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APPLICATION FOR ENVIRONMENTAL CLEARANCE GUIDELINE FOR URBAN DEVELOPMENT

**National Environment Commission
Royal Government of Bhutan
August 2004**



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ROYAL GOVERNMENT OF BHUTAN
NATIONAL ENVIRONMENT COMMISSION SECRETARIAT

FOREWORD

In 1999, the National Environment Commission with technical and financial assistance from the Asian Development Bank (ADB) published six sectoral environmental assessment guidelines for the mining, roads, industries, hydropower, transmission lines and forestry sectors. Several stakeholder consultation workshops and seminars were conducted before the guidelines were published. These guidelines were intended to guide different project proponents through the process of acquiring an environmental clearance for their projects. The Environmental Assessment 2000 (EA Act 2000) was passed by the National Assembly in 2000 and the Regulations under the Act were adopted two years later. Stakeholder feedback and our experiences in implementing the EA Act and the guidelines indicated that there was a need to revise the guidelines in order to make them more practical and relevant to the Bhutanese context and also to streamline them with the provisions of the EA Act 2000. It was also felt that there was a need for two more sectoral guidelines for urban development and tourism as rapid developments in these two sectors was becoming a concern for Bhutan. Therefore, in 2003 the NEC once again revisited these guidelines and revised and updated them to make them more practical and functional documents. Several Environmental Codes of Best Practices (ECOPs) have also been produced to support these environmental assessment guidelines.

The NEC is grateful to the ADB for being so forthcoming with technical and financial assistance to revise and update these guidelines. The revision and updating of these guidelines were accomplished through close consultation with all the various stakeholders. We would also like to express our gratitude and appreciation to all the line ministries and stakeholders for their active participation, support and inputs. We are confident that the revised guidelines will be more useful documents that facilitate and expedite the environmental clearance process as project proponents will now have a better understanding of what information must be provided in order to attain an environmental clearance.

In Bhutan, environmental conservation has been embraced as one of the four pillars of Gross National Happiness - the other three pillars being good governance, socio-economic development and cultural preservation. However, with the expansion of developmental activities in the country, it is becoming very difficult to strike a sustainable balance between environmental conservation

and socio-economic development. The number of industries is on the rise every year while the demand for rural access to market facilities in the form of farm roads and feeder roads is increasing with every Five Year Plan - in the 9th Five Year Plan alone there is a plan to develop 588kms of farm roads. Environmental issues such as waste disposal related to urbanization are also becoming serious concerns for Bhutan. Bhutan is lauded by the international community for its sound environmental policies and the political will to implement these policies. However, environmental problems are becoming more and more visible and instruments like the EA Act 2000 must be implemented effectively to support the government's sound environmental policies and to ensure that Bhutan remains clean and green.

The environmental assessment process endeavors to mitigate and prevent the undesirable impacts of developmental activities. It is in no way intended to hamper socio-economic development in Bhutan but to guide project proponents in making the right investments in land, manpower, technology and mitigation measures to ensure that their projects have the least possible impacts on the environment. With the revision and updating of the old guidelines and the publication of two new guidelines on Urban Development and Tourism and relevant ECOPs, the NEC is hopeful that the private sector, line ministries and competent authorities under the Regulations for Environmental Clearance of Projects find the guidelines more useful, practical, informative and easy to comply with. It is the sincere wish and hope of NEC that all the stakeholders, both public and private will make the best use of these guidelines, which in turn will help in protecting our fragile ecology. Sound implementation of these guidelines will go a long way in minimizing the negative impacts of developmental activities on Bhutan's environment.


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1 Glossary

Affected people: individuals, groups or communities whose interests may be directly affected by the location, construction and operation of the project

Agency: a ministry, department, municipality established under the Bhutan Municipal Act, 1999 or any autonomous body of the Royal Government of Bhutan

Applicant: a person seeking an Environmental Clearance from a Competent Authority or from the National Environment Commission

Application: is the output of this guideline which is submitted to either the Competent Authority or the NEC for approval

Competent Authority: any agency of the Royal Government that has the power to issue an Environmental Clearance for a project

Cultural Heritage: tradition or culture that should be preserved for future generations

Development Consent: the approval that is issued or renewed by a Competent Authority in the form of a licence, lease or permit for land use or construction. The Development Consent can only be obtained after the Environmental Clearance has been issued

Distribution line: power lines with voltages below 66 kilovolt

Environmental Assessment: all procedures required under Bhutanese law to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way

Environmental Clearance: the decision issued under Chapter III of the Environmental Act, 2000, that is issued in writing by the National Environment Commission or the Competent Authority, to let a project proceed. The Environmental Clearance includes terms and conditions which the Applicant or Holder of the Environmental Clearance must abide by to ensure that the project is managed in an environmentally sound and sustainable way

Environmental Management Plan: a plan which addresses the ways of mitigating and monitoring the impacts that have been identified by the environmental assessment. The Environmental Management Plan may comprise part of the conditions of the Environmental Clearance that is issued either by the Competent Authority or by the National Environment Commission

Environmental Parameter: a component of the surrounding environment which may be altered by a project activity. This includes physical interventions or releases to air, water and soil which may in turn affect vegetation, wildlife, human and aquatic communities

Environmental Terms: the requirements and conditions that a project must comply with, as stated in the Environmental Clearance issued either by the NEC or the CA

Environmental Unit: a management unit that is established within a project structure that is responsible for implementing, monitoring and reporting on the environmental terms attached to the Environmental Clearance

Forest: any land or water body, whether or not under vegetative cover, in which no person has acquired a permanent and transferable right of use and occupancy, whether such land is inside or outside the forest boundary pillars, and includes land registered in a person's name as

Tsamdo (grazing land) or Sokshing (woodlot for collection of leaf litter)

Holder: the recipient of an Environmental Clearance under Chapter III of the EA Act, 2000

Land acquisition: the acquisition of any land, constructions or other property in accordance with the procedures established under the Land Act, 1979 (or successor legislation)

Monitoring: a program of systematic measurement or observation of environmental and social parameters. Monitoring requirements includes regular reporting and specifies action to be taken if non-compliance occurs. Monitoring requirements are specified in the Environmental Terms which is attached to the Environmental Clearance. Monitoring consists of Baseline monitoring which is carried out prior to a project commencing. Baseline monitoring measures the existing environment and this is compared to later monitoring which establishes the effects caused by the project. Compliance monitoring refers to a system of regular measurements which compares releases from an activity to those that have been specified in the Environmental Terms. The permitted releases are established in environmental standards

Municipal Corporation: a Corporation incorporated under the Bhutan Municipal Act, 1999, to implement the provisions of that Act for the benefit of the residents of a community classified as a Municipality by the Royal Government

Non-listed project: all projects that are not listed in Annex 2 of the Regulation for the Environmental Clearance of Projects, 2002 including its most recent update

Project: an activity which may have significant effects on the environment

Project area: The area that includes the immediate and the proximate area of a project that the project may have an environmental or social impact on

Protected Area: is an area which has been declared to be a national park, conservation area, wildlife sanctuary, wildlife reserve, nature reserve, strict nature reserve, research forest, critical watershed or other Protected Areas for the preservation of areas of natural beauty of national importance, protection of biological diversity, management of wildlife, conservation of soil and water and related purposes

Road: the entire surface of land designed for use by means of transportation, including road infrastructure and facilities. It includes all types of roads, whether paved or unpaved and mule tracks

Road Right of Way (RoW): the strip of land reserved for the road which also includes areas assigned for expansion of the road, central verge, pedestrian areas/sidewalks, roadside drains, and avenue plantations. It also includes space required for installation of public utilities and other relevant structures, facilities and equipment

Road shoulder: the two extreme strips of formation that remain on either side of the road pavement

Screening: the review process carried out by the National Environment Commission or by the Competent Authority of the Application with regard to whether the project may be (i) issued with an EC (ii) rejected or (iii) require further environmental assessment

Sustainability: development that recognises the need to raise the living standards of the present population without compromising the country's resource base, cultural integrity, historical heritage or the quality of life of future generations

Transmission line: power lines with voltages above 66 kilovolts

Wildlife: includes all mammals, avians, reptiles, amphibians, fishes and invertebrates

2 Introduction

In 1999 the National Environment Commission (NEC) approved six sectoral environmental guidelines on (i) Forestry, (ii) Highways and Roads, (iii) Hydropower, (iv) New and Existing Industries, (v) Mines and Mineral Processing and (vi) Power Transmission Lines. In 2000, the National Assembly passed the Environmental Assessment Act and in 2002, the government approved the Regulation for the Environmental Clearance of Projects (the Regulation). Under the Regulation, both the National Environment Commission (NEC) and the designated Competent Authorities (CA), which are listed in Annex 2 of the Regulation, are authorized to issue Environmental Clearances for projects.

Applicants, CAs and the NEC found the six sectoral guidelines developed in 1999 cumbersome and difficult to comply with. This often led to delays in issuing environmental clearances and therefore the execution of projects. In order to ensure that these guidelines address the requirements of the Environmental Assessment Act, 2000 and the Regulation for the Environmental Clearance of Projects, 2002 while at the same time keeping them simple and easy to follow, the NEC, with financial and technical assistance from the Asian Development Bank (ADB), has revised the six guidelines and also developed two new sectoral guidelines: one for tourism and the other for urban development.

The NEC had the overall responsibility for coordinating the program, which was directed by Mr Karma C. Nyedrup of the Environmental Assessment Section. The assistance of numerous officers within the NEC and the following consultants; Karma Jimba, Sonam Tobgay and Charles Adamson is gratefully acknowledged.

This guideline has been developed in close consultation with the relevant agencies that are involved in activities/projects related to urban development with the intention of making it easier to use. The guideline also integrates requirements needed by other agencies that are involved in approving the project.

Article 9 of the Environmental Act, 2000 states that if the activity is going to be implemented by a Competent Authority, then the Application for Environmental Clearance is to be forwarded to the NEC for approval.

3 INFORMATION REQUIRED FOR PREPARING AN APPLICATION FOR THE ENVIRONMENTAL CLEARANCE OF A PROJECT

The Application for Environmental Clearance (EC) of a project¹ is hereinafter referred to in this Guideline as the “Application

1. Issuance of an Environmental Clearance is a prerequisite to the issuance of a Development Consent. (Ch II, article 8, Environmental Act, 2000)
2. The Competent Authority under the Ministry of Works and Human Settlements will issue the Environmental Clearance for projects that are defined in Annex 2 of the Regulation for the Environment Clearance of Projects, 2002²
3. The purpose of the Application is to assist the CA or the NEC review the project and to determine the level of environmental assessment required. It is therefore, important to provide concise and accurate information when completing the Application. When quantifying the environmental impacts, avoid using subjective statements such as “the project will have minimal environmental impact”
4. One of the main reasons for delays in making a decision to either issue environmental clearance or reject the Application is lack of adequate information in the Application. If the required information is not provided in detail, the CA or the NEC will have to seek further clarification from the Applicant which extends the review process

¹To establish a project without an Environmental Clearance, or to provide false, misleading or inaccurate information shall be an offence under Article 49 of the EA Act, 2000 and Section 36 and 37 of the Regulation for the Environmental Clearance of Projects, 2002.

² Each year the NEC requests the various Competent Authorities to review and add projects to Annex 2. Thus while the Regulation was issued in 2002, Annex 2 has and will continue to be revised. The latest issue of the Regulation needs to be referred to for the most recent update of Annex 2.

5. If the Application is subject to further environmental studies, the Applicant will need to submit the Terms of Reference for the subsequent detailed investigations to the NEC for approval (Article 15, Env Act, 2002)
6. If any section is not relevant to your project, explain why this is the case and proceed to the next section
7. The numbering of sections for the Application should start from 1. Persons completing the Application are not obliged to maintain the same numbering sequence as used in the Guideline

3.1 Applicant's Details

Information that should be provided are:

- (i) Name of the project
- (ii) Name of the Applicant
- (iii) Present mailing address including telephone number, fax, and email etc.
- (iv) Name of the environmental focal person³
- (v) Qualification/designation of the focaperson
- (vi) Telephone number of environmental focal person
- (vii) If a consultant prepares the Application, give the name and contact details of the company that prepared the Application

³ Section 23 of the Regulation for the Environmental Clearance of Projects, 2002, may require the Applicant to delegate a focal person to ensure compliance with the terms of the Environmental Clearance. While Section 24 of the Regulation, requires that depending on the size of the project, the project may need to establish an environmental unit responsible for ensuring compliance with the terms of the Environmental Clearance.

3.2 Project Objectives

Clearly describe the main objective/s of the project. The objective/s can be written in a bullet form.

3.3 Overall Planning

State whether an Urban Development Plan covers the project. Provide the tentative dates for the start of construction, completion and operation.

3.4 Funding and Costs

Who is funding the project (A donor, RGOB, a company, a private person, etc.)

Show the estimated project cost. Out of the total estimated cost, how much is allocated for environmental management. Separate the environmental costs into two components as follows:

Environmental costs related to construction. This may include both material costs and labour and supervision costs. For example, if the focal person is supervising both project construction and the environmental requirements, the salary of environmental focal person can be split based on an estimate of the percentage of time the person is supervising either activity. Separate the amounts spent on (a) environmental materials and (b) the amount spent on supervision of environmental activities. Include both amounts as separate entries in the environmental management budget

The budget for the project's mitigation measures. This is based on the type and size of the impacts that need to be mitigated. The environmental cost of the project mitigation measures is determined in section 3.9. Include this cost as a separate item in the environmental management budget

3.5 Project Details

3.5.1 Project Location

Where will the project be implemented: city/town, Geog and Dzongkhag. Show the area of the project.

Attach maps as below:

Using an appropriate scale map, show the location of the project relevant to the immediate surrounding area. In the same map show details of any District, Geog, Municipal and Protected Area boundaries (if any of these are close to the proposed site). Also show the natural drainage system, land use, roads and footpaths, settlements, existing social infrastructure and any other features that add to the understanding of the project location. Provide a clear legend showing north and the map scale

In a 1:500 map⁴ or in appropriate scale show the project layout and the surrounding features as discussed above. Provide a clear legend showing north and the map scale

3.5.2 Excavated Materials

The management of excavated materials is often an issue in urban infrastructure development projects. Provide an estimate of the quantity and type of materials (soil, rock, etc.) that will be excavated.

3.5.3 Construction Materials

In Table 1, fill in the details of construction materials required for the project.

⁴ If it is not possible to get a map at this scale then provide a sketch that shows these details.

Table 1: Details of construction materials that will be used by the project

Material type	Quantity (unit)	Where it will be stored?

3.5.4 Explosives

If the project will require explosives, show the total quantity that will be required and the blasting technique that will be adopted; e.g. silent blasting, single shot hole blasting, simultaneous blasting, etc.

3.5.5 Labour and Machinery

This section assesses impacts due to generation of wastes from labour and machinery. In Table 2, indicate: (i) the number of labourers required by the project at peak employment and (ii) where the labour have been recruited from and the duration of employment.

Table 2: Labour Details

Type of Labour	Numbers	Source	Duration
Skilled			
Unskilled			

In Table 3, provide details of the machinery that will be used by the project.

Table 3: Machinery Details

Type of Machine	Capacity	Number required

3.5.6 Ancillary Facilities

Ancillary facilities include services that must be provided to the area such as roads, water and electricity. State (i) what services already exist in the area and (ii) whether the services will be sufficient for the project or need to be augmented. If the services are inadequate, describe how these will be augmented.⁵

3.5.7 Public Consultation

Provide details of public consultation/s⁶ held with affected people.

The Applicant must explain to the affected people the expected impacts of the development, where they will occur and how they will be mitigated. Provide a record of the meeting/s and attach a list of the names of the affected people together with the date of consultations, details of their Geog and village, issues raised by the people and the agreement/s arrived at between the Applicant and the affected people to resolve these issues. Provide signatures or other proof of consultation/s with the affected people. Describe issues that remain unresolved.

⁵For example, if the project requires additional services for power transmission lines, and access roads, the Applicant will have to submit separate applications for these using; (i) Power Transmission Lines, Environmental Assessment Guideline, 2004 and (ii) Roads, Environmental Assessment Guidelin, 2004.

⁶As per the article 16 of the Ea Act 2000 and Section 31 of the Regulation for the Enviromental Clearance of Project 2002, Public Consultation in mandatory. Establish the Public Consultation by meeting the requirements shown in Section 31.

3.6 Physical Environmental Details: Project Site

3.6.1 Landscape and Topography

Provide critical slope details of the project area so as to assess impacts associated with excavation and surface runoff.

3.6.2 Climate and Hydrology

Provide the mean monthly rainfall details for the site in Table 4. If data is not available for the project site, the mean monthly record for the nearest station should be provided.

Table 4: Rainfall and Temperature record

Parameter	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Rainfall (mm)													
Max Temp (C°)													
Min Temp (C°)													

For the rainfall and temperature recording station/s, provide; (i) the name of the station/s, (ii) the elevation of the station/s in metres, (iii) the month and year of the maximum 24hr rainfall recorded and (iv) the mean monthly maximum and minimum temperatures.

Provide the name of any rivers/streams located immediately downstream of the project site. Ensure that these are located on the map. Provide the number of households within a distance of 5km downstream of the project that use this water. Locate the households on the map.

3.6.3 Dust Emission

Dust emitted from construction activities can become a health concern and a nuisance to surrounding communities and their property. The Applicant will need to identify the sources of dust and determine whether or not this will be a problem for workers and the surrounding community.

3.6.4 Noise Emission

Determine sources of noise emitted by the project and state whether noise will be a problem for workers and the surrounding community.

3.6.5 Machine Induced Vibration

Some construction equipment such as vibratory rollers will produce more vibration than other equipment, which in turn affects buildings causing cracks in the structure. In this section provide the maximum peak particle velocity (PPV) in millimetre per second that project machinery will produce. This is often stated in the machine specifications.

3.7 Project Site Ecological Details

3.7.1 Land Use/Vegetation

Provide details of the various land uses within the project area according to the following categories: Chushing, Kamshing, Tseri, Tsamdo, Sokshing, Orchard, Broadleaf forest, Coniferous forest, Scrubland, Wetland and others. In case of others, specify the type of land use. Should Mixed Forest (Broadleaf + Coniferous) occur allocate this to the Broadleaf category unless it is dominated by Coniferous Forest in which case allocate it to Coniferous Forest. Scrubland also includes disturbed areas of Broadleaf and Coniferous forest that have been recently logged and are now regenerating.

“Affected people” are those who own or occupy the area and are dependent on it for their livelihood. They may or may not be the actual landowner. Ownership can be shown as private, community, monk body or government.

Provide the information in Table 5.

Table 5: Land use and forest clearance required for project site

Land use category	Area (ha)	Ownership	Affected households (no)	Population of these households (no)

3.7.2 Protected Areas

Protected Areas include, Wildlife Sanctuaries, National Parks, Nature Reserves, Conservation Areas and Biological Corridors.⁷ Information on Protected Areas can be obtained from the Nature Conservation Division, Ministry of Agriculture.

Provide information as to whether the project falls within any designated Protected Areas ⁸.

3.7.3 Flora and Fauna

Using one or more of the methods shown below, the Applicant will need to collect information on the occurrence of flora and fauna (animals, birds and vegetation) which has special significance to Bhutan and to this area ⁹. State whether the flora or fauna is rarely or commonly observed.

⁷ Protected Areas are regulated by the Bhutan Forest and Nature Conservation Act, 1995.

⁸ Section 62 of the Forest and Nature Conservation Rules, 2003 states that “..any construction, including motor roads, buildings, fences or any physical structures” is prohibited inside a Protected Area, except with a written permit or authorization, that would be issued by the Nature Conservation Division, Department of Forest.

⁹ See Schedule 1 of the Forest and Nature Conservation Act, 1995, which lists Totally Protected Species.

- i. From the nearest Forest Office obtain a list of vegetation, animals and birds that exists in the project area and attach to this document
- ii. Conduct village interviews on the occurrence of vegetation, animals and birds in the project area and document the findings. Compare the findings to the list provided by the Forest Office. The finding must be attached to this document
- iii. During site visits vegetation, animals and birds may be noted in the area. Provide a record of the observations during visits to the project site

3.8 Project Social Environment

3.8.1 Population

The project may create several social benefits for the local community. Determine the size of the population that could benefit from the project. Enter this information in Table 6. It is important to cite the source of the information e.g. own data collected through site assessment or data provided by Gup, etc.

Table 6: Project Beneficiaries

Dzongkhag	Geog	Village	Town	Type of benefit	Population (no)	Households
Total beneficiaries						

Source of information:

3.8.2 *Impacts on Services, Houses, Infrastructure, Cultural and Heritage Sites*

This section assesses whether the project location will create adverse impacts (loss or disturbance) to any of the existing houses, infrastructure and cultural or heritage sites¹⁰. The impacts could either be permanent or temporary.

Provide details of the impact and describe the nature of impact (either permanent or temporary loss or disturbance) for facilities such as: (i) Services (ii) Houses (iii) Infrastructure (iv) Cultural or heritage site, etc.

Services include: telephone, electricity, TV cabling, water supply and sewerage connections etc.

Houses can include shops and other buildings.

Infrastructure losses could include; roads, bridges, tracks, etc.

Cultural or heritage sites could include; chortens, lhakhangs, monuments, sacred sites (ney) etc. Where these sites may be disturbed by the proximity of the project, show the distance in metres from the cultural or heritage site to the project

Locate the structures on the map required in section 3.7.1.

3.8.3 *Visual Impact*

When the project is completed will the project create any adverse visual impact/s? Yes or No, explain.

¹⁰Under the Rular Land Compensation Rates, 1996, sections KA-6(8) municipal areas and KA-6(9) rural areas, sets out procedures for the acquisition of land, rates of compensation for land and determining the valuation of houses, while Appendices C,D and E set out compensation rates for agriculture crops and friuttrees.

3.9 Project Impacts and Mitigation Measures

From the information provided in the preceding sections, identify the impacts that will occur from these activities and list these in a tabular format similar to that shown below. Impacts can occur from: (i) the Location of the project, (ii) the Design of the project; (iii) from Construction related activities and (iv) from Operation of the project. For each negative impact provide mitigation measures and the approximate cost required to implement the mitigation measure.

The Applicant will be responsible for ensuring that the Environmental Terms that are attached to the Environmental Clearance are carried out. These become the responsibility of the Holder of the Environmental Clearance. Where a Contractor is employed the Holder will be held responsible for ensuring the Contractor abides by the Environmental Terms. The Environmental Terms are to be attached to the Contract Document so that the Contractor has a clear understanding of the environmental requirements that are to be adhered to during construction. At the time of tendering, the Contractor will be required to prepare a Contractor's Site Environmental Management Plan (CSEMP) that shows how the Contractor will implement the Environmental Terms that are included as part of the Tender Specifications. The CSEMP is to be included as part of the Contract Documents and is to be evaluated as part of the overall tender. The NEC can assist with information in this area.

3.10 Monitoring Program

Monitoring responsibilities including other provisions that the Applicant/Holder and Contractor will need to address at the time of submitting a tender for the work will be included as part of the Environmental Terms which will be attached to the Environmental Clearance.

Regular monitoring will be the responsibility of the Holder of the Environmental Clearance and will be detailed within the Environmental Clearance.

Either the CA or the NEC may conduct unannounced monitoring checks.

3.11 Checklist for No Objection Certificate

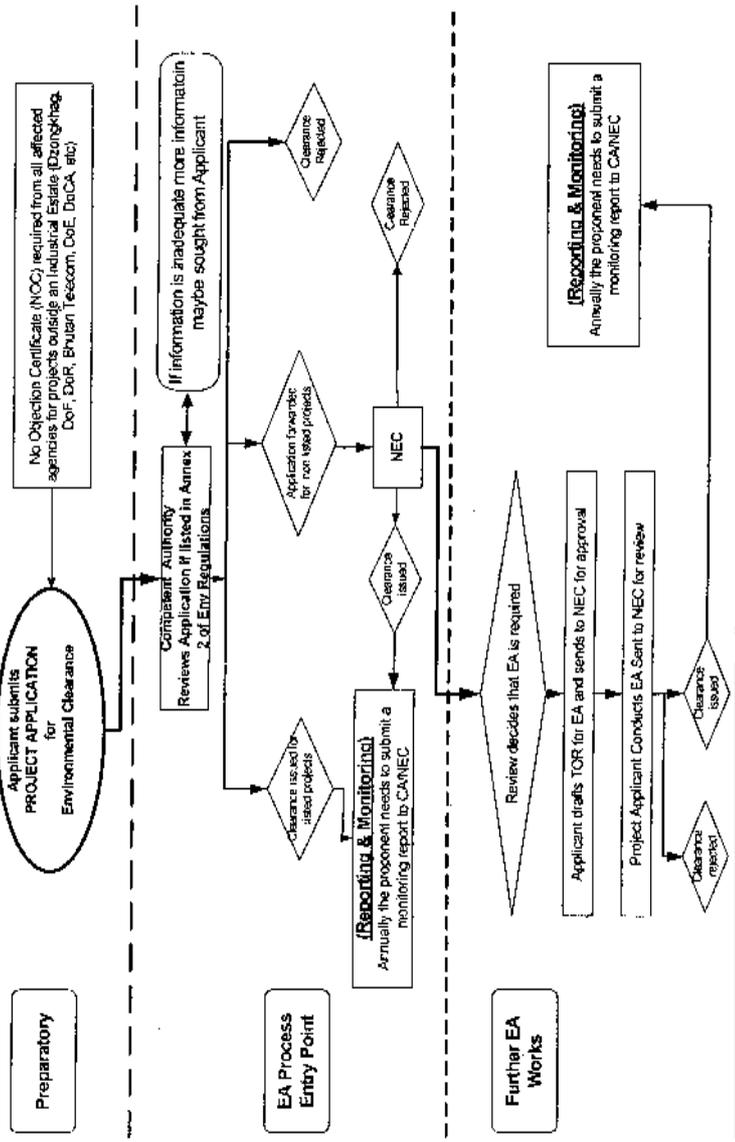
In order to obtain an Environmental Clearance for the project, an NOC must be obtained from all relevant parties. Attach these documents to the Application. Below is a checklist of agencies from whom NOCs may be required.

Agency/concerned people to issue NOC	Why/when
Dzongkhag/City Corporation	Dzongkhag Administrative approval.
DoF	Should the project damage or acquire <i>Tsamdo</i>
DoF	Should the project damage or acquire <i>Sokshing</i>
Department of Culture	Should the project be located within 50 m of a cultural or religious site
Nature Conservation Division	Within boundary of a Protected Area
Municipal Authority	Within 50m of a public park
Private owner	Within 50m of a human dwelling
Private property owners	Should the project need to acquire private property
Department of Health	Within 50m of hospital
Department of Education	Within 50m of school
Department of Energy	Should the project require the relocation of power transmission line
Bhutan Telecom Authority	Should the project require relocation of telephone lines
Department of Roads	Should the project require access from highways and feeder roads

4 ENVIRONMENTAL ASSESSMENT PROCEDURES

A flowchart is attached showing how the Application for Environmental Clearance will be processed.

ENVIRONMENTAL ASSESSMENT PROCEDURE FOR URBAN PROJECTS



Note: For environmental assessment timeline refer Annex 1 of the EA Regulation 2002