end. But important to them is, they want to know that they have a meaningful role in whatever happens at the end. So the term “meaningful” is to say you just can’t fly into a community, have a two-hour conversation and then leave. There has to be more to it than just that.

The Acting Chair (Mr. Bill Mauro): Further debate? Seeing none, shall new section 18.1, NDP motion 15.2, carry?

Mr. Gilles Bisson: Recorded vote.

Ayes

Bisson, Ouellette.

Nays

Kular, Mangat, Moridi, Orazietti, Rinaldi.

The Acting Chair (Mr. Bill Mauro): The motion is lost.

We have sections 19 and 20 with no motions or amendments, so I’ll call the question on both together. Shall sections 19 and 20 carry? All those in favour? Opposed? Carried.

Section 21: NDP motion 15.3, Mr. Bisson.

1610

Mr. Gilles Bisson: I move that section 21 of the bill be amended by adding the following subsection:

“(2) Section 9 of the act is amended by adding the following subsection:

“‘First Nation’s use

“(6) Despite anything in this act except for section 16, nothing shall prevent a First Nation within the meaning of the Far North Act, 2009 from carrying on any activity in a provincial park or conservation reserve.”

You’ll wonder why I put that there. I’ve spoken to this a couple of times already. From the experience that First Nations have had to date, there have been a couple of instances where provincial parks and/or set-asides have been created within their traditional territory, and in some cases with very little in the way of any kind of input or discussion with the First Nation. They just wake up one morning and they find out an act has been passed in the Legislature, such as the one that created the Polar Bear Provincial Park, and all of a sudden they have been barred from having access for traditional use. We’re not talking about development here, we’re talking about being able to go out and hunt, gather, fish, trap—the traditional uses that they’ve done for the last 2,000 years. What NAN has told me in my conversation with them and with some of the communities is that they really fear that we’re going to have a repeat of the past: that what will happen is that we will end up protecting some piece of land, and somewhere down the process a community member who was not aware of the process of the Planning Act all of a sudden finds out that the place where they’ve normally gone and gathered or hunted or fished or whatever is now off limits. So it’s to make sure that we respect what the Constitution of Canada says about the rights of indigenous people when it comes to their traditional way of life.

The Acting Chair (Mr. Bill Mauro): Further debate?

Mr. David Orazietti: The motion, although certainly well intended—and I understand the member’s comments. First of all, the constitutional requirements and duty to consult are clear with respect to any of these types of changes. I think the member is perhaps aware that the government has a motion—the next motion, actually, that we’ll be dealing with—that deals, in fact, with this issue and does allow First Nations the opportunity to ensure that those lands that they see fit to be used for cultural purposes, whatever it might be—including development as well, because that’s something that I think we want to ensure First Nation communities have the opportunity to do, participate in the economic livelihood of this province. That mechanism is included and refined to some extent in government motion 16, which changes section 21, and that’s the issue around areas that are designated as protected areas that can be swapped or exchanged for areas that they may choose to view differently or act on in terms of cultural significance or economic development.

There is a concern as well with this motion that it speaks to only those in Treaties 5 and 9, and there are some concerns that there are implications for First Nations groups outside of this area; in other words, southern Ontario. So we can’t support this motion, and I think we have a motion that will be discussed next that will deal with Mr. Bisson’s concerns.

We did have some discussion on this topic on Monday, and I think you’re right with respect to the concerns that First Nations have around the ability and the term “park,” perhaps, and the use of the term “park” in the far north and the view that we should be talking about pro-

tected areas and various designations of protected areas and the types of uses that can go on in protected areas, which I believe we're going to continue to have a further discussion around.

I think we all know that the First Nations communities want to be assured and want to have some assurance that they can continue to engage in their traditional activities as well as economic development in these lands. So we can't support this particular amendment.

The Acting Chair (Mr. Bill Mauro): Further debate? Seeing none, we'll call the question—

Mr. Gilles Bisson: I was waiting for Mr. Ouellette, sorry.

The Acting Chair (Mr. Bill Mauro): Mr. Ouellette?

Mr. Jerry J. Ouellette: Something within that, “Despite anything in this act, except for section 16, nothing shall prevent a First Nation within the meaning of the Far North Act, 2009 from carrying on any”—wouldn't it be better if it were “traditional activity”? Some of the difficulties, I think, as the PA mentioned, would be, does this not open up to all First Nations any other First Nations' traditional land?

I realize the intent. I just want make sure that when aspects like this come forward, your intention is to make sure that those who are occupying and using those areas are the ones who have access to it.

Mr. Gilles Bisson: I wanted to speak to that. I see what you're saying as far as putting in the word “traditional,” and that's probably not a bad idea. But to the issue, and the parliamentary assistant spoke to it, you're also going to allow other First Nations people outside of Treaty 9 and Treaty 5 to participate. If you're living in southern Ontario on a reserve somewhere, you don't have a traditional claim to lands on the James Bay. They're totally disconnected.

The problem is that far too often the land is set aside as a park and by the time the person realizes that it's happened, it's like the horse has bolted out the barn doors. There are all kinds of examples around the creation of various parks in northern Ontario where First Nations found themselves in a situation, because they live in isolated communities—they don't get the Toronto Star every day; many of them don't have the Internet; the only thing they listen to is maybe Wawatay Radio and CBC North. But if you don't happen to catch a show that says there's a park being created in your corner, you don't know. So the next thing you know, there's a park created and you don't have traditional access.

The concept of the government—I understand what they're trying to do. They're saying in their amendment they're going to allow swapping. So if this block of land in the north part of the park that's being created is in conflict with somebody's traditional use, you might trade off a piece of land more to the southeast or west that would be suitable for the individual to use. The problem is, that could be a pretty long distance away. For those of you who have travelled the James Bay and travelled the Hudson Bay, Polar Bear Provincial Park is bigger than most of your ridings all put together. If you're trying to

say in the case of, let's say, Peawanuk, “George Hunter, you can no longer do traditional access, so therefore we're going to give the Hunter family access to some place to the west,” that some place to the west may be 200 or 300 miles away. How do you make that happen?

What we're trying to say is, this is not meant for development. What it's meant for is traditional use—that a First Nations member doesn't find themselves in a situation of having closed to them access to traditional lands that they have used for centuries in order to gather food and do traditional ceremonies. I just want to remind members that the gathering of food is part of the grocery shopping list that you have in the north. Many people living in places like Attawapiskat or Marten Falls or Peawanuk or Big Trout Lake don't go to grocery stores to get all of their food; a lot of their food comes from the land. They catch geese; they can their geese; they catch moose; they catch fish, and that's how they survive for a big part of the year because (a) it's traditionally what they do and (b) in some cases they can't afford the price at the northern stores.

We're just trying to make sure that, at the end, we don't throw the baby out with the bathwater when it comes to a First Nations individual's right to have traditional access to the ground that they normally have had, and we don't get caught up in situations like we did at Polar Bear Provincial Park. So I'd be prepared to accept the amendment as proposed by Mr. Ouellette that would add—

Mr. Jerry J. Ouellette: “Traditional”.

Mr. Gilles Bisson: “Traditional activity”—and that would be in inserted where again? Nothing shall prevent First Nations from carrying on “traditional” activity just after the word “any,” adding the word “traditional” before “activity”.

The Acting Chair (Mr. Bill Mauro): We'll need Mr. Ouellette to move that.

Mr. Jerry J. Ouellette: Yes, I move that NDP motion 15.3 be amended by adding the word “traditional” after the word “any” and prior to the word “activity”.

The Acting Chair (Mr. Bill Mauro): Any debate on the amendment? Mr. Orazietti.

Mr. David Orazietti: I guess, to get back to the point with respect to Mr. Bisson's concerns around access, nothing in the legislation is—

1620

The Acting Chair (Mr. Bill Mauro): Sorry, are you speaking to the amendment or to the original motion?

Mr. David Orazietti: I can't support the amendment.

The Acting Chair (Mr. Bill Mauro): So you're speaking to the amendment?

Mr. David Orazietti: I can't support the amendment or the motion, but with respect to the amendment—

The Acting Chair (Mr. Bill Mauro): Right now we're debating the amendment.

Mr. David Orazietti: I understand. The amendment to the amendment.

The Acting Chair (Mr. Bill Mauro): Yes, thank you.

Mr. David Oraziotti: In the provincial parks act, section 4 of the act indicates that traditional activities that continue to be of interest to aboriginal peoples in Ontario can go on in parks, and nothing precludes that from taking place. So with respect to this amendment, it's really not necessary. That protection is already in the provincial parks act. This is from the provincial parks act, section 4: "Nothing in this act shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights of the aboriginal peoples"—in other words, hunting, gathering, those types of things—"of Canada as recognized and affirmed in section 35 of the Constitution Act, 1982." So this is in there.

The aspect that you're talking about, with regard to boundaries of parks, or perhaps deregulation of a park or a portion of a park for economic activity or other activity that may be of interest to the First Nations within the land use planning framework—there is provision in section 21, and the next motion that we will be dealing with will speak to the issue around deregulation and the opportunities for First Nations. We're willing to have those discussions, and I understand there are some that are actually taking place at present. There are other opportunities, and I think this will make it very clear in the legislation that the deregulation of a provincial park or a portion of a park will be entertained, as we all recognize the concerns of the First Nations in the far north around those boundaries that have been drawn for provincial parks that some may suggest are arbitrary, to some extent. I think there are some other good examples—that they're protecting some ecologically sensitive areas and there's a reason for putting them there—but we're willing to have that discussion.

The protection that you're referring to around traditional use is already contained in section 4 of the parks act. We feel that's adequate and there's really not a reason to move forward with this amendment—either the amendment to the amendment or the original amendment.

The Acting Chair (Mr. Bill Mauro): Further debate on the amendment? Mr. Ouellette.

Mr. Jerry J. Ouellette: So what the PA is saying is, effectively, what is said here is already in the act and taken care of. Correct?

Mr. David Oraziotti: What I'm saying is that the issue that has been raised around hunting and gathering—traditional activities—is in the parks act.

Mr. Jerry J. Ouellette: So the intent of this amendment is already in the—

Mr. David Oraziotti: The parks act.

Mr. Jerry J. Ouellette: —parks act. Right. So what is the difficulty with including this to give some certainty to the First Nations communities, if it's already there and it's not going to change anything? I mean, how does it negatively impact anything if it's going to be included?

Mr. David Oraziotti: They already have that certainty within this framework, within the parks act. We also have a motion, or a proposed amendment, to deal with the

issue around development or deregulation of parks. So we're going to go further in the next amendment. I mean, there's no point to this amendment.

The Acting Chair (Mr. Bill Mauro): Mr. Bisson.

Mr. Gilles Bisson: The problem is that, yes, there is in the parks act a provision to supposedly allow people to have traditional use. The first part of the problem—you would know as minister that we've had problems in the past where the crown has taken the position that in fact there be no hunting in a particular park, even if it's traditional use, and we've had to go to court in order to deal with that issue.

The second thing is—I'd be interested to hear what leg counsel has to say—just because it's in the provincial parks act doesn't necessarily mean that that authority would exist under the far north planning act, unless you specify that in the legislation. I'd just question the leg counsel.

Mr. Michael J.B. Wood: I don't actually have section 4 of the Provincial Parks and Conservation Reserves Act in front of me. I'd like a chance to get it, or perhaps in the interim—

Mr. Gilles Bisson: He has it there.

Mr. Michael Wood: —the ministry staff could assist.

Mr. Gilles Bisson: There's a section in the parks act that deals with parks created under the parks act. If you're creating a protection area under the far north planning act, it's not necessarily a provincial park. They're two different authorities, right?

Mr. Michael Wood: I can offer some observations, but I caution that anything that I say—

Mr. Gilles Bisson: Can and will be used against you.

Mr. Michael Wood: Yes. You should also check with legal staff from the Ministry of Natural Resources, which administers the Provincial Parks and Conservation Reserves Act.

Section 4 seems to be a very standard provision that's in a number of acts, and it talks about preserving "existing aboriginal and treaty rights." That may be different from what this motion says, which talks about preserving the right to carry on an activity in a provincial park or conservation reserve.

Mr. Gilles Bisson: That's my view, and that's why we brought it forward.

Mr. David Oraziotti: I understand your position. I think it's fairly clear that this is consistent across the board. The protection is there within the parks act. That has been stated.

In section 3 of this bill, it says, "This act shall be interpreted in a manner that is consistent with the recognition and affirmation of existing aboriginal and treaty rights in section 35 of the Constitution Act, 1982, including the duty to consult." The spirit of that within this legislation is there. The parks act indicates that those traditional activities that you're referring to are protected under legislation.

With respect to the amendment, the wording that you've used here is that "nothing shall prevent a First Nation within the meaning of"—that seems to maybe go

beyond what the traditional activities are, in terms of the wording that you're using. So I have some concerns—

Mr. Gilles Bisson: Then you can suggest better language, if you want. I'm open to that.

Mr. David Oraziotti: I think we have it addressed, both within this legislation, in section 3, and within section 4 of the parks act. I think the issue has been addressed. As well, we have an amendment coming forward that will deal the other issues around deregulation of parks.

The Acting Chair (Mr. Bill Mauro): Mr. Ouellette.

Mr. Jerry J. Ouellette: I'm going to ask legislative counsel, how would this in the parks act apply to non-treaty First Nations communities that live in the north? We had a number of presenters who did not sign Treaty 9 or Treaty 5 and were found within the Far North Act, and they were not being bound by any treaty.

Mr. Michael Wood: I think it would be more reasonable to direct the question to legal staff at the Ministry of Natural Resources, which administers the act.

I offered an opinion earlier with respect to an interpretation of the motion, but your question goes beyond interpreting the motion; it involves interpreting the act.

The Acting Chair (Mr. Bill Mauro): Can I just ask you, please, to state your name?

Ms. Jessica Ginsburg: Jessica Ginsburg, legal counsel for Ministry of Natural Resources.

Your question, as I understand it, was how the non-derogation clause of the PPCRA, which is section 4, would be applied to non-treaty groups in the area of the far north.

Mr. Jerry J. Ouellette: The chief from Attawapiskat made a presentation and said that they were not signatories to Treaty 9 or Treaty 5 and had not signed a treaty agreement. I believe we had one other presentation from another First Nations community that had not signed on. So I'm wondering how the parks act would then apply—because it specifically states “treaty”—to First Nations communities who are not signatories to a treaty.

Ms. Jessica Ginsburg: Unfortunately, I was not actually in attendance at all of the hearings, so I don't know the specific situations of the different groups that you would have heard presentations from. Speaking in the hypothetical, therefore, there could be groups in the area who—and again, this is a bit difficult because I don't know the specifics. There could be groups who are signatory to a different treaty who are not far from that area. For example, Treaty 3 is not too far. It's still one of the northern treaties. So there could be individuals who are saying that their ancestors were signatory to a different treaty, or there could be individuals—this is all in a historical context, because of course most of the treaties precluded the lifetime of the individuals who would have been speaking—who were saying that their group or their family did not sign any treaty. It depends, really, on what the assertion is of the group that you're dealing with. There could certainly be people in that area who would claim aboriginal rights as opposed to treaty rights. If they were able to establish that they did hold

aboriginal rights, you can see that section 4 speaks to both aboriginal and treaty rights.

1630

As I said, it's a bit hard to know what they would be able to establish by way of what their legal rights are, and it's hard to even know what they would be asserting that their legal rights are. In theory, they could be asserting either that they have treaty rights under a different treaty or that they were not signatory to a treaty and thus held aboriginal rights. I'm not really sure, in the absence of more specifics.

Mr. Gilles Bisson: Just a follow-up question: The parliamentary assistant talked about the rights afforded First Nations under the parks act. Would that particular section apply to lands that are protected under the far north planning act? Would the parks act apply?

Ms. Jessica Ginsburg: If it's a provincial park or a conservation reserve, you have the PPCRA, the Provincial Parks and Conservation Reserves Act. The Far North Act does include its own provision, which the parliamentary assistant did quote to you, but if you look in the Far North Act, under section 3, it's not word for word the same as section 4 of the Provincial Parks and Conservation Reserves Act, but it's quite similar.

Section 3 says, “This act shall be interpreted in a manner that is consistent with the recognition and affirmation of existing aboriginal and treaty rights in section 35 of the Constitution Act, 1982, including the duty to consult.” This is the interpretation clause for the protected areas that would be falling under the Far North Act.

Mr. Gilles Bisson: No, I understand what's said in section 3. My question is, the parliamentary assistant referred to language in the parks act that affords the ability, despite all, to have traditional use of a park. That's what I'm wondering. Does that section apply to lands that are protected under the Far North Act?

Mr. David Oraziotti: I think the spirit is the same, particularly section 3 in the act we're dealing with right now, with Bill 191. It doesn't specifically say “individual treaties 5 and 9”; it says “aboriginal rights.” So to your point around broader aboriginal rights as opposed to treaty rights, it includes both.

The traditional activities you're talking about are included in this legislation in section 3, that there is protection “consistent with the recognition and affirmation of existing aboriginal and treaty rights in section 35 of the Constitution....” So it's in the existing legislation, and it's again reinforced in the parks act.

I think we're there. I understand where you're coming from because I know what you're hearing from First Nations communities around this. I think those traditional activities are being provided for and are being protected within this legislation. It's already there.

Mr. Gilles Bisson: I understand that argument. My question, though, is, you read a section of the parks act, and that section of the parks act referred to having traditional access—and I forget what the language was. You read it a little while ago.

Mr. David Oraziotti: It says, “Nothing in this act shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35”—the same reference in this legislation—“of the Constitution Act, 1982.” So the language is very similar.

Mr. Gilles Bisson: It’s a non-derogation clause, but that section doesn’t specifically say that you still have traditional access. I thought you had read something in the parks act that was similar to the motion that I had been proposing. That’s not the case.

Mr. David Oraziotti: That’s your interpretation of it. Section 4 of the parks act allows for the protection of traditional activities: “The protection provided for the existing aboriginal and treaty rights of the aboriginal peoples of Canada,” consistent with “section 35 of the Constitution....”

Mr. Gilles Bisson: All right. I hear you.

The Acting Chair (Mr. Bill Mauro): Further debate? Okay, so we’ll call the question on the amendment, motion 15.3.

Mr. Gilles Bisson: Recorded vote.

The Acting Chair (Mr. Bill Mauro): A recorded vote has been asked for.

Mr. Gilles Bisson: This is the amendment to the amendment, right?

The Acting Chair (Mr. Bill Mauro): The amendment to the amendment. What we’re voting on is that the word “traditional” would be inserted in place of the word “any”? Correct?

Mr. Gilles Bisson: It would be after the word “any.”

The Acting Chair (Mr. Bill Mauro): After the word “any”? I see; I’m sorry. The word “traditional” would be inserted after the word “any” and before the word “activity”.

Ayes

Bisson, Ouellette.

Nays

Kular, Mangat, Moridi, Rinaldi.

The Acting Chair (Mr. Bill Mauro): The amendment to the motion is lost.

Is there further debate on motion 15.3?

Mr. Gilles Bisson: No, I’ve made the point. It’s just that it’s a real source of irritation for many people where I come from. That’s the reason we’re bringing this forward.

The Acting Chair (Mr. Bill Mauro): We’ll call the question on NDP motion 15.3. All those in favour? Opposed? That motion is lost.

Government motion 16R, Mr. Oraziotti.

Mr. David Oraziotti: I move that section 21 of the bill be struck out and the following substituted:

“21. Section 9 of the Provincial Parks and Conservation Reserves Act, 2006 is amended by adding the following subsections:

“Restriction in far north

“(6) Despite subsections (1) to (5), the Lieutenant Governor in Council may make an order decreasing the area of a provincial park or conservation reserve that is located in whole or in part in a planning area only if,

“(a) a replacement area of equal or increased size is designated as a protected area in a community based land use plan or the order is conditional on there being a replacement area of equal or increased size designated as a protected area in a community based land use plan;

“(b) the replacement area described in clause (a) contributes to the protection of the areas of cultural value in the Far North and the protection of ecological systems in the Far North; and

“(c) before making the order, the Lieutenant Governor in Council provides notice to the public of a proposed order and provides an opportunity for the public, within the time period that the Lieutenant Governor in Council specifies, to provide written comments on the proposed order.

“Discretion to make order

“(7) Upon complying with subsection (6), the Lieutenant Governor in Council may make an order under that subsection with the changes, if any, from the proposed order mentioned in clause (6)(c) that the Lieutenant Governor in Council considers appropriate.

“Definitions

“(8) In subsection (6),

““community-based land use plan”, “Far North”, “planning area” and “protected area” have the same meaning as in the Far North Act, 2009. (“plan communautaire d’aménagement du territoire”, “Grand Nord”, “zone d’aménagement”, “zone protégée”)

Just to elaborate on the purpose for the amendment and the substitution of this amendment, an important section here with respect to the amendment is around the replacement of an area that is equal to the area that is perhaps being requested to be deregulated or larger than that protected area. This does allow the First Nations communities that, as you’ve mentioned, do have concerns around existing park boundaries in the north and that may want to develop water power or pursue other economic activities in the area to make that request. The mechanism is being included in the legislation so that we can ensure that this is a partnership and that the First Nations will have the opportunities to, if they see fit, redraw some of those boundaries where it makes sense to do so through their land use planning, provided that the spirit of the legislation in protecting the area that we’ve talked about—the 225,000 square kilometres and any other protected areas that they see fit—are able to be included.

The Acting Chair (Mr. Bill Mauro): Mr. Ouellette.

Mr. Jerry J. Ouellette: From the way I’m reading this, I think this should effectively resolve a lot of the problems in Peawanuck, in that it specifically states that lands can be exchanged, whereby the all-season road

could then be exchanged for other lands, opening up a lot of the lands in Polar Bear Provincial Park, with additional lands then added in different areas. Is that effectively what we're seeing here?

Mr. David Oraziotti: That's correct.

The Acting Chair (Mr. Bill Mauro): Mr. Bisson?

Mr. Gilles Bisson: My question is, does this apply to existing parks in the far north.

Mr. David Oraziotti: Yes, it does.

Mr. Gilles Bisson: The other point: Under "discretion to make order," it says, "Upon complying with subsection (6), the Lieutenant Governor in Council may make an order under that subsection with the changes, if any, from the proposed order mentioned in clause (6)(c) that the Lieutenant Governor in Council considers appropriate." That's a pretty wide-sweeping power, I would think. Why is that needed?

Mr. David Oraziotti: I think that speaks to your concern and First Nation concerns around the flexibility to be able to accommodate some of the changes that they may want to see going forward. I think if we're really going to have a partnership for community land use planning with First Nations, they need to know that there's a mechanism in the legislation that will respect the decisions that they make in their communities. If that's not there, perhaps the view might be that the intent is not as sincere as it might otherwise be, and I think it's important that that mechanism's there and it's included.

The Acting Chair (Mr. Bill Mauro): Further debate? Seeing none, we'll call the question on government motion 16R. All in favour? Carried.

There are no further motions on that section, so we'll call the question on section 21. Shall section 21, as amended, carry? All in favour? Carried.

There are no motions put forward on sections 22, 23 or 24, so with committee's indulgence, we will call the question on all three sections. Shall sections 22, 23 and 24 carry? All in favour? Carried.

We'll call the question on the title of the bill. Shall the title of the bill carry? Carried.

Shall Bill 191, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Thank you very much, committee members. That concludes our business on Bill 191—

Interjection.

The Acting Chair (Mr. Bill Mauro): Oh, I'm sorry. Yes.

Mr. Kuldip Kular: I move that Mr. Mauro replace Ms. Broten as the government member of the subcommittee on committee business.

Mr. Gilles Bisson: That's a conflict. You can't rule on that.

Interjection.

The Acting Chair (Mr. Bill Mauro): Any debate on that? All in favour? Opposed? Carried.

We are now adjourned.

The committee adjourned at 1643.

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