Environmental Impact Assessment Regulations 2010

Guidelines for completing Form 3

Major environmental impact assessment

Background: What is Form 3?

Form 3 is part of the Tongan Government's Environmental Impact Assessment (EIA) framework.

EIA is a procedure for evaluating the likely impact of a proposed development activity on the environment. The object of an EIA is to provide decision-makers with information about the possible environmental effects of a development activity so that they can make an informed decision about whether the activity can proceed (with or without modifications) or not.

In Tonga, the environmental impact of a proposed development activity is assessed by the Ministry of Environment and Communications (MEC) in accordance with the *Environmental Impact Assessment Act 2003* (the EIA Act) and *Environmental Impact Assessment Regulations 2010* (the EIA Regulations). Under this legislation MEC needs to determine whether your development activity is a major or minor project. Once a project is determined to be a major project, a written environmental study (also called an EIA Report) needs to be prepared. Form 3 tells you what information needs to be included in an EIA Report.

What do I need to include on Form 3?

The guidelines below list some questions for you to think about when preparing your EIA Report (that is, filling in Form 3). Your answers are what should be included in your EIA Report.

1. **Title, abstract and executive summary**

2. **Description of the purpose and scope of the proposed development activity**

    a. **Purpose**

    What is the purpose of the development activity? What goals and objectives of society are served? Why is the project needed?

    b. **Direct benefits expected**

    What are the benefits of the project? What products will be produced by the project? Will services be offered by the project? How many jobs will be created by the project? What is the expected return on investment provided by the project?

c. Location and facilities

Location and facilities at the preferred site: Where is the preferred location for the project? Who owns the site? Where are the site boundaries of the preferred site? What villages or landmarks are nearby? Please include a map showing the preferred location of the project. What facilities exist at the site, or will be built at the site?

Location and facilities at other feasible sites: Where are the other feasible alternative sites located? Who owns the alternative sites? Where could the project be located at other sites? What are the boundaries of alternative sites? Please provide a map of alternative sites. What villages or landmarks are nearby? What facilities exist at alternative sites, or would be built at the sites?

d. Technology to be used

What technology is to be used to construct or operate the project? What equipment will be needed to construct the project? What construction techniques will be used? Is the technology needed available locally or will it be imported? What are the transportation and other logistical requirements?

e. Local infrastructure required: roads, utilities, etc.

What roads, utilities etc. does the project require? Do these roads and utilities exist or do they need to be constructed/installed as part of the project?

f. Inputs of capital, labour and natural resources

Capital: How much money is needed to develop the project – how much does it cost? Where is the money coming from?

Labour: How many people will the project employ? Will the project employ locals or is expertise coming from overseas?

Natural resources: What natural resources does the project require? E.g. land, water, sand, wood, etc. Where will the resources come from? Are these resources available and sustainable? Include resources required for construction and for operation.

g. Duration of construction period and operating life

How long will the project take to construct? How long will the project be in operation? Please include an indication of where you are in the process: Which approvals have been obtained? Which approvals are still needed? When will construction start and when will it be completed? Please include a timeline.

3. Present a justification of the proposed development activity in terms of environmental, economic, cultural and social considerations

How do the benefits of the proposed development activity outweigh the costs of the activity? What is the economic (business) case for the activity? What is the social justification for the activity? How can the project be justified on environmental and cultural terms?

4. Identify, describe and analyse the potential direct and indirect physical, biological, social, cultural and economic impacts of the development activity for both construction and operational phases of the development

First, describe the existing environment, including the biological, social, cultural and economic features. Include information about the climate, current land use (e.g., agricultural, residential, not used etc.), type of land (e.g. foreshore, inland), biological information (including flora and fauna on or near the site), cultural heritage, any other significant features, etc.

Second, describe the potential direct and indirect physical, biological, social, cultural and economic impacts of the *construction phase* of the development activity on the existing environment. What are the impacts of construction? What effects will the project have on other users of the resources you will use e.g. will the resources used by the project deplete resources that other users depend on? For example, a resort may use too much water from the groundwater and cause a water shortage.

Describe the Potential direct and indirect physical, biological, social, cultural and economic impacts of the *operational phase* of the development activity. What are the impacts of operation? Will operation of the project impact on or deplete any resources? Will operation of the project affect other land users in the area, impact on local flora/fauna, affect the main source of income of local people, or affect cultural heritage features nearby?

5. Detail any measures to be taken to protect the environment and to avoid, reduce or otherwise mitigate any potential adverse effects of the development.

Considering the potential impacts of the development (including any referred to in question 4 or parts of question 2). What will you do to avoid or minimize each of the possible negative impacts of the development?

E.g. To minimize impact on air quality/avoid dust and odor problems, all deliveries of quarry materials to the site will be covered with tarpaulin. All contractors will be told about this requirement.

This information may be presented in a chart. The following chart is an example to serve as a guide.

Activity	Risk/impact	Mitigation measures
Clearing vegetation	Removal of vegetation Loss of biodiversity Possible soil erosion	The sites adjacent to the proposed site have vegetation similar to that proposed to be removed. It is proposed to remove only those trees necessary to pour the concrete slab. This will leave a strip of vegetation approximately 15m wide that will connect the vegetated areas and reduce the risk of soil erosion.

6. Evaluate and describe any feasible alternative activities, including locations, for achieving the objectives of the development.

Building on your answers to question 2c about alternative sites, please describe alternative activities that could achieve the objectives of the development. Include information about where the alternative activities could be located, and evaluate the alternatives, explaining why you have chosen the option you prefer.

7. Evaluate and describe the implications and consequences of not undertaking the proposed development.

What would be the consequences if the development does not proceed? Who or what would this impact, and how?

8. Identify, describe and analyse the possible cumulative effects upon components of the environment with other existing or likely future development activities.

What other developments are in the area? What other developments are using the same materials or natural resources? What developments are planned for, or may occur in future in, the area? How might the impacts of other development activities combine with the impacts of your development activity? Which aspects of the environment will be most impacted by multiple developments?

9. Public involvement

Which groups of people do you anticipate being most impacted by or interested in your project? Will the project involve relocating people? What methods of public consultation do you intend to use? How will you respond to and incorporate feedback from the public? How do you intend to communicate with the public about the project (e.g. informing them of progress, giving warnings about noise or hazards, etc)?

10. Assess the way in which the project accords with the current Government of Tonga Development Plan, declared Government of Tonga environmental policy, and/or any international environmental policies, agreements, conventions or treaties to which the Government of Tonga is, or is considering becoming, a signatory.

Are there any international conventions, pieces of legislation or policies that might apply to the project? What are they? How does your development activity support, fit in with, or go against these?

Examples of Tongan legislation and policies (not an exhaustive list): The Parks and Reserves Act, the Tonga Strategic Development Framework, the Tonga Energy Road Map, Special Management Areas (fisheries) and Marine Protected Areas.

The following table lists international agreements that Tonga is a party to. Note that this is not an exhaustive list.

INTERNATIONAL AGREEMENT	**DATE RATIFIED/ ACCEDED**	**Where you can find more information**
Waigani Convention	22 May 2002	http://www.forumsec.org/resources/uploads/attachments/documents/Waigani%20Convention%20Text1.pdf
Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter	1 May 1996	http://www.ecolex.org/server2.php/libcat/docs/TRE/Full/En/TRE-000420.txt
Protocol to the Convention on the Prevention of Marine Pollution by Dumping Wastes and other Matters	18 September 2003	http://www.ecolex.org/server2.php/libcat/docs/TRE/Full/En/TRE-001268.doc
United Nations Convention on Biological Diversity	19 May 1998	http://www.cbd.int/doc/legal/cbd-en.pdf
Protocol on Biosafety (Cartagena)	18 September 2003	http://bch.cbd.int/database/attachment/?id=10694
United Nations Framework Convention on Climate Change	20 July 1998	http://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf
Kyoto Protocol	January 2008	http://unfccc.int/resource/docs/convkp/kpeng.pdf
United Nations Convention to Combat Desertification	20 July 1998	http://www.unccd.int/en/about-the-convention/Pages/Text-overview.aspx
Vienna Convention for	29 July 1998	http://ozone.unep.org/new_site/en/Tr

Protection on Ozone Layer		eaties/treaties_decisions-hb.php?sec_id=155&show_all
Montreal Protocol on Substances that Deplete the Ozone Layer	29 July 1998	http://ozone.unep.org/new_site/en/Treaties/treaties_decisions-hb.php?sec_id=5&show_all
United Nations Convention on the Law of the Sea	2 August 1995	http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal	26/03/2010 (acceptance)	http://www.basel.int/Portals/4/Basel%20Convention/docs/text/BaselConventionText-e.pdf
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade	31 March 2010	http://www.pic.int/TheConvention/Overview/TextoftheConvention/tabid/1048/language/en-US/Default.aspx
Convention on Persistent Organic Pollutants (Stockholm)	9 September 2009	http://chm.pops.int/TheConvention/Overview/TextoftheConvention/tabid/2232/Default.aspx

What do I need to do before I submit Form 3?

The guidelines outlined above provide some general information to get you thinking about what needs to be included in an EIA Report. However, each project is different. That is why it is a requirement of the EIA Regulations that you meet with MEC's EIA Unit to discuss the level of assessment that needs to be undertaken as part of the development of your EIA Report. Meeting with MEC before and during the preparation of your EIA Report ensures that your EIA Report will be complete and move through the assessment process quickly and smoothly.

Is there a fee associated with Form 3?

Yes, Form 3 has a $250 initial application fee. This fee must be paid at the time your EIA Report is submitted to MEC. MEC will not assess your application until the fee has been paid. You will receive a receipt, and MEC will keep a photocopy.

What do I do with my completed Form 3?

When the Environmental Impact Assessment Report, containing the information in Form 3, has been prepared (by a qualified and experienced Environmental Consultant), you should bring the Report to the EIA Unit at MEC. You must also bring the $250 application fee.

What happens with my Form 3 after I submit it to the Government?

The EIA Report enters a review process. This has multiple parts.

The EIA Unit will publish information about the proposed development activity/EIA Report on www.mecc.gov.to, will invite comments from the public, and will inform you (the proponent) of the public consultation requirements. You will be asked to informed the public about the proposed development activity (e.g. through the radio and newspaper).

The EIA Unit will review the EIA Report, the public's comments, and any other relevant information, passing on their review to the Environmental Assessment Committee.

The Environmental Assessment Committee will review the EIA report, and other relevant information, and prepare an Assessment Review Report. The Committee will then make a recommendation to the Minister (the Prime Minister) about whether the proposed development activity should be approved, rejected, deferred or modified.

If the Minister is the determining authority, the Minister will decide the outcome of the application and advise you, the proponent, in writing. If the Minister is not the determining authority, the Minister advises the determining authority of the Environmental Assessment Committee's recommendation and the determining authority makes the final decision on your application.

For projects that are approved (with or without modifications), the Minister requires payment of the final fee, which shall be 1% of the capital cost of the development activity.

Who can I contact if I have any questions?

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