



THE LAND POOLING RULES OF THE KINGDOM OF BHUTAN 2009

ROYAL GOVERNMENT OF BHUTAN

MINISTRY OF WORKS AND HUMAN SETTLEMENT

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THE LAND POOLING RULES OF THE KINGDOM OF BHUTAN 2009

CHAPTER 1

PRELIMINARY

In exercise of the power granted by the Thromde Act of the Kingdom of Bhutan 2007, the Royal Government hereby frames the rules for the implementation of Land Pooling as follows:

Title, extent and commencement

1. These Rules shall:
 - (a) Be called the Land Pooling Rules of the Kingdom of Bhutan 2009;
 - (b) Extend to the whole of Bhutan;
 - (c) Come into force from the day of notification by the Government.

Objectives of these Rules

2. The objective of these Rules is to facilitate the planned and harmonious development of land in Thromde by providing for land pooling schemes.

CHAPTER 2

FEASIBILITY STUDY

Suitability of an area for land pooling

3. An area of land may be considered for land pooling if:
 - (a) it is in the urban area of a Thromde; and
 - (b) the area of developed plots comprises not more than 25% of the area of all of the plots.

4. However, land which is not in an urban area may be considered for land pooling if a Thromde considers that it will be suitable for expansion of the Thromde's urban area at some time in the future.
5. Land to which rule 4 applies should be treated as having a lower priority for land pooling than land which is in an urban area.

Feasibility study

6. If land may be considered for land pooling the Thromde may, with the approval in writing of the Minister, initiate a feasibility study:
 - (a) in response to a petition from owners of land in the area; or
 - (b) of its own initiative.
7. If a Thromde initiates a feasibility study, it shall:
 - (a) encourage active public participation in the preparation of the study; and
 - (b) conduct at least one public consultation meeting.
8. A feasibility study shall address the following issues:
 - (a) the proportion of the plots which are vacant;

Note
Land with a relatively low proportion of vacant land is less suitable, as the permanence of existing buildings constitutes a limitation on layout design.
 - (b) the number of land owners;

Notes
Whether the number of land owners is high should be determined taking into consideration:
the size of the proposed area;
the size of the plots;
whether some people are owners of multiple plots;
A high number of land owners makes a scheme more difficult to administer.
If the number of land owners is high, consideration should be given to creation of two or more planning units.
 - (c) the size of the plots;

Note
Small plots may raise problems with development potential.
 - (d) topography;
 - (e) the likely environmental impact of a scheme and the safeguards which can be established;
 - (f) the need for, and the potential to provide, environmental screening;
 - (g) whether the scheme is likely to result in a rise in property values (despite the reduction in plot size).
9. A feasibility study should include a preliminary cost estimate of the scheme and its financing plan.

10. In association with preparation of a feasibility study the Thomde may prepare a draft layout plan which is accurate to within 10%, and from which it is possible to estimate approximately the amount of land required for the creation of infrastructure.

Public support for a planned land pooling area

11. After a feasibility study has been conducted, the Thomde may advertise the proposed declaration of a land pooling area based on the feasibility study.
12. Advertising of the proposed declaration of a land pooling area shall include advertising:
 - (a) in newspapers;
 - (b) on television; and
 - (c) on radio.
13. An advertisement under rule 12 shall:
 - (a) specify that owners of land in the area may indicate support for, or opposition to, the declaration by giving notice in writing to the Thomde; and
 - (b) specify a date by which an indication of support for, or opposition to, the declaration must be received by the Thomde (being not earlier than 21 days after the date of the advertisement or notification).
14. A newspaper advertisement under rule 12 shall:
 - (a) identify the land affected by the proposal;
 - (b) describe the nature of the proposal;
 - (c) specify places where the feasibility study and a draft layout plan may be viewed; and
 - (d) set out the Thomde's estimate of the contribution ratio for the scheme calculated under Chapter 4 and the likely increase of land value to result from the scheme.
15. The Thomde shall ensure that during the period from commencement of advertising until the closing date for submissions a copy of the feasibility study and a draft layout plan is available for viewing:
 - (a) at the offices of the Thomde, during normal business hours;
 - (b) at one or more other places open to members of the public; and
 - (c) on the Thomde website (or on a website linked to the Thomde).
16. The Thomde shall consider any submissions received on or before the closing date for submissions.
17. The Thomde may declare the land pooling area if:
 - (a) it has considered any submission received on or before the closing date for submissions;

- (b) it has received written notification of support from two-thirds of the owners of plots in the area on or before the closing date for submissions; and
 - (c) it has consulted with the Minister in relation to the proposal.
- 18. A declaration of a land pooling area may include minor variations from the original proposal.
- 19. If the Thomde declares a land pooling area it must give public notice of the declaration.

Negotiation and acquisition of land from non-consenting owners

- 20. After the declaration of a land pooling area the Thomde shall continue to seek the support of land owners who have not notified their support.
- 21. In the event that a land owner fails to give support to the implementation of a land pooling scheme the Thomde shall acquire the plot in accordance with the *Land Act* 2007.

The effect of declaring a land pooling area

- 22. For a period of two years commencing on the day on which public notice is given under rule 19 of the declaration of a land pooling area:
 - (a) a person shall not commence a development of land within the land pooling area;
 - (b) a person shall not transact or subdivide land within the land pooling area, except as provided in rule 23.
- 23. The following transactions may occur within a land pooling area during the period referred to in rule 22:
 - (a) the owner of a plot may sell that plot, or any part of it, to the owner of an abutting plot;
 - (b) the owner of a plot may sell that plot, or any part of it, to the Thomde;
 - (c) the owner of the plot may sell that plot to a purchaser who acknowledges, in writing, that the land is subject to a proposed land pooling scheme and that the land may be reconfigured and reduced in size under that scheme;
 - (d) the Thomde may sell land to the owner of a plot within the land pooling area.
- 24. The Thomde, with the consent of the Minister, may by public notice extend the period referred to in rule 22 if finalisation of the LAP is delayed because information required from other agencies is not provided in a timely fashion.
- 25. If the Thomde, by public notice, declares that a proposed land pooling scheme is abandoned, rule 22 ceases to apply.

CHAPTER 3

DEVELOPMENT OF LOCAL AREA PLAN

Consultative Committee

26. As soon as practicable after the declaration of a land pooling area the Thomde shall establish a Consultative Committee.
27. The functions of a Consultative Committee are to:
 - (a) provide a forum for consultation about the land pooling scheme;
 - (b) consider and make recommendations to the Thomde about issues affecting the development of the local area plan including:
 - (i) contribution ratios, taking into consideration plot classification;
 - (ii) the number, size and location of reserve plots; and
 - (iii) infrastructure standards.
28. The Consultative Committee shall comprise:
 - (a) a Chairperson selected by the Thomde;
 - (b) not more than four other persons selected by the Thomde; and
 - (c) not more than four members who are owners of land in the scheme area, elected by owners of land in the scheme area.
29. If the Chairperson is unable to attend a meeting, the meeting shall be chaired by:
 - (a) another person selected by the Thomde for the purpose; or
 - (b) if no selection is made under paragraph (a) — one of the Committee members appointed under rule 28(b), as selected by the Committee.
30. At a meeting, the procedure shall be as determined by the Chairperson.

Thomde to prepare a local area plan

31. As soon as practicable after the declaration of a land pooling area the Thomde shall commence preparation of a draft local area plan.
32. A Thomde shall encourage active public participation in the preparation of a draft local area plan.
33. A draft local area plan shall contain:
 - (a) a detailed report about the scheme;
 - (b) a layout plan;
 - (c) the criteria for land use categorisation;

Example

The criteria for planning open space and refuse collection areas.

- (d) a schedule of contributions.

Layout plan

34. A layout plan shall show the overall area, including:
- (a) existing features, including:
 - (i) topographical features;
 - (ii) existing infrastructure;
 - (iii) buildings and structures;
 - (iv) plot boundaries;
 - (v) government owned land; and
 - (b) proposed features, including:
 - (i) proposed plots (including proposed reserve plots);
 - (ii) proposed planning units;
 - (iii) proposed infrastructure, including main access roads, main drainage, electricity, water and telephone networks and main sewers (if piped sewerage is intended).
35. A layout plan may be based on the draft layout plan, incorporating revisions.

Schedule of contributions

36. A schedule of contributions shall show the proposed contribution ratio for contributing land in the land pooling area.

Planning units

37. The Thomde may divide a land pooling area into planning units to:
- (a) facilitate consultation at a local level; or
 - (b) to enable the scheme to be phased appropriately.

CHAPTER 4

CONTRIBUTION TO THE COST OF A SCHEME

Calculation of indicative contribution ratio

38. In order to calculate a contribution ratio for the purposes of rule 14 or Chapter 5 the Thomde shall estimate:
- (a) the area of land required for infrastructure;
 - (b) the area of proposed reserve plots (if any); and

- (c) the area of all contributing land, calculated in accordance with rule 39.
39. Contributing land comprises:
- (a) plots in the area, including:
- (i) plots owned by the Government;
- (ii) plots which the Government or the Thromde has acquired or decided to acquire in accordance with rule 40; and
- (iii) any other plot in the area, irrespective of how the owner came into ownership of it; and
- (b) land owned by the Government which is not in a plot, but which, taking into account topography, physical characteristics and location, is capable of use.
40. The Thromde or the Government may acquire land to be used for the purposes of a land pooling scheme (or proposed land pooling scheme) in order to reduce the scheme's contribution ratio.
41. If the Thromde considers it appropriate to do so, it may make different calculations for different parts of the land pooling area, based on the areas with each of those different parts.

Examples

Part of a land pooling area may have higher infrastructure requirements than other parts, such as the need for roads with more expensive design features.

A land pooling area might comprise two portions: one intended for intensive development and one intended to be a green belt with little or no development. The Thromde might decide to calculate two contribution ratios: one for the part intended for intensive development (with a high infrastructure requirement) and one for the part intended to be a green belt (with a low infrastructure requirement).

42. The Thromde shall calculate an indicative contribution ratio using the formula:

$$\text{ICR (percentage)} = \frac{\text{IR} + \text{ARP}}{\text{ACL}} \times 100$$

Where:

- ICR (percentage) = Indicative contribution ratio, expressed as a percentage
- IR = Infrastructure requirement, being the estimated area of land calculated under rule 38(a);
- ARP = Area of proposed reserve plots, being the estimated area of land calculated under rule 38(b);
- ACL = Area of contributing land, being the estimated area of land calculated under rule 38(c).

Adjustment of indicative contribution ratio

43. The Thomde may adjust the indicative contribution ratio to take account of prior sacrifice of land made by a plot owner if:
- (a) the contribution was made by the current owner of the plot;
 - (b) no compensation was paid (or land provided in lieu of compensation) for the sacrifice; and
 - (c) the land sacrificed will comprise part of the infrastructure to be provided under the land pooling scheme.
44. The contribution ratio is the indicative contribution ratio expressed as a percentage, adjusted under clause 43.

Reserve plots and surplus land

45. A LAP may provide for plots, to be known as reserve plots, to be created for the purpose of sale to generate funds to be used in accordance with rule 51.
46. If a LAP does not allocate all of the land from existing plots to:
- (a) proposed new plots;
 - (b) land to be used for infrastructure; or
 - (c) reserve plots:
- the land which is not so allocated is surplus land.

Note

The topography of the land, or the proposed new configuration, may make it impracticable to allocate all land to one of the specified categories.

47. The Thomde may enter into, and implement, an agreement with the owner of a plot under which:
- (a) the Thomde agrees to add surplus land to that owner's reconfigured plot; and
 - (b) the owner pays to the Thomde an amount which has been determined by an independent valuer to be the fair market value for that land.
48. If surplus land vests in the Thomde under rule 63 or a reserve plot vests in the Thomde in accordance with rule 64, the Thomde may:
- (a) retain it temporarily;
 - (b) after consultation with owners of land in the area, use the land for public purposes; or
 - (c) sell the land.

Developed plots

49. If a plot has been developed so that it is not practicable for the full contribution ratio to be applied to the plot, the Thomde may calculate an amount payable by the plot

owner in lieu of some or all of the contribution which would otherwise be required under the contribution ratio.

50. If the Thomde calculates an amount payable under rule 49:
- (a) the Thomde shall reduce the contribution ratio for that plot, based on the calculation;
 - (b) the amount calculated is payable by the owner to the Thomde within 60 days after publication of the public notice under rule 62.

Application of proceeds

51. If the Thomde:
- (a) receives payment under an agreement with an owner made under rule 47;
 - (b) sells a reserve plot or surplus land under rule 48; or
 - (c) receives payment of an amount payable under rule 50—

it shall use the proceeds as a contribution to the cost of the land pooling scheme.

CHAPTER 5

RECONFIGURATION OF PLOTS

Objective

52. In designing a proposed configuration of plots and other land in a land pooling area the Thomde shall apply the following principles:
- (a) the configuration should be suitable for the proposed urban development;
 - (b) changes to plots should be minimised, consistently with the objective set out in paragraph (a);
 - (c) if it is not practicable to create a plot which occupies some of area occupied by the original plot it is to replace—
 - (i) if practicable, specific consultation with the owner of the plot should take place, and where practicable the views of the owner should be accommodated; and
 - (ii) the replacement plot should have similar characteristics and be of similar value (taking into account the contribution ratio);
 - (d) land which the Thomde or the Government has acquired under rule 40 forms part of the pool of land to be reconfigured and does not create an entitlement for the Thomde or the Government to a replacement plot.
53. If necessary, after applying the principles set out in rule 52, the Thomde may allocate a plot to an owner which is not in the same location as the original plot.

Plot size

54. If a plot after reduction in accordance with the indicative contribution ration would be smaller than the minimum permitted size in an urban area, the Thomde may consolidate the plot with other small plots, and allow joint ownership to create a standard size plot.

CHAPTER 6

PUBLIC CONSULTATION

Public Notice of draft Local Area Plan

55. After the Thomde has prepared a draft LAP for a land pooling area, it shall give public notice:
- (a) identifying the land pooling area;
 - (b) stating that a draft LAP has been prepared for the area;
 - (c) specifying the proposed contribution ratio;
 - (d) specifying places where the draft LAP may be viewed;
 - (e) stating:
 - (i) that property owners and members of the public may make written submissions to the Thomde;
 - (ii) that submissions must be lodged on or before the closing date for submissions; and
 - (iii) the place where submissions should be lodged.
56. The closing date for submissions specified in the notice must be a date which is not less than 21 days after the date of publication of the notice.
57. The Thomde must ensure that during the period commencing on the day that notice is given under rule 55 and the closing date for submissions, a copy of the LAP is available for viewing:
- (a) at the offices of the Thomde, during normal business hours;
 - (b) at least one other place open to members of the public; and
 - (c) on the Thomde website (or on a website linked to the Thomde).

Public presentation

58. The Thomde, in consultation with the Consultative Committee, shall organise at least two public consultation meetings in the land pool area in relation to a draft LAP.
59. The Thomde shall give public notice of the public consultation meeting.
60. At a public consultation meeting:

- (a) the Thromde shall make a presentation about the proposals set out in the draft LAP;
- (b) people attending the meeting shall be given the opportunity to ask questions and make comment.

CHAPTER 7

IMPLEMENTATION

Requirements for implementation

61. The Thromde is empowered to implement a land pooling scheme if:
- (a) the land pooling area was declared in accordance with rule 17; and
 - (b) the contribution ratio does not exceed 30%;
 - (c) public consultation has taken place as required by Chapter 6.

Final Local Area Plan

62. If the Thromde is empowered to do so under rule 61, it may, with the approval of the Minister, implement a land pooling scheme by:
- (a) preparing a final LAP;
 - (b) giving public notice that the land pooling scheme is being implemented; and
 - (c) applying for updating of the Thram in relation to plots shown in the final LAP, in accordance with section 118 of the Thromde Act.
63. On publication of a public notice under rule 62 all land in the land pooling scheme which is not included in a plot vests in the Thromde.

Effect of Registration

64. When the Thram is updated in accordance with section 118 of the Thromde Act:
- (a) ownership of plots is as shown in the updated Thram in accordance with section 61 of the Land Act 2007;
 - (b) the prohibition on development or transfer imposed by rule 22 ceases to apply.
65. Except as provided in rule 66, the Thromde shall pay compensation for immovable property and objects (including cash crops) which are acquired for or affected by the implementation of a land pooling scheme.
66. No right of compensation arises from:
- (a) the prohibition on transfer or dealings imposed by rule 22;
 - (b) the reconfiguration of plots, the reduction of land ownership caused by application of the contribution ratio or the transfer of ownership of land or the updating of the Thram in accordance with these Rules;

- (c) acquisition of immovable objects which have been placed on land in breach of rule 22.
67. An obligation or liability relating to an original plot of land is transferred to the corresponding new plot of land.

Note

Under rule 53 it is possible for the Thomde to allocate a plot which is in a different location from the original plot.

Example

If the owner of an original plot is liable to make a payment under rule 50 the owner of the corresponding new plot will be liable to make the payment.

Grievances

68. A land owner may apply for review of a decision by the Thomde under these Rules, within 30 days after that decision is made, to the Thompon of the Thomde.
69. If the land owner is not satisfied with the decision of the Thompon, the land owner may, within 30 days after receiving the decision of the Thompon, apply to the Minister for a review of the decision of the Thompon.
70. The Minister may delegate to an officer of the Ministry the Minister's powers under rule 69.

CHAPTER 8

MISCELLANEOUS

Interpretation

71. Words and expressions used in these Rules have the same meaning as in the Act.

Definitions

72. Unless the context clearly requires otherwise:
- (a) *Act* means the Thomde Act 2007.
 - (b) *contributing land* means land described in rule 39.
 - (c) *contribution ratio* means the ratio specified in rule 44.
 - (d) *corresponding new plot* means a plot which, after reconfiguration of plots, corresponds with an original plot in accordance with rule 67.
 - (e) *draft layout plan* means a tentative layout plan prepared under rule 10.
 - (f) *draft local area plan* means a draft local area plan described in rule 33.
 - (g) *final local area plan* means a final Local Area Plan produced under rule 62.
 - (h) *infrastructure* includes roads, rights of way and infrastructure easements, public facilities and open space.
 - (i) *layout plan* means a plan prepared in accordance with rule 34.

- (j) **LAP** means a local area plan.
- (k) **Minister** means the Minister administering the Thromde Act 2007.
- (l) **Ministry** means the Ministry of the Minister.
- (m) **planning unit** means an area created under rule 37.
- (n) **pooled land** means land in a land pooling area.
- (o) **public notice** means an advertisement in a national newspaper.
- (p) **reserve plot** means a plot created under rule 45.
- (q) **scheme** means a land pooling scheme.
- (r) **surplus land** has the meaning given to it in rule 46.
- (s) **topographical features** includes:
 - (i) land forms (contours);
 - (ii) rivers and natural drainage lines.
- (t) **transact**, in relation to land, means buy, sell, exchange or give or accept a gift of the land.
- (u) **urban area** means land that has been declared to be an urban area under the Thromde Act 2007.

Transitional provisions

- 73. A land pooling scheme which has been commenced, but not completed, on the day that these Rules come into operation shall be deemed to have been commenced under these Rules.