

Performance Audit Report on Urban Planning and Development in Thimphu Throm



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December 2019

DISCLAIMER NOTE

The review is confined to Urban Planning and Development in Thimphu Throm. The review was carried out as per the objectives and program prepared by the Royal Audit Authority. The findings are based on the information and documents made available by the audited agencies. This is also to certify that the auditors during the audit had neither yielded to pressure, nor dispensed any favor or resorted to any unethical means that would be considered as violation of the Royal Audit Authority's Oath of Good Conduct, Ethics and Secrecy.



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ROYAL AUDIT AUTHORITY
Bhutan Integrity House

Reporting on Economy, Efficiency & Effectiveness in the use of Public Resources



RAA/PSAD (PA- TT & MoWHS) 2019-20/3110

27.12.2019

Hon'ble Secretary
Ministry of Works and Human Settlement
Thimphu

The Thrompon
Thimphu Thromde
Thimphu

Subject: Performance Audit Report on Urban Planning and Development in Thimphu Throm

Dasho(s),

Enclosed herewith please find the ***Performance Audit Report on Urban Planning and Development in Thimphu Throm*** covering the period 2013-14 to 2017-18. The Royal Audit Authority (RAA) conducted the audit under the mandate bestowed by the Constitution of Kingdom of Bhutan and the Audit Act of Bhutan 2018. The audit was conducted as per the International Standards of Supreme Audit Institutions on Performance Auditing (ISSAI 3000). The RAA conducted the audit broadly under two audit objectives:

- i. To ascertain whether there exist appropriate institutional framework for effective and efficient urban planning and development;
- ii. To ascertain whether urban planning and development initiatives are in compliance to standards and norms.

The performance audit was conducted in Department of Human Settlement, Ministry of Works and Human Settlement and Thimphu Thromde covering the period 2013-14 to 2017-18. The report highlights significant accomplishments and initiatives as well as shortcomings and deficiencies observed by the RAA. Some of the pertinent and significant developments observed have been highlighted under **Part I** of Chapter 3. The lapses and deficiencies where immediate actions and improvements are desirable towards enhancing efficiency and effectiveness in Urban Planning and Development in Thimphu Throm are detailed in **Part II** of Chapter 3.

The RAA prepared the report based on the documents and information made available by the Ministry and Thimphu Thromde, and based on discussions with relevant officials. The draft report was issued on 21 October 2019 to the MoWHS and Thimphu Thromde for factual confirmation, comments and feedback. Relevant responses received have been incorporated as well as appended in the report as annexure.

In line with the Audit Act of Bhutan 2018, the auditee agencies are required to submit response to the Performance Audit Report on Urban Planning and Development in Thimphu Throm in the form of Management Action Plan. The Management Action Plan should specify the action plans for implementation of the recommendations with definite timeframe aimed to address the underlying causes of the findings. Further, as specified by Section 55(16) of

"Every individual must strive to be principled. And individuals in positions of responsibility must even strive harder."
-His Majesty the King Jigme Khesar Namgyel Wangchuck

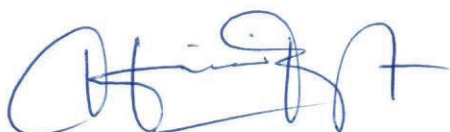
the Audit Act of Bhutan 2018, the auditee agencies concerned are required to submit signed Accountability Statement for implementation of the recommendations provided.

The RAA would follow-up implementation of the recommendations based on the Management Action Plan and Accountability Statement. Failure to comply will result in taking appropriate actions, which may include suspending audit clearances to accountable official(s).

Therefore, the RAA would like to request the MoWHS and Thimphu Thromde to submit a Management Action Plan (format attached) for implementation of recommendations with definite timeframe **on or before 27 March 2020** along with the signed Accountability Statement (format attached). **In the event of non-submission, the RAA shall invariably fix the overall supervisory accountability on the head of the auditee agencies in line with Section 55(17) of the Audit Act of Bhutan 2018.**

We take this opportunity to acknowledge the officials of the Department of Human Settlement and Thimphu Thromde for rendering necessary co-operation and support during the audit.

Yours sincerely,



(Tshering Kezang)

Auditor General of Bhutan

Copy to:

1. Hon'ble Lyonchhen, Royal Government of Bhutan, Thimphu;
2. Hon'ble Gyalpoi Zimpon, Office of Gyalpoi Zimpon, Thimphu;
3. Hon'ble Speaker, National Assembly of Bhutan, Thimphu;
4. Hon'ble Chairperson, National Council of Bhutan, Thimphu;
5. Hon'ble Opposition Leader, National Assembly of Bhutan, Thimphu;
6. Hon'ble chairperson, Public Accounts Committee, National Assembly of Bhutan, Thimphu (*enclosed five copies*)
7. Hon'ble Minister, Ministry of Works and Human Settlement, Thimphu;
8. Executive Secretary, Thimphu Thromde, Thimphu;
9. Director, Department of Human Settlement, MoWHS, Thimphu;
10. Assistant Auditor General, Policy and Planning and Annual Audit Report Division, RAA, Thimphu;
11. Assistant Auditor General, Follow-up and Clearance Division, RAA, Thimphu;
12. Office Copy; and
13. Guard file.

"Every individual must strive to be principled. And individuals in positions of responsibility must even strive harder."
-His Majesty the King Jigme Khesar Namgyel Wangchuck

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MANAGEMENT ACTION PLAN REPORT

Performance Audit on Urban Planning and Development in Thimphu Throm

Recon No.	Audit Recommendation in brief	Action Taken or To be Taken	Estimated Implementation Date	Estimated Completion Date	Responsibility Entrusted to:	
					Name & Designation	EID no.
4.1	The Government should develop a clear institutional Framework for implementation of the TSP					
4.2	The Government should consider adequate representation of stakeholders in Thromde decision making					
4.3	MoWHS and Thimphu Thromde should carry out comprehensive review of TSP and DCRs					
4.4	MoWHS in collaboration with Thimphu Thromde should strengthen the coordination between themselves					
4.5	Proper record keeping and efficient monitoring should be instituted					
4.6	MoWHS and Thimphu Thromde should carry out a resource need assessment for timely execution of development activities					
4.7	Deviations should be reviewed and reported to					

	relevant authorities for necessary action					
4.8	MoWHS & Thimphu Thromde in consultation with relevant agencies should come up with action plan to address transportation issues					
4.9	Housing affordability issue requires special attention					
4.10	Thimphu Thromde should enhance the sewerage treatment capacity					
4.11	Issues with Construction of MLCP 1 & 2 should be properly addressed					

ACCOUNTABILITY STATEMENT

Performance Audit on Urban Planning and Development in Thimphu Throm

		Direct Accountability		Supervisory Accountability	
Sl. NO	RECOMMENDATIONS	NAME & DESIGNATION	EID NO.	NAME & DESIGNATION	EID NO.
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4.11	Issues with Construction of MLCP 1 & 2 should be properly addressed				

(s/d)
Thrompon
Thimphu Thromde

(s/d)
Hon'ble Secretary
MoWHS

TITLE SHEET			
1.	Title of the Report	:	Performance audit report on Urban Planning and Development in Thimphu Throm
2.	AIN	:	16269
3.	Audited Entities	:	Department of Human Settlement, MoWHS and Thimphu Thromde
4.	Schedule of Audit	:	08 February 2019 to 14 June 2019
5.	Audit Period	:	2013-14 to 2017-18
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8.	Overall Supervisor	:	Chimi Dorji, Deputy Auditor General (EID: 9610060)

ACRONYMS AND ABBREVIATIONS

AIN	Audit Identification Number
APA	Annual Performance Agreement
ATR	Action Taken Report
BBR	Bhutan Building Rule
BMA	Bhutan Municipal Act
BLSS	Bhutan Living Standard Survey
CCM	Council of Cabinet Ministers
CNDP	Comprehensive National Development Plan
DHS	Department of Human Settlement
DCR	Development Control Regulations
DPR	Detailed Project Report
DCD	Development Control Division
ECB	Election Commission of Bhutan
FDI	Foreign Direct Investment
FNCA	Forest and Nature Conservation Act
GLD	Guided Land Development
ISSAI	International Standards for Supreme Audit Institution
IFC	International Finance Corporation
FDI	Foreign Direct Investment
LAP	Local Area Plan
MoF	Ministry of Finance
MoWHS	Ministry of Works and Human Settlement
MoHCA	Ministry of Home and Cultural Affairs
MoAF	Ministry of Agriculture and Forest
MLCP	Multi Level Car Parking
MoU	Memorandum of Understanding
MoC	Ministry of Communication
NCCHS	National Consultative Committee on Human Settlement
NSH	National Committee for Human Settlement
NCCA	National Commission for Cultural Affairs
NIT	Notice Inviting Tender
NLCS	National Land Commission Secretariat
PPD	Policy and Planning Division
PHCB	Population and Housing Census of Bhutan
PRR	Procurement Rules and Regulations
RAA	Royal Audit Authority
RGoB	Royal Government of Bhutan
ROW	Right of Way
TSP	Thimphu Structural Plan
TT	Thimphu Thromde

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<i>Annexure -4</i>	<i>: Response to draft audit report from Thimphu Thromde</i>

EXECUTIVE SUMMARY

‘Urban planning’ is understood as a form of State intervention in a development process consisting of many stakeholders, dominantly the private sector. It would be wrong to assume that the planning and developing authority completely controls the urban environment. Further, implementation of plans is not just an administrative process that follows once policies are in place. Nevertheless, authorities can be capable of successfully influencing the planning and development process depending on its institutional framework, resource management, and the powers with which it is entrusted and more importantly on the relationship it maintains with stakeholders and agencies involved in the process of urban planning and development. A tricky character of this process is that it is more about bargaining, negotiation and compromise over the distribution of scarce resources like the ecology and land and a potential risk is that urban plans being modified in the interest of a stakeholder or even for an agency. Evidently, urban planning and development potentially can alter the resource distribution that market forces produce, causing some to gain and some to lose.

The urban planning and development in *Thimphu Throm* has been anything but smooth. Ever since urban planning and development started in Bhutan, multiple agencies had to be involved due to the huge scope of development; technological change became difficult to keep up with and changes occurred in legislation and governance framework. In the process, there appeared lack of inter-agency coordination and numerous deviations from the intent of the actual plan for the city, plaguing the urban planning and development initiatives.

The Royal Audit Authority (RAA) had conducted the “*Performance Audit on Urban Planning and Development in Thimphu Throm*” as mandated by the Constitution of the Kingdom of Bhutan and the Audit Act of Bhutan 2018. The audit was carried out following the International Standards of Supreme Audit Institutions on performance auditing (ISSAI 3000). The audit is conducted with the following audit objectives:

- ⊕ To ascertain whether there exist appropriate institutional framework for effective and efficient urban planning and development;
- ⊕ To ascertain whether urban planning and development initiatives are in compliance to standards and norms.

The audit was conducted in MoWHS and Thimphu Thromde, focusing on areas under 10 Local Area Plans of the Thimphu Structure Plan. The audit focused primarily on institutional framework, land use, traffic and circulation, and road and footpath components of the Thimphu Structure Plan.

Both positive developments and area requiring further improvements are noted and reported in report. Some of the notable initiatives and positive developments include:

- ✓ The Strategic Environment Assessment (SEA) of the Thimphu Structure Plan was conducted by the multi-sectorial core team comprising representative from Thimphu Thromde, MoWHS, Gross National Happiness Commission (GNHC), National Environment Commission (NEC), NLCS, and United Nations Development Programme (UNDP) with technical and capacity-building support from the Korea Environment Institute (KEI).
- ✓ DHS, MoWHS has initiated drafting of spatial Planning bill beginning 2015 that would provide a clear spatial planning framework for fair, orderly, economic and sustainable use of land in the country.
- ✓ Thimphu Thromde as of 2017 has completed implementation of eight LAPs namely, Dechenchholing, Langjophakha, Zilukha, Core Area, Changbangdu, Lungtenphu, Babesa and Semtokha

Notwithstanding these accomplishments, the audit observed deficiencies and shortcomings of which, some of the significant findings are briefly mentioned hereunder.

- With regard to implementation of TSP, there appears to be lack of clarity and disagreements over the roles and responsibilities between MoWHS and Thimphu Thromde. Most of decisions which were technical in nature were found taken by the *Thromde Tshogde* resulting in complete change in development plans of *Thimphu Throm*;
- There is delay in enactment of Spatial Planning Act that would provide legal mandate to the existing plans and delineate roles and responsibilities and accountabilities associated with the implementation of the plans;
- Most of the important ‘Proposal for action’ as envisioned in TSP remained not implemented.

Based on the findings, the RAA has provided 11 recommendations, which are detailed in Chapter 4 of this report aimed at enhancing efficiency and effectiveness in urban planning and development in *Thimphu Throm*.

CHAPTER 1: ABOUT THE AUDIT

1.1 Mandates

The Royal Audit Authority conducted the “*Performance audit on Urban Planning and Development in Thimphu Throm*” as mandated by the Constitution of the Kingdom of Bhutan and Audit Act of Bhutan 2018 as follows:

- a) Article 25 (1) of the Constitution of the Kingdom of Bhutan provides that “*There shall be a Royal Audit Authority to audit and report on the economy, efficiency, and effectiveness in the use of public resources*”.
- b) Section 68 of the Audit Act of Bhutan 2018, under the ‘*Functions and Jurisdiction of the Authority*’ states, “*The Authority shall audit and report on the economy, efficiency and effectiveness in the use of public resources*”.

1.2 Audit Standards

The Royal Audit Authority conducted the audit in accordance with the RAA’s Performance Audit Guidelines 2011, which is consistent with the International Standards of Supreme Audit Institutions on Performance Auditing (ISSAI 3000).

1.3 Audit Objectives

The RAA conducted the ‘*Performance audit on Urban Planning and Development in Thimphu Throm*’ with the following audit objectives:

- i. To ascertain whether there exist appropriate institutional framework for effective and efficient urban planning and development;
- ii. To ascertain whether urban planning and development initiatives are in compliance to standards and norms.

1.4 Audit Scope

The performance audit on *Urban Planning and Development in Thimphu Throm* covered the period from 01 January 2014 to 31 December 2018 and the agencies were confined to Department of Human Settlement (DHS), Ministry of Works Human Settlement (MoWHS) and *Thimphu Thromde*. However, as the process of urban planning and development had occurred over many decades, wherever necessary, review of earlier data and documents relevant to this audit was carried out.

The performance audit on *urban planning and development in Thimphu Throm*, identified the implementation of the Thimphu Structure Plan (TSP) 2002-2027 as the main plan document and the audit focused primarily on institutional framework, the land use, traffic and circulation, road and footpath components of the Thimphu Structure Plan. This audit covered 10 Local Area Plans (22 in total) from seven Urban Village (15 in total) under the Thimphu Structure Plan to assess the institutional framework, implementation issue of the Thimphu Structure Plan and other pressing issues related to the urban area planning and development.

1.5 Audit approach

The audit used the combination of System-oriented and Problem based audit approaches. Using these approaches, the audit focused mainly on the systemic issues and prevailing problems relating to Urban Planning and Development. These approaches were applied considering the issues and challenges in implementing the Thimphu Structure Plan through review of various documents, legislations and discussion with officials from the Department of Human Settlement, Ministry of Works and Human Settlement and *Thimphu Thromde*.

1.6 Audit Methodology

Following audit methodologies were applied during the audit to gather information, analyze data and derive conclusions:

- a) Reviewed legislation, rules and regulations, Government policies, Thimphu Structure Plan, Local Area Plans, publications and reports to understand the processes and procedures regarding Urban Planning and Development;
- b) Reviewed *Thromde Tshogde* Minutes of Meetings to understand the resolutions, actions and challenges regarding Urban Planning and Development in *Thimphu Throm*;
- c) Interviewed key personnel, in DHS, MoWHS and *Thimphu Thromde*, involved in implementation of the TSP to enhance understanding of Urban Planning and Development in *Thimphu Throm* and considered their views and suggestions on issues regarding Urban planning and Development;
- d) Visited MoWHS, and *Thimphu Thromde* to collect information on Compliance and Review carried out by the DHS, MoWHS to understand challenges and issues in implementation of the TSP and collect information on planning and development processes existing both at National and Local Level;
- e) Conducted walkthroughs to understand the systems and procedures that are in place for urban planning and development;
- f) Gathered pictorial evidences to support audit observations; and
- g) Reviewed past audit reports, research thesis reports, other technical reports published regarding the TSP to understand the issues that are recurring, non-compliant and challenges in the urban planning and development.

1.7 Audit Limitations

Urban planning and development is a complex sector and the audit team faced many limitations in the process of executing this audit. Some of those limitations are as mentioned hereunder.

- a) Documents and records were very difficult to avail because proper documentation and record keeping was lacking especially with regard to TSP;
- b) The documents pertaining to the planning and development of the TSP document could not be audited because most of the old files were not available, and
- c) Since most of the LAPs were already implemented, information regarding its planning and funding were mostly not available.

2.1 Urban Planning and Development in Bhutan

Bhutan is a rapidly urbanizing country with total population of 37.8% as of 2017¹, living in urban areas as compared to 30.9% in 2005². Between 2005 and 2017, the total population increased by 92,163 persons and the urban population increased by 78,856 persons (85% of the total population increase). The natural population Growth Rate of Bhutan is fairly constant at 1.3% per annum and the national population density is 19persons/km² as of 2017. The distribution of population (population density) over land area is not uniform with *Thimphu Dzongkhag* having the highest density (67.1 person per km²) and *Gasa Dzongkhag* having the lowest density (1.3 person per km²).

Article 22 of the **Constitution of the Kingdom of Bhutan**, Section 1, states, “Power and authority shall be decentralized and devolved to elected Local Governments to facilitate the direct participation of the people in the development and management of their own social, economic and environmental well-being.”

The overall governing legislation for *Thromdes* is the *Local Government Act 2009 (amended 2014)*, outlining the establishment, election of representation, functioning and financial autonomy.

Thromde Rules 2011 is the subordinate legislation, which prescribes detailed procedures to implement the provision of LG Act 2009.

The four *Thromdes* account for 22.2% of Bhutan’s total population with *Thimphu Thromde* being the most populous urban Centre with 114,551 persons as of May 2017. *Thimphu Thromde* has the highest population density of 4,389 persons per km² and *Gelephu Thromde* the lowest with 856 persons per km². More than half of the population in the *Thromdes* were born in rural areas and have moved since birth to the four *Thromdes*.

With changing demographic dynamics and increasing rate of rural-urban migration, ‘urban planning and development’ has a very significant role in the overall process of urbanization. However, while urbanization brings economic opportunities, unplanned urbanization leads to many issues and challenges such as poor infrastructure, land price and value speculations, housing disparity, illegal developments etc.. Many of these issues and challenges exist in Bhutan’s context and urban areas are already struggling to provide adequate services to their existing population.

The Cabinet order states, “The committee shall comprise of senior officials from relevant agencies in the Royal Government. It shall serve as an **advisory body** to the Ministry of Communications on human settlement policy and legal aspects” with the following **objective**: “to facilitate urban growth efficiently and effectively on a social, economic and environmentally sustainable basis through central government policy and administrative interventions.” The 20th NCCHS was held on 9th October 2018.

2.1.2 Output of planning process

The primary outputs of the planning process are development plans, development regulations and design guidelines as explained in **Table 1**.

¹ PHCB 2017

² PHCB 2005

Table 1: Outputs of planning process	
Urban Development Plans	<ul style="list-style-type: none"> • Valley Development Plan • Structure Plans • Local Area Plans • Action Area Plan
Development Control Regulations	<ul style="list-style-type: none"> • A set of regulations drafted as a companion document to the Development Plans • Contains information on land use, building construction procedure and development control regulations
Urban Design Guidelines	<ul style="list-style-type: none"> • A set of broad guidelines to help achieve the visions and goals of the Plan • Consists of explanatory notes on the objectives and the planning and design principles to be adopted along with relevant images and diagrams
Source: DHS, MoWHS	

A few land use techniques were used over the planning history of Bhutan. Land acquisition, Land pooling, and Guided Land Development are explained in **Appendix-1**.

2.1.3 Governance Structure

The governance structure for urban planning and development is different from the conventional governance structure of public sector institutions. Many external actors besides the governmental agencies involved in planning and developing urban areas, have substantial policy influence on the development plans of a municipality or an area. The major players in the whole process of planning and development are broadly depicted in the **Figure 1**.

Figure 1: Governance Structure



Source: DHS, MoWHS

The MoWHS is the apex body for urban planning and development in the Country and the DHS develops national human settlement strategies, policy documents and plans. Currently, the local Governments are the implementing agencies of programmes and plans, which also includes local spatial plans like the TSP. Local area planning based on the overall structure plan of the area appears to be the mandate of the municipality. There is no specific Act to guide urban planning currently, with the Spatial Planning bill of Bhutan 2019 still not endorsed by the Parliament.

The National Consultative Committee for Human Settlement (NCCHS), constituted in 2001³ is a committee constituted by government secretaries from agencies relevant to planning and developing human settlements, chaired by the Minister of MoWHS. A primary role of the Committee was to provide sectorial input on policies, plans, programmes, legislation etc. with regard to urban sector and

³ Cabinet order (COM/23/01/1423)

the specific task was to guide and advice the Ministry on urban development aspects. The committee was renamed National Committee for Human Settlement (NCHS) in August 2019.

2.2 Urban Planning and Development in Thimphu Throm (City)

Although it is not documented, it appears that the 1st plan for *Thimphu Throm* was made in 1961 together with the launch of the 1st 5-year plan. As per the **Thimphu Structure Plan (TSP) 2002-2027 (revised 01.08.2004)**, the 1st plan made in 1964 was not implemented and the 2nd plan of 1984 guided the *Thimphu Throm* development. The *Thimphu Throm* boundary was expanded in 1999 from 8 km² to 26 km² and the Council of Ministers approved the TSP in the year 2003, with *Dechenchholing* to the north and *Serbithang* to the south. In principal, urban planning and development in *Thimphu Throm* is guided by the TSP.

By 1962 Thimphu's first motor-road had been built. In 1966 Thimphu became a full capital of the Royal Government of Bhutan. The city became a center of administration and grew around the Tashichho Dzong, which was under reconstruction in the 1960s. Along with roads, large tracts of land were developed as institutional land- RBA in Lungtenphu, RBP in Changzamtog, RBG in Dechencholing, DANTAK in Babesa, and India House in north Thimphu. By the 1970s agricultural land was being used for construction of houses and offices to meet the demand of the growing civil service... There has been a construction boom in the city after 2008 which busted in 2012 after the Central Bank intervened to discourage construction loans. In 2008, Local Area Plans were finalized and new land was released in the extended areas for development... most of this stock is built as residential even if it is being used for commercial purposes...

–Thimphu's growing pain: Manka Bajaj

Thimphu Thromde is the lead implementing body of the TSP and *Thromde Tshogde* is the highest decision making body of *Thimphu Thromde* empowered by the Local Government Act 2009 (amended 2014), and comprises eight elected members, headed by a *Thrompon*. *Thromde Tshogde* is empowered to formulate policies related to *Thromde operations*, administer and manage government land, **approve local area plans, facilitate planned growth, frame and enforce rules for health, safety, wellbeing of the residents** and to **levy taxes, fees and charges**.

In principle, MoHCA is the parent ministry of local governments and MoWHS is responsible for monitoring and supervision of activities and formulation of plans and policies pertaining to urban planning, which are mostly technical in nature. Prior to enactment of the Local

Government Act, policies regarding the TSP indicate, that national level planning was done by the Ministry (*now the MoWHS, then the MoC*) and implementation at local level were carried out by *Thimphu Thromde* (*initially the Thimphu City Corporation under the MoC*) inside the municipal boundary and by *Thimphu Dzongkhag* outside the municipal boundary.

When the TSP was approved for implementation, Bhutan Municipal Act 1999 was in force for the then Thimphu City Corporation, responsible for implementing the TSP and developing *Thimphu Throm*. The NCHS was the body where major decisions regarding urban matter, especially the implementation of TSP, were discussed. Currently, the *Thimphu Thromde* is under the Local Government Act and is responsible for implementing the TSP.

2.2.1 Thimphu Structure Plan

A Structure Plan regulates structure development for an area, provides instructions and guidance to public authorities, becomes the basis for further planning and development and is a long-term strategy for settlement and landscape development.

The TSP's main thrust is on formulating area development strategies with land use planning that stresses integration of the natural environment and rich cultural heritage. It identifies key issues and provides long-term implementation plans with funding needs, as well as detailed proposals for action pertaining to infrastructures and services. The TSP addresses critical issues requiring action; spells out the assumptions, considerations, opportunities and constraints; and provides evaluations and possible alternatives, which mould the structure plan. The TSP is specifically designed to cater to the needs of its future inhabitants. It divides the municipality into 16 **urban villages (UV)****. According to settlement pattern, population concentration, environmental assets and geographical features, each urban village is composed of one or two **Local Area Plans (LAP)**.*

* Strategic Environment Assessment of Thimphu Structure Plan 2018

** Updated to 15 UV in 2015 Instead of 16 as proposed in the TSP by doing away with Dechencholing Palace UV

The TSP guides planning and development in *Thimphu Throm* and is a 25-year plan to develop *Thimphu Throm*, covering an area of 26 Km², and was approved by the Council of Ministers in 2003⁴. When the TSP was approved, the Bhutan Building Regulation (BBR) 2002 applied to urban areas without a structure plan and areas that had a structure plan sanctioned, the provisions of the accompanying DCR were applicable in that area. The implementation of TSP was guided by the DCR 2004.

In 2015, *Thimphu Thromde* made an updated version of the TSP, focusing on 12 LAPs that were implemented, incorporating changes that had occurred in the last 12 years. The DCR 2016 is a revised version of the DCR 2004 endorsed by the *Thromde Tshogde*, with major amendments to land use and intensity of land use. In 2018, the MoWHS made the Bhutan Building Regulation 2018, which superseded the BBR 2002 and Rural Construction Rules 2013. There are also many other Acts, regulations, guidelines, standards, codes with regard to human settlement and infrastructure construction that are relevant to the TSP like the Land Act 2007, Bhutan Architectural Guidelines 2014, Bhutan Building Code 2018, Human settlement strategy 2017, Bhutan Urbanization Strategy 2008 etc..

The most pertinent guide of the TSP was the DCR 2004, which covered all area under the *Thimphu Throm* and areas as defined in the TSP. The regulation's **'implementing authority'** is the *Thimphu Thromde* in the area under *Thimphu Throm* and the DHS, MoWHS outside the *Throm*

The Development Control Regulation (DCR) 2004 was to regulate developments in Thimphu Thromde so that the vision and objectives of the TSP are achieved.

It regulates the **type of land use/zoning** (such as residential, mixed land use, commercial, special functions area etc.), the **intensity of land use** (that defines the height of the building, density and pattern) and the **form of the built fabric** (that defines the type of buildings).

boundary. Besides the regulations and guidelines, there are other components of the TSP, which are standards devised to ensure the successful implementation of the plan, achieve the visions of the plan, and consider the sustainability of the TSP. Some of the important components like 'Precinct Plan', Local Area Plan, National Capital Region, and other important projects proposed in the TSP are explained in **Appendix-2**.

⁴ The TSP was approved in line with the 177th and 178th Coordination Committee Meeting of the Council of Ministers in 2003

2.2.2 Funding

An important element of urban planning and development is how the plans are funded from conceptualization till implementation and completion of the plans. In the case of TSP, huge funds were required for the infrastructural development of the LAPs that were made along with the TSP, besides other components like system development, capacity building etc. More funds will be required to prepare LAPs for the remaining areas within the TSP area and develop these areas in line with the LAPs. The following are some of the funds that were expended while developing some of the areas that already had a LAP prepared.

Bhutan Urban Development Project (BUDP-II) -World Bank

The BUDP-II was funded by the World Bank for the period 2010-2019 and consists of the following components:

- *Municipal Finance and Management – USD 1.5 million + USD 0.70 million*
- *Thimphu Northern Area Development – USD 9.3 million + USD 15.9 million*
- *Capacity Building – USD 1.2 million + USD 0.80 million*

In total USD 25.2 million was for Thimphu Northern Area Development, implementing LAPs, improve urban infrastructure services, and to augment the existing water supply system. Under this fund the urban infrastructure development for the following were carried out as shown in the **Table 2 and 3**:

Table 2: Funding for LAPs		
Sl. No.	Particulars	Amount
1	Dechencholing LAP including water treatment plan and sewerage treatment plant	Nu. 240.28 million
2	Langjophakha LAP including sewerage treatment plant	Nu. 161.95 million
3	Taba LAP including sewerage treatment plant and water treatment plant	Nu. 467.31 million
4	Hejo –Samteling LAP	Nu. 170.65 million
5	Jungshina Pamtsho LAP	Nu. 102.72 million
6	Central water supply scheme from Dodeyna	Nu. 229.07 million
Table 3: ADB Funded LAPs		
Sl. No.	Particulars	Amount
1	Lungtenphu Local Area Plan Package 2 (pilot area)	Nu. 115 million
2	Lungtenphu Local Area Plan (non-pilot area)	Nu. 113 million
3	Simtokha Local Area Plan	Nu. 160 million
4	Babesa Local Area Plan	Nu.625 million
5	Changbangdu Local Area Plan	Nu. 217 million

CHAPTER 3: AUDIT FINDINGS

The audit findings are divided into two parts: **Part I** highlights the positive achievements of the *Thimphu Thromde* and DHS, MoWHS with regard to regulatory functions and management of urban planning and development in *Thimphu Throm*. **Part II** highlights the lapses and deficiencies observed.

Part I: Positive Achievements

Despite various deficiencies and shortcomings noted on the audit of urban planning and development in *Thimphu Throm*, important initiatives and development were also observed. Some of the positive initiatives are summarized below:

- a) The Strategic Environment Assessment (SEA) of the TSP was conducted by the multi-sectorial core team comprising representative from Thimphu Thromde, MoWHS, Gross National Happiness Commission (GNHC), National Environment Commission (NEC), NLCS, and United Nations Development Programme (UNDP) with technical and capacity-building support from the Korea Environment Institute (KEI).
- b) DHS initiated preparation of close to 65 settlement plans across the country and strategic program for climate resilience settlement.
- c) Developed several Rules, Regulations, Policies and Guidelines namely Comprehensive National Development Plan (CNDP) 2030, National Human Settlement Policy, Guidelines for Land Pooling and Land Readjustment 2019 and Land Pooling and Readjustment Regulations 2018.
- d) DHS, MoWHS coordinates with LG and acts as technical backstopping for development proposal.
- e) DHS, MoWHS initiated drafting of spatial Planning bill beginning year 2015 that would provide a clear spatial planning framework for fair, orderly, economic and sustainable use of land in the country.
- f) DHS carries out Compliance and Development Reviews of Settlements every year and so far has carried out review for four Local Area Plans under the Thimphu Structure Plan namely Lungtenphu LAP, Hejo-Samteling LAP, Changzamtog LAP and Babesa LAP.
- g) Thimphu Thromde as of 2017 completed implementation of eight LAPs namely, Dechenchholing, Langjophakha, Zilukha, Core Area, Changbangdu, Lungtenphu, Babesa and Semtokha.

Part II: Lapses and deficiencies

The RAA's review and analysis of the available documents and information on urban planning and development in *Thimphu Throm* with regard to planning and implementing the TSP with its components, revealed various lapses and deficiencies as discussed hereunder.

3.1 Institutional framework

The overall governing legislation for *Thromdes* is the Local Government Act 2009 (amended 2014), outlining the establishment, election of representation, functioning and financial autonomy. *Thimphu Thromde* is responsible for implementing the TSP and development of *Thimphu Throm*. In principle, MoHCA is responsible for the overall governance of local governments and MoWHS is responsible for monitoring and supervision of activities, and formulation of plans and policies pertaining to urban areas, which are mostly technical in nature.

Thromde Rules 2011 is the subordinate legislation, which prescribes detailed procedures to implement the provision of LG Act 2009. The TSP is a 25-year plan to guide planning and development in *Thimphu Throm*. The Development Control Regulation (DCR) regulates the developments identified in the TSP.

Despite clarity in the institutional framework, the RAA noted some issues in the institutional framework with regard to urban development matters, especially in the context of implementing the TSP as explained under:

3.1.1 Stakeholders of TSP under-represented in Thromde Tshogde

The Delimitation Commission of Bhutan⁵ was established in line with section 4 of Article 24 of the *Drugi Tsathrim Chenmo (Constitution of the Kingdom of Bhutan)* with the mandate to allocate local government seats and delineate the electoral boundaries. The allocations of the seats are as per determination of the *Demkhong* boundaries carried out in accordance with the provisions of the *Election Act 2008* and the *Delimitation of Demkhongs Rules and Regulations of Bhutan 2010*. As per the order, the delimitation plan was based on the total registered voters as of 1 January 2008 and the eligible voter population as per the Civil Registry as shown in **Table 4**.

Table 4: Eligible voter population		
Dzongkhag Thromde	Thromde Tshogpa Demkhong	Eligible Voter Population 9.9.10
Thimphu Thromde	Dechencholing –Taba	548
	Jungshina – Kawajangsa	1043
	Motithang	492
	Changangkha	1062
	Norzin	1099
	Changbangdu –Olakha	1507
	Babesa	735
	TOTAL	6,484
Source: ECB		

In terms of representation, the *Thrompon* and members of the *Thromde Tshogde* represent less than 5% of the resident population of *Thimphu Throm*. They are elected in line with the electoral laws of the country and as per the delimitation order from the DCB, whereby only ‘residents with their civil registration’ in *Thimphu Throm* are eligible to vote in the *Thromde* elections.

In the election of 2011 the voter turnout was **3070 persons** out of **6226 registered voters** and in 2016 election the voter turnout was **2254 persons** out of **7278 registered voters** who elected the *Thrompon* and *Thromde Tshogde*. The population of the *Thimphu Thromde* was more than a 100,000 by 2016.

The TSP was planned and prepared through numerous consultation meetings with stakeholders and the general public (local residents) in the early 2000. Earlier, the *Thrompon* was appointed by the Government and for the election of the *Tshogde*, all residents (those who have lived in *Thimphu* for more than 5 years) were eligible to vote. However, with the current governance structure of *Thimphu Thromde* a very small percentage of the actual stakeholders of TSP (*all residents/landowners of Thimphu Throm*) appears to be represented at the highest decision-making body of *Thimphu*

⁵ Final Delimitation Order (DC/CHAIR/2010/697 dated 16.10.10)

Thromde. Therefore, representation and negotiation power of the stakeholders, in the process of implementing the TSP is disproportionate and pose high risk to transparency and accountability of the agency with regard to cross-sectorial projects like the TSP.

3.1.2 Lapses of responsible agencies in implementing TSP

The legislation governing *Thromdes* have changed many times over the last two decades. Following the enactment of the Bhutan Municipality Act 1999, Thimphu City Corporation (*now Thimphu Thromde*) was formed in 2003. In 2007 the Thromde Act 2007 replaced the Municipality Act 1999 and TCC became *Thimphu Thromde*. The Local Government Act 2007 provided for the governance and management of only *Dzongkhags* and *Gewogs*. In 2009, the Thromde Act 2007 and the Local Government Act 2007 was consolidated as the Local Government Act 2009.

Before the Thromde Act 2007, the agency responsible for implementing the TSP, the principal document in use for planning and development in *Thimphu Throm*, was TCC, under the then Ministry of Communication (MoC). Later the TCC changed to *Thimphu Thromde* and MoC changed to MoWHS. After the LG Act 2009, MoHCA is the parent ministry of *Thimphu Thromde* and other local government bodies, and when it came to urban planning and development matters, MoWHS is the parent Ministry. Another major change was that, initially the *Thrompon* was appointed by the government and the *Thromde Tshogde* members were elected by the residents (those who lived in the *Throm* for more than five consecutive years) of *Thimphu Throm*⁶. After the changes, only the ‘residents with their civil registration’ in *Thimphu Throm* elected both the *Thrompon* and *Tshogde* members.

Although the legislation governing *Thromdes* and their activities have changed several times over the years, the current legislation governing *Thromdes* and their activities, the LG Act 2009, clearly specifies the responsibilities of MoWHS and *Thromdes* in urban planning and development as stated below:

Section 210 of the LG Act 2009 (amended 2014) provides ‘*The Ministry responsible for urban development shall carry out technical supervision and monitoring of activities of Thromdes*’ and that ‘*The Ministry responsible for urban development shall formulate national urban policies, guidelines, and standards; approve structure plans including land use plan of the Thromdes; and carry out planning audits in the Thromdes.*’

Section 61 of the LG Act also provides that the *Thromde Tshogde* shall, ‘*carry out preparation of structure plans including land use plans within Thromde areas and recommend their approval by the Ministry responsible for urban development*’ and ‘*approve local area plan including land pooling schemes and any other relevant planning techniques*’ Further, it states, ‘*The Thromde Administration shall formulate local area plans and priorities in respect of the Dzongkhag Thromde and submit to Thromde Tshogde for approval*’⁷

However, with regard to implementation of TSP, there appears to be lack of clarity and disagreements over the roles and responsibilities between MoWHS and *Thimphu Thromde*.

It was noted that, decisions including technical decisions were taken by the *Thromde Tshogde* resulting in complete change in development plans of the *Thimphu Throm* as highlighted in the following findings in this report. While the MoWHS as the responsible ministry to ‘carry out

⁶ BMA 1999

⁷ 273

technical supervision and monitoring of activities of Thromdes' had not questioned or collaborated on the Technical decisions of the *Thromde Tshogde*, the *Thromde Tshogde* made many technical approvals without involving the ministry and without any technical backstopping. These issues likely emerged due to the change in institutional framework and also due to laxity on part of MoWHS and *Thimphu Thromde* responsible for implementing the TSP.

The DHS justified that the MoWHS raised issue about Thromde Tshogde making technical decisions time and again in various forums.

i. Delay in enactment of 'Spatial Planning Act'

'Spatial' by definition means, '*relating to, occupying, or having the character of space and the objective of spatial planning is to provide for fair, orderly, economic and sustainable use of land. The preparation of plans encompasses several, multi-faceted aspects such as protecting the environment and the cultural identity of the country, controlling the intensity of development, making provision for public amenities and spaces, planning infrastructural networks and, in general, ensuring the sustainable utilization of space.*'⁸

As per the spatial planning standards 2017, Bhutan's national spatial planning framework is organized in three tiers as presented in **Table 5**.

Table 5: Spatial Planning framework					
Types of Plans	Tiers of Plans	Planning Area	Time Horizon	Review period	Initiation
Strategic	National Spatial Plan	Whole Country	20 years	10 years	By an instruction of the Cabinet to the Ministry
Strategic	Regional Spatial Plan	An area comprising of one or more Dzongkhags	20 years	10 years	By the Ministry or by the Dzongkhag
Regulatory	Local Spatial Plan	A Valley			
	<i>Valley development plan</i>	An Urban or rural area	20 years	10 years	
	<i>Structure plan</i>	A part of a structure Plan or whole of a valley development plan	20 years	10 years	
	<i>Local area plan</i>		10 years	5 years	
Regulatory	Action Area Plan	An urban or rural area or a part of a LAP	-	-	
Source: DHS, MoWHS					

Structure Plan: A spatial plan comprising an urban or a rural area, dictating the use of a prescribed area of land.

Local Area Plan: A spatial plan comprising a part of a Structure Plan or of a Valley development Plan. LAPs are intended to provide a more detailed planning intervention in order to achieve the vision of the Structure Plan. A LAP may not be approved unless a Valley Development Plan or a Structure Plan is in effect in its area.

⁸ Spatial planning standard 2017 (MoWHS)

A spatial Planning Act would provide legal mandate to the existing plans and delineate roles and responsibilities and accountabilities associated with the implementation of the plans. Further, the Act would also provide a clear spatial planning framework for fair, orderly, economic and sustainable use of land in the country. It would clearly identify the link between National, Regional and Local Spatial Plans in the country; more so in terms of urban governance and interrelation of the different levels of plan with clarity on decision making powers and roles and responsibilities of agencies involved in the implementation of spatial plans like the TSP.

It appears, efforts to formulate a Spatial Planning Act started sometime in 2015, however, currently it is still a bill, yet to be discussed and passed by the Parliament. If the Spatial Planning Act is enacted, issues such as lack of clarity on legislation and policy framework governing urban planning and development, linkage of the different levels of spatial plans, and more importantly, roles and responsibilities of the relevant agencies with regard to planning and implementing spatial plans is expected to be adequately addressed.

The DHS, in their response, stated that the Spatial Planning Bill of Bhutan 2019 is submitted to Cabinet for further submission and deliberation in Parliament.

ii. Lacking Inter agency coordination

The Local Government Act states, “*All national agencies with project implementation functions shall coordinate with the Dzongkhag Administration and with the Local Government concerned in the discharge of their functions*” and that “*all national agencies shall involve Local Governments both in the planning and implementation of national projects*”.

Implementation of a spatial plan requires involvement of multiple agencies including stakeholders. More importantly, efficient coordination and communication between the parties involved would ensure systematic and successful implementation of a plan.

The coordination between agencies relevant to the TSP has been weak and communications were observed to be lacking. Communications that occurred were mostly not properly documented. Some of the responsibilities that were not accorded proper attention are noted hereunder:

- a. The Local Government Act requires the *Thrompon* to “*submit periodic reports to the Thromde Tshogde and to the Ministry responsible for urban development on the status of progress of work as well as the status of funds approved by the Thromde Tshogde for activities contained in the plan.*”
- b. “*Dzongkhag Thromdes shall submit a copy of half-yearly and annual reports along with any other report to the Ministry responsible for urban development and other relevant agencies.*”

These documents were not made available for audit verification.

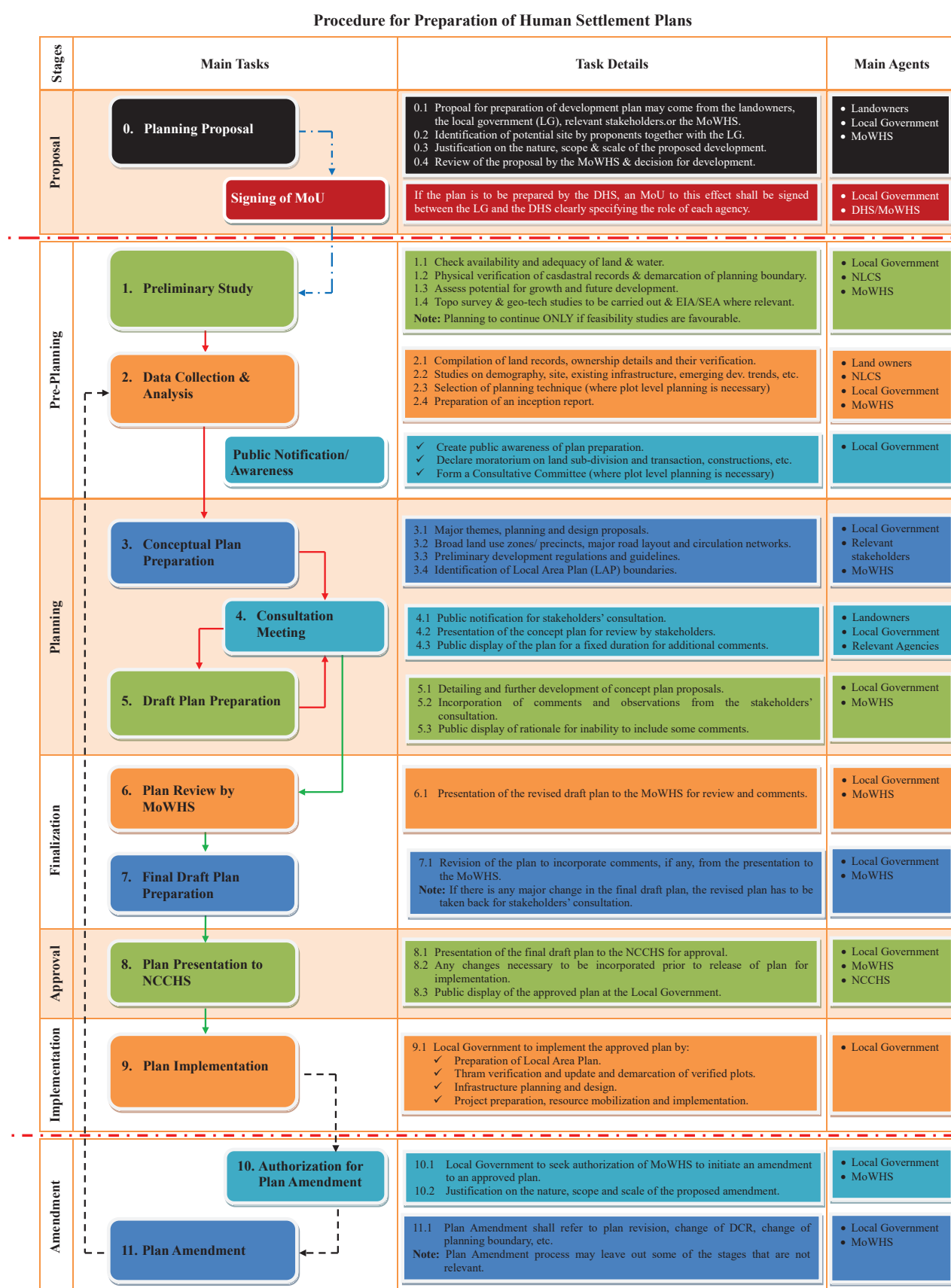
iii. Procedure for Preparation of Human Settlement Plan needs clarity

The process to prepare human settlement plan was initiated by the MoWHS in 2016, involving multiple stages starting from plan proposal stage, through planning an approval, to implementation and amendment process. However, with regard to the TSP, it appears the plan was already approved and was in the implementation stage when the current process adopted by the MoWHS was put in place.

However, this chart as in **Figure 2** was provided to the audit team without any forwarding letter or other document on how it was adopted. It is not clear whether this procedure was properly disseminated to relevant agencies and was officially adopted.

The DHS justified that the planning process was discussed in many forums like the Annual MoWHS conference, Thromde Coordination Meetings (TCM) and urban planners, architects and building inspectors training at CST and that it was adopted as a resolution during the 5th TCM in 2017 and that the resolution was circulated to all the Thromdes for implementation and necessary action.

Figure 2: Procedure for Preparation of Human Settlement Plan



Notes: 1. As per the LG Act, preparation of urban development and human settlement plans is a Local Government function.

2. Human Settlement Plans shall refer to Valley Development Plans, Structure Plans and Development Plans (plans for small settlements that include both structure plan and plot level plans). Local Area Plans designated in the approved Structure Plans need not be presented to the NCCHS for approval.

Source: DHS, MoWHS

iv. Too many Legislation and policy documents

Although the principal implementing agencies of the TSP is *Thimphu Thromde* and the MoWHS, many of the legislation and policies under the national human settlement framework is relevant to the TSP. Over the years, with the changes in governance and legislation frameworks of agencies involved in implementing the TSP, many legislation and policy documents have been adopted.

For instance, in 2018, a compendium of documents relevant to human settlement sector in Bhutan was compiled by the DHS, MoWHS. The documents, segregated under different categories, based on their year of publication, and current statuses of the document are as per the **Table 6**.

Table 6: Current Legislations		
Sl. No.	Category	No. of Documents
1	Policies	14
2	Acts	19
3	Rules and Regulations	13
4	Strategies	9
5	Standards	4
6	Guidelines	8
7	Codes	4
8	Other relevant documents	8
Source: DHS, MoWHS		

Evidently, there are too many cross-sectoral legislations and policies, which are relevant to urban planning and development. There are also national commitments and international conventions the country is signatory to, relevant to implementation of the TSP and to urban planning and development as a whole.

Having too many legislations and policy documents, which were adopted over the years and are not consolidated, was learnt to be one of the reasons for creating confusion and hindering the implementation of the TSP.

3.1.3 TSP not reviewed in the last 15 years

TSP is a long-term project spanning over a period of 25 years and is considered a ‘living document’, which require timely review and updating, in order to ensure proper and efficient implementation of the plan.

However, the TSP has not been reviewed for the last 15 years. It appears there was lack of clarity and disagreements as per correspondence between the agencies, on which agency (MoWHS or *Thimphu Thromde*) is responsible for carrying out the review and in the process it never happened.

This has had significant impact on the whole implementation process of TSP. In fact, this oversight has made review of the implementation process now more difficult with lack of clarity between changes that were necessary and changes that worked against the sanctity of the whole plan.

Non- review of the TSP has resulted to the following issues:

i. Planning audits of *Thimphu Thromde* not done

Regulations require that, “the Ministry responsible for urban development shall formulate national urban policies, guidelines, and standards; approve structure plans including land use plan of the *Thromdes*; and carry out planning audits in the *Thromdes*.” Timely and regular planning audit of *Thimphu Thromde* could have potentially addressed most of the issues that lead to deviations from the original intent of the plan. The last planning audit was carried out in 2008 in *Thimphu City Corporation*. In the last 11 years the Ministry conducted no planning audit in *Thimphu Thromde*.

The DHS justified that, technically, the Ministry considers Compliance and Development Review as Planning Audits and that CDRs were carried out for Lungtenphu LAP in 2013 and three other LAPs in 2017 in Thimphu.

ii. Weak Monitoring and Reporting system

Regulations state that, “*the Ministry responsible for urban development shall carry out technical supervision and monitoring of activities of Thromdes.*” The Compliance and Development Review Division (CDRD) under the DHS, MoWHS is mandated to:

- Carry out compliance audit of development plans
- Review development control regulations
- Assess development applications and proposals
- Compile information on urban and rural development trends and status
- Provide refresher courses to municipal staff
- Create public awareness on development initiative and DCRs

Monitoring by the Ministry is relatively weak, with regard to compliance audit of development plans, considering activities of not just *Thimphu Thromde* but other *Thromdes* in the country as well. The CDRD has carried out around 12 reviews of development plans across the country between 2014 and 2017. No records of earlier reviews were available. From the 12 review reports, one was conducted for three LAPs under the TSP.

With regard to the reporting system, the LG Act states “*Local Governments shall publish their respective five-year and annual plans, including annual programmes and budgets which shall be made available to the public*” and that “*Chairpersons of Local Governments shall submit annual report to the sessions of Local Government, which shall contain, among others, the following:*

- a) Implementation status of planned activities;*
- b) Financial statement of the preceding year;*
- c) Statement of all funds received, including revenue, income and subsidy and expenditure incurred thereof;*
- d) List of tenders for works, goods and services awarded along with corresponding budget, recipients and contract value;*
- e) Latest annual audited statements;*
- f) List of all commercial investments and returns;*
- g) List of inventory of all property; and*
- h) List of land and building with duration of lease and rental.*

These records were not available for audit verification.

The DHS justified that with regard to monitoring and technical supervision of activities of Thromde, the Ministry carries out Thromde Coordination Meetings, Awareness programs, technical backstopping to local governments, review of development proposal and refresher course for municipal engineers, architects, urban planners and building inspectors every year.

iii. DCR 2016 was prepared and approved solely by Thimphu Thromde

The Local Government Act 2009 (2014) under Rule-making Powers of the Local Government states, “A Local Government’s rules of procedures shall be determined by the Ministry of Home and Cultural Affairs and the Ministry responsible for urban development in consultation with the Local Government” and that, “the rules and regulations of a Local Government shall among others, provide for: a) Rules regarding policies, procedures, administration, functions, powers, authority, obligations, finances, budget, revenue, tax, land management, and others with relation to and within the jurisdiction of the Local Government which are not specified under this Act but shall be in accordance with any other laws in force.”

A Development Control Regulation (DCR) is prepared and endorsed with an urban development plan to regulate and guide the implementation of a development plan. A DCR specifies the type of land use/zoning (such as residential, mixed land use, commercial, special functions area etc.), the intensity of land use (that defines the height of the building, density and pattern) and the form of the built fabric (that defines the type of buildings).

Upon review of the DCR 2004 and DCR 2016 of *Thimphu Thromde*, for implementation of TSP, the RAA noted following deficiencies:

- i. The DCR 2004 was reviewed and updated in 2016 solely by the *Thimphu Thromde* without involvement of the MoWHS ‘the ministry responsible for urban development’.
- ii. *Thromde Tshogde* endorsed the DCRs, even though *Thimphu Thromde* is the ‘implementing’ agency for the DCR. Therefore, *Thimphu Thromde* has a ‘**conflict of interest**’ in endorsing and implementing the DCR.
- iii. A comparison of the DCR 2004 and DCR 2016, indicated substantial changes made in DCR 2016, mostly increasing the ‘number of floors’ and permissible ‘plot coverage’.
- iv. Records indicated that the *Thimphu Thromde* initiated and implemented most of changes prior to the DCR 2016. Therefore, it appears, the DCR 2016 was endorsed to **regularize the deviations** approved and implemented prior to 2016, which were not permissible as per DCR 2004.

As such if all responsible agencies do not engage and act collectively to prepare, amend and endorse the control regulations, there are possibilities of such lapses reoccurring again, impeding the effective implementation of regulatory requirement as intended.

The Thimphu Thromde justified that the DCR 2016 was approved by the Thromde Tshogde as per powers and functions of the Thromde Tshogde to approve land use, develop plans, frame rules and guidelines and approve local area plans provided by the Local government Act.

3.1.4 TSP is a huge mandate with limited resources

Implementation of a city development plan is a huge responsibility and it stretches over a period of more than 20 years. The TSP covers an area of 26km² with a 25-year implementation period and has

15 sectors (urban village) that are further broken up into 22 local areas each around 1km² with 100-400 plots.

It is common knowledge that there have been numerous implementation issues with regard to the TSP. A major issue appears to be weak institutional capacity of *Thimphu Thromde* in terms of human resource capacity against the huge task of implementing the TSP besides carrying out its other mandates. Another issue is that some of the concepts in the TSP were conceived on inadequate data and land records. While implementing the TSP, some of the major challenges were land record updating, changes in plan, legal litigations on certain methods of planning and development, disagreement with landowners, and funding issues. However, these issues are not recent findings. A few thematic assessment reports, carried out in the past, on the TSP and some of its components, reported similar issues with recommendations to improve *Thimphu Thromde's* human resource capacity, to avoid further deviations from the actual intent of the TSP, and to improvise on concepts that had inadequate data.

With the current construction boom in the city (more than 700 constructions happening simultaneously) coupled by infrastructural works of the LAPs (roads, sewerage system, telecommunication system, etc.) still on going, efficiency in implementing the TSP appears to be highly compromised.

Therefore, there appears to be clear mismatch of the huge task of implementing the TSP and the limited and insufficient resources in place to carry out the task as briefly noted hereunder.

i. Inadequate human resource

With regard to human resource capacity, records, the issue was identified through a 'planning audit of TCC' in 2008 and accordingly, RCSC had approved additional staff. However, RAA noted that the approved organizational structure was not implemented which had led to weak reporting system, unclear delegation of job, and lack of coordination. Besides the new organizational structure, the need for professionals like sociologist, landscape architect, transport planner and urban economist/investment planner were also pointed out. However, the *Thimphu Thromde* does not have most of these professionals and these important areas of urban planning and development are not accorded enough priority. The matter was worsened by staff retention issues and frequent change in officials, without proper hand-taking over of records and documents, leading to poor recording keeping and institutional memory that hindered the TSP implementation process even more.

Institutional memory, record keeping and documentation regarding the TSP are very poor. There are no records of old or revised plans, no proper documentation of deviations or changes made during the process of implementing the TSP. It was learnt that most planners work and make readjustments on digital plans, copies of which are not available.

ii. Financing the LAPs require attention and could be more timely

A fundamental requirement of any project is timely and adequate funds to ensure proper and efficient implementation of the plans.

With regard to the TSP, although more than half of the local area plans were made and the rest are being formulated, funding these plans becomes a major hurdle. Huge funds are required for

developing an area according to the LAP, with infrastructural works and public utility works. Some of these works are budgeted, but most of it has to be sourced from outside the *Thromdes* budget. For instance, the cost of preparing the *Changbangdu* LAP was around Nu. 220 million alone for the infrastructural works like sewerage network layout, water supply network, power and telecommunication cables, roads, and drain.

It was learnt that funding component most times come at different times which results in works carried out one after the other and not simultaneously. This results in a lot of repair works and damages infrastructure already in place in the process. For instance, the funding for sewerage systems comes after the funding for roads while the ideal development process is to have the sewerage systems in place before the works for the roads begin.

iii. Approval and inspection of construction activities operating under one Division in Thimphu Thromde

In order to ensure proper compliance and avoid conflict of interest it would be ideal not to have the approving authority and the oversight authority under the same division.

The Development Regulation Division (DRD) of *Thimphu Thromde* is responsible for approving construction drawing in line with the DCRs and other relevant regulations. The inspection team, responsible to ensure construction works happen as per the drawings and DCRs, is also under the same division.

iv. Inadequacy in inspection of construction works

In order to avoid deviations and to ensure proper regulations are followed, a preemptive approach is efficient monitoring of the construction works during the construction stage.

The inspection section of *Thimphu Thromde* is responsible for monitoring the construction works that are happening in the different LAPs of TSP. However, there are only eight inspectors currently in the field to carry out inspection of construction works across the city. It was learnt that, each inspector looks after two LAPs or more, which has, on average, more than 150 -300 plots. The audit noted that the inspection initiatives are gravely inadequate with many constructions activities happening without proper monitoring. This potentially will result in unsafe infrastructures, deviations, and illegal construction.

3.2 Issues in implementation of TSP

In the last 15 years of implementing the TSP, there were many deviations from the original intent of the plan. Past assessment reports, by few agencies, on TSP, also report substantial changes in Land-use, non-compliance and weak implementation of rules and regulations, neighborhood nodes⁹ not materializing, cases of slope failure and landslides as a result of activities along steep slopes, on-street parking and traffic congestion, inadequate public transport and mobility system, issues of housing affordability and accessibility and vulnerability to natural and environmental calamities amongst other complications.

⁹ Intended to serve as service and commercial Centre for urban villages

Deviations from the plan were mostly ‘authorized’ by rule revision or ‘regularized’ in individual cases. Reasons for deviations were mostly noted to be government orders, public pressure, individual landowners requiring plot readjustment, development activities preceding LAP implementation, lack of monitoring, noncompliance and weak implementation of rules and regulations. These deviations have resulted in increased development in areas earlier identified for lesser developmental activities as well.

The RAA assessed some of these issues, besides issues detected during the audit, and some of the deviations with significant implications are highlighted hereunder.

3.2.1 Executive order of 2003 mostly not implemented

In 2003, the Government approved the structure plan of Thimphu Municipality with the following instructions¹⁰ to the Ministry of Communication (*now MoWHS*).

1. Thimphu City Corporation’s capacity enhancement should be given priority
2. 30m and 15m buffer of rivers and streams as protection zone
3. National stadium shall be located at *Wangchutaba* (farm area)
4. City gate, urban hub and Dzong Green area as per TSP
5. Diplomatic enclave opposite to India house
6. Consolidation of scattered monk body land within proposed Hejo LAP
7. Agri-based environment Precincts – MoC to strictly adhere to the land act
8. Development of *Chubachu* Circle as per TSP
9. Heritage/traditional village precinct – a division under TCC to be created since NCCA already exist
10. Land pooling shall not be pursued unless people agree unconditionally – land Act shall be complied with
11. Redevelopment of Memorial *Chorten*
12. Land falling within the proposed green buffer between the sewerage treatment plan and the expressway – MoC to acquire the private land as per prevailing regulation and not the market rate (as proposed)
13. Supreme/high court, sports area, automobile service workshops and relocation of RBA, RBP, IMTRAT & Dantak approved as proposed in the TSP
14. National University to be located in the area currently occupied by the IMTRAT (*core area*)
15. MoC to locate low-income housing appropriately
16. Residence of MPs, Judiciary besides Ministers
17. Parliament building in *Langjophaka*
18. Takin Park to be relocated in Babesa
19. Realignment of Norzin Lam as per TSP

Most of these instructions could not be implemented or were changed by the implementing agencies; some of the changes were based on government orders, some due to public pressure, and some due to technical feasibility issues. Some of these cases are further elaborated in following observations.

¹⁰ COM/03/03/548 dated Feb 03, 2003

3.2.2 Substantial Changes made to ‘Precinct categories’ identified in TSP

A ‘precinct’ schedule basically defines the allowed land-use of that area in terms of allowed plot coverage depending on plot size, setback requirements from the front, side and rear of the building and maximum height or number of floors allowed.

There were 22 different precincts designated in the TSP. These precincts schedules defined the ‘permissible use’ or ‘permissible use on appeal to implementing authority’ of land falling under these areas and the schedule was framed for the whole of TSP. However, there also exist specific precinct schedules that addresses the local level issues framed under each Local Area Plan and Urban Design Proposal. Currently, there are 25 designated precincts since for some of the LAPs, UV-2 precinct had been further sub categorized into UV II-I residential and UV II-II residential besides UV-2 LD and UV-2 MD. A major deviation from the TSP was noted to be substantial changes in ‘Precincts category’. Some of the changes in Precincts made in deviation to the TSP are depicted in **Table 7**.

Precinct in TSP	Precinct after change	Changed by	Year	Remarks
UV I	UV II	1 st Council: 2nd Thromde Tshogde held on 15 April 2011	2011	TSP does not allow for merging the plots. Total 48 plots in Jungshina under UVI and 21 plots are of less than 1000 sqm. These plots were proposed for merging to facilitate development.
UV II (Sub Category)	UV sub Category I	7 th Thromde Tshogde held on 27 January 2012	2012	Petition from 18 landowners of Changbangdu LAP to either reduce the land pooling from 27.5% or to allow the same precinct use as UV II (MD) instead of UV II (Sub Category).
E-4	UV II	7 th Thromde Tshogde held on 27 January 2012	2012	The plot is accessible to road and the topography is very gentle and all adjoining plots fall in UV II (MD) Precinct.
NN	UVII(MD)	7 th Thromde Tshogde held on 27 January 2012	2012	The area was designated as Neighborhood Node precinct according to TSP.
UVII	UVI	9 th Thromde Tshogde held on 11 May 2012	2012	As per TSP the area was categorized as UV II
E2	UV II	22 nd Thromde Tshogde held on 26 December 2014	2014	Precinct changed from E2 – UVII Sub category II
E4	UVII Sub Cat-II	24 th Thromde Tshogde held on 1 May 2015	2015	DCR 2004 allows only 2 stories. A plot owner No.5/A with thram holding .478 was allowed for additional story.
Sub Precinct –I, II & III (Urban Core)	Sub Precinct –I (Urban Core)	25 th Thromde Tshogde held on 17 July 2015	2015	Urban Core has Sub Precinct I, II & III however, it was considered to change to one precinct: Sub Precinct –I in Urban Core Area.
UV II Sub Precinct 1	UVII MD	26 th Thromde Tshogde held on 29 September 2015	2015	Changbangdu area: change the precinct and allow 5 floor given flat terrain in Upper areas. As per DCR 4 storied building only.
E2	E4	2 nd Council : 2nd Thromde Tshogde held on 29 April 2016	2016	In the new classification, the land has been categorized under E2 precinct.
E4	UV II	6 th Thromde Tshogde held on 24 February 2017	2017	Only four plots remaining undeveloped with semi-permanent structures. Three plots belonging to private individuals have been following up for construction approvals before the issuance of the cabinet directives in 2012 requesting for 3 storied with 40 % coverage as done in the case of other buildings in the same area.
E2	UV II Sub Cat 2	Note sheet no.3/UPDD/DUDES/Thi mphu/2008/1414 dated 3 June 2008	2008	Note sheet N/A
TV	UV II	Note sheet no.10/TMC/UPD/LAP/C ORE/2006/3592 dated 20 June 2006	2006	Note sheet N/A

Stadium	IT Park	Note sheet 01/TMC/DCD/LN/2008/4998 dated 22 July 2008	2008	Note sheet N/A
Heritage Precinct	E4	Note sheet no.01/TMC/DCD/LN/2008/4998 dated 22 July 2008	2008	Note sheet N/A
Chubachhu Circle	Royal Textile Academy	Directives letter no. MOWHS/2/633 dated 21 May 2007	2007	The changes effected as per the directives issued by Hon'ble Zhabtog Lyonpo Kinzang Dorji's directives issued vide letter no. MOWHS/2/633 dated 21/05/2007 and Change from Chubachu Circle- RTA
E4	UV II	Note sheet no.05/TCC/UPD/MOWH S/2008/5091 dated 28 July 2009	2009	Note sheet N/A
Source: Thimphu Thromde				

As apparent from the table above, the sanctity of the Precinct Plan could not be maintained as envisioned in TSP, which has resulted in conversion of low-density precincts into higher density precincts. The rationale behind these changes could not be ascertained due to lack of records. The available documents provide decisions and office orders to make these changes but audit was unable to verify, whether technical assessment were carried out or whether these changes were made due to inadequate planning, as records were unavailable.

After the implementation of the TSP, the land value of Thimphu *Throm* was determined by the 'Precinct category' of the plot. The official values of land are as per the rates issued by the Land Commission Secretariat and the value were based on 'Precinct category' of the land's location. There is a Property Assessment and valuation Agency (PAVA) under the Ministry of Finance to value and fix the value of land. Changes in Precinct category of the TSP, has direct ramifications on the value of the land in that area. Hence, it is RAA's view that changing precinct category requires involvement of other relevant agencies like the NLCS and MoF, besides the principal agencies, to ensure these changes are genuinely required for betterment of the overall plan. There appears to be high risk of changes being made in the interest of certain group of individuals or an area. In this regard, the RAA was unable to eliminate the possibility of changes being made in the interest of certain group of landowners or areas.

i. Reduction of Environmental Precincts Area

Ecologically sensitive areas are considered non-negotiable items of the TSP as well as other legislations concerning the city plan. Protection of hill slopes, river basin and banks, and other ecologically sensitive areas is of utmost importance since allowing development in these area poses

As per DRC 2004, "no development or construction shall be permitted within 30m of the edge of the water course or the edge of the gullies of Wang Chu and major stream or such distance as may be prescribed under any other general or specific orders of Royal Government or any other authority" and within 15m of the edge of rivulets and natural drainage channels.

FNCA 1995 states, "no permit shall be issued under this chapter to fell and take any timber: (i) within 600 feet uphill or 300 feet downhill of a motorable road except forest roads; (ii) within 100 feet of the bank or edge of any river, stream, water course, or water source, or; (iii) on any place where the slope is greater than 45 degrees unless authorized under any approved management plan or by the head of the Department."

very high risk of slope destabilizing, risk of landslides, soil erosion and increase in cost of construction for landowners. 'Environment Conservation Areas' designated in the TSP have drastically reduced as a result of 'Environmental Precincts' being changed to other Precincts.

As per a comparative study¹¹ carried out in 2017, the following **Table 8** depicts the changes in Environmental Areas and Green Space Areas of the TSP.

Table 8: Change in Environment and Green Space			
Precinct	TSP 2002	SEA Report 2017	Difference (change)
E1: Environment Conservation	2.704	1.076	1.628
E2: Forest Environment	4.359	3.953	0.406
E3: Agricultural Environment	0.182	0.026	0.156
E4: Agricultural Environment	3.961	5.103	(1.142)
G1: National Open Green Space	0.726	0.335	0.391
G2: Green Space System	0.807	0.552	0.255
Source: Thimphu Thromde			

These deviations occurred because of multiple reasons. Some were a result of inadequate study of land ownership during the planning of the TSP, public pressure, and some were requests accepted by the *Thromde Tshogde* and the MoWHS.

ii. Unsustainable development of the city

A key idea behind the precincts plan was to have a development within the carrying capacity of the city to ensure sustainable population density in the different LAPs so that all LAPs have proper access to public infrastructures and services. More importantly, these public infrastructures and services are provided to the stakeholders in a planned and sustainable manner.

Compared to the carrying capacity envisioned in the TSP, the housing construction and population has increased as a result of ‘upgrading’ the precinct plans coupled by MoWHS regularizing ‘attics’ and *Thromde Tshogde* regularizing ‘basements’ (refer 3.2.4) exceeding the carrying capacity. The TSP and most of the LAPs were prepared with building heights of five stories for high-density area and 2 to 4 stories for low-density or ecologically sensitive areas. However, with approval of two additional floors, the whole scenario has changed. For instance, buildings in UV I allowed a building height of five stories, with the additional two floors, and most building opting for *Jamtos*, have 7-8 floors now.

This increase in the building height and change of precincts would gradually increase the population density of the area, which would exert pressure on public services, and infrastructures of the area. For instance, an additional floor would provide housing space for at least two more families, more vehicles, more sewage, more waste, higher water consumption and crowding in an area which was not designed or equipped to cater to such increase, in terms of infrastructures like roads, parking, open spaces etc. and services like water supply, sewage treatment, waste disposal etc..

A bigger concern is that, there appears to be very less effort accorded towards enhancing public infrastructures and services simultaneously to meet the growing demand of this increase. There is no preparedness in terms of strategies and funds to respond to overcrowding and increasing pressure on the carrying capacity of the city. Further, the population projection made in the TSP is underestimated. As per the TSP¹², the total population that can be accommodated, projected then, was 107,809. As of 2017¹³, Thimphu had a population of 114,551 persons compared to 107,809 persons projected in the TSP: in excess of 6,742 persons and it most likely increased in the last two years. This is not including the 15,000 plus foreign workers in the city as of 2019.

¹¹ Strategic Environment Assessment of the TSP (Nov 2018)

¹² Page 228

¹³ PHCB 2017

The unplanned surge in the population of the city has resulted in unplanned negative consequences, not just on the public infrastructures, utility services and environmental health of the city but has also lead to unsystematic growth of construction, traffic congestions and environment pollutions (air, noise, water etc.)

3.2.3 Technical Approvals made at the Ministry and *Thromde Tshogde*

The LG Act 2014 allows the *Thromde Tshogde* to “approve land use and development plans in accordance with the laws made by Parliament and rules and regulations made there under and approve local area plan including land pooling schemes and any other relevant planning techniques”

The Thromde Rules 2011 states, “*The Thromde Tshogde may constitute a Spatial Planning Committee to hear public grievances, review local area plans and development control regulations and submit recommendations to the Thromde Tshogde.*”

Decisions to Change Precinct Plans are technical in nature because of its implication on the overall plan of that area as well the overall plan of the city. The structure plan was made envisioning proper distribution of population and considering pressure on public infrastructure among other technical parameters.

It appears most of the changes occurred as a result of landowner petitions made to the *Thimphu Thromde* as per the *Thromde Tshogde* meeting records. These issues were discussed at the *Thromde Tshogde* without any technical assessment as is apparent from the minutes of the *Tshogde* meetings. Further, there was no Spatial Planning Committee constituted as recommended by the Thromde Rules 2011 to carry out these technical assessments and suggest the correct course of action to the *Thromde Tshogde*.

The audit observed the following instances as shown in **Table 9** of technical approvals made by the Ministry before 2011, details of which were not available and technical approvals made by the *Thromde Tshogde* after 2011, mostly without proper consultation with relevant agencies.

Sl.No .	Nature of Construction	Precinct	Approved by	Year	Remarks
1	Reduction of Buffer Stream from 30-15m	Buffer zone at Chubachu	Note sheet 01/TCC/UPD/ADM/2005/06/13 dated 03/01/2006	2006	Note sheet N/A
2	Land use rationalization in Zilukha	Land use change	Note sheet no.09/TMC/UPD/LAP/Ka wang/2007/417 dated 22/01/2007	2007	Note sheet N/A
3	Plots falling by river side green buffer at Lungtenphu	Green /Buffer	6 th Thromde Tshogde of 25 th November 2011	2011	Buffer zone not maintained
4	Same building height like others for Jungshina and Pamtsho	Common DCR 2004	8 th Thromde Tshogde of 9 th March 2012	2012	The Jungshina and Pamtsho LAP has specific DCR however, they were allowed to follow DCR 2004.
5	Conversion of basement into Electric car service and development of Govt. Land into Public Parking	Basement and Parking	22 nd Thromde Tshogde held on 26 th December 2014	2014	Thromde Tshogde decided that floor could be regularized with nominal fees and government land be given on a short term lease at 20sq.ft. and to be renewed every year.

6	Construction of Cinema Hall in 85 decimal area	UV II	24 th Thromde Tshogde of 1 st May 2015	2015	DCR does not allow for such facilities in the area.
7	Construction of Hotel /Resort in 3.77 Acre	E4	24 th Thromde Tshogde of 1 st May 2015	2015	DCR does not allow for construction of Hotel/Resort in E4 Areas.
8	Construction of three storied staff quarter (BPC)	E4 Simtokha	24 th Thromde Tshogde of 1 st May 2015	2015	DCR allows only two floor buildings in E4 area. MoWHS directives sought but directives N/A
9	Construction of 4-storied building	UH	25 th Thromde Tshogde of 17 th July 2015	2015	DCR does not allow for construction of 4-storied building in UH area.

Source: Thimphu Thromde

3.2.4 Regularization of Attic and Basement

At the onset of implementing the TSP, ‘basements’ were only allowed for **vehicular parking** and **building services** requiring the structure to be more than 75% below the lowest ground level and ‘attics’ were spaces above the ceiling of the top floor only allowed for storage, machine room, water tanks etc..

Between 2015-2017, 231 basements and attics were ‘regularized.’

Over time, basements and attics were regularized making them into complete floors and control over restricted activities on these floors, was also lost in the process. With the regularization of basement and attic, two additional floors were added to the allowed number of floors.

Regularization of Attic

Prior to 2009, attics were not allowed because of aesthetic reasons, inadequate design, and not being built for human habitation. However in 2009, the MoWHS considering “*socio-economic factors, shortage of developable land and housing in urban areas, optimal use of spaces and investment, and the prevalence of attics on existing building called for reconsideration of the attic issue.*” Therefore, the regularization of attics was approved, by the government, “*with the objectives of preserving and promoting the traditional architecture of Bhutan, providing adequate and economical housing and ensuring safe and livable dwelling units.*” The Attic rule of 2009 allowed the conversion of habitable attic spaces into a full floor, which allowed construction of an additional floor in all precincts except for E4 precincts. The DCR 2016 was also updated allowing attic regularization.

After the changes, although, in regulation and drawings, the word ‘attic’ is still used (e.g. B+G+3+A), in reality it is just another additional floor and is mostly used as habitable space.

Regularization of Basement

Although, DCR 2004 defines basement or cellar as, “*the lowest storey of a building more than 75% below the lowest ground level. Permitted only vehicular parking and other building services*”, over time basements were regularized for commercial space as well as habitable space. The DCR 2016 was updated to define basement or cellar as, “*the lowest storey of a building depending on site and topographical condition of the site. Use permitted as defined in the precincts. Construction of basement may extend into setback and shall not be included in the coverage*”. Further, as an addendum to the DCR 2016, the Thromde Tshogde endorsed the following points in 2017 “*in order*

to prevent traffic congestion due to parking of vehicles along roadsides and to facilitate sufficient parking spaces within individual plots.

1. Basement does **not necessarily have to be 75% below ground** provided it is fully used for parking purposes
2. Basement **can be fully above ground** provided it is only for the purpose of parking and the clear height does not exceed 2.4 m
3. **Strict legal undertaking** will be signed by the plot owners during approval process and **strict monitoring process** after approval to ensure that there is no conversion of basement to habitable spaces”

The DCR 2016 allowed the **conversion of basement to habitable spaces** as well as allowing ‘full coverage’ of the plot area for basement construction. The DCR further allowed conversion of older buildings’ basement if the following conditions are fulfilled:

1. The building is approved prior to 2014
2. There are adequate parking slots as per the parking requirement of the DCR
3. Parking is not feasible due to the site conditions
4. Basement can be converted into habitable space only if there are adequate natural lighting and ventilation as per BBR 2004
5. Basement can be converted into habitable space only if there are provision for fire exit as stipulated in the DCR 2016 and BBR, 2004
6. If there are proper provisions for drainage and sewerage

It was rationalized that “existing regulations do not facilitate parking in basement since it is technically not feasible to park and take out the cars from basement for standard plots”. Contrariwise, the Building Regulations 2018 states, ‘a basement may be permitted based on the site conditions but **shall not be for any purpose other than parking and services**. The basement shall cover the same size as the building above and the height shall be a maximum of 2.5 meters’.

Currently, there are only a few buildings, mostly institutional and hotels, where basements are actually used for vehicular parking. Moreover, all the new structures are ‘authorized’ full coverage of the plot to build the basement: *basement sizes are bigger than the building built on the plot now*.

Regarding the basement regularization, the audit noted following issues:

- i. Rules with huge technical implications were regularized, without following proper process or consultation. The TSP and DCR 2004 are complementary documents approved by the then ‘competent authority’, the TSP by CCM and the DCR 2004 by MoC. *Thimphu Thomde* made the DCR 2016 with these changes with the endorsement of the *Thomde Tshogde* without the involvement any other agency.
- ii. Although undertakings are signed, weak and inadequate monitoring by the *Thomde* has resulted in many building owners using the space for shops, living, office, entertainment centers etc. Without proper and regular monitoring, misuse of these rules are very likely given the economic benefit to the building owners.
- iii. In 2014, as per a detailed survey report by the DRD on 61 basements that were ‘basements approved as parking in the drawing that cannot be used for parking in the field’, the *Thomde*

Tshogde decided to regularize the basements into low income units with conditions as follows.

- *21 number of basements were found feasible for conversion to low income residential units, with sufficient parking;*
 - *Conversion to low income residential unit;*
 - *Status quo for those being used as shops in UV II areas;*
 - *Conversion to commercial/shops in UV I areas;*
 - *Conversion to showrooms, store, shop & snookers in UV I areas;*
 - *Conversion to residential in UV II areas;*
 - *Conversion to residential if sufficient parking;*
 - *19 number of basements were found not feasible for conversion to low income residential units, and*
 - *Conversion to showroom, store, furniture house or even bars based on acceptance by *Thromde*.*
- iv. The 25th *Thromde Tshogde* approved the proposal to use ground floor and first floor, as children playground with the condition that an undertaking will be summited by the owner ensuring that there will be no disturbance to neighbors. This proposal was based on the concerns that there are increasing numbers of building left unoccupied making building owners default on loan repayment.
- v. Another major change noted, and occurring at the construction sites, was the allowance of ‘full coverage’ of the plot to build basements. This appears to pose serious risk to the stability of the whole area, since plots are placed next to each other. Moreover, most of the constructions are on slopes areas and excavation works to build ‘full basement’ on lower plots pose serious risk of compromising the stability of the plot above it.

These regularizations will have serious implications on the sustainability of the carrying capacity of the city in the long run, with the addition of two additional floors potentially increasing the population density of the area, along with parking requirements and use of public utility services. This will be huge pressure on municipality services, which were firstly not designed to cater to the increased capacity and secondly, it would be physically a daunting challenge to enhance these services with most infrastructures already constructed.

The *Thromde* justified that before the Local Government was elected, Attic has been a widespread culture amongst all the building owners and that although attic was regularized by the Ministry, it was an absolute catastrophe to Bhutanese Architectural aesthetics based on which the *Thromde Tshogde* allowed the owners to construct full floor in place of Attic to preserve the Traditional Bhutanese Architecture.

3.2.5 Precedent set as a result of regularization of individual cases

It appears that many of deviations occurred because a case or few cases of exception were authorized. Subsequently, once a deviation was approved it became a precedent case, and to the other landowners in that area, it became an accepted norm.

Although, the reasons or basis on which these cases are authorized varies and some may even be appropriate, the flexibility in allowing such practices has resulted and will continue to compromise the actual intent of the TSP, and render most rules and regulations unenforceable in the long run.

The following are some of the cases noted by audit.

i. Increase in height of buildings in Sub-Precinct I-A (Urban Core)

The Urban Core (UC) Precinct was subdivided into sub-precinct and local area plan for the core area was under the name 'Urban Design Proposal for the Core Area'. As per the DCR 2004, *plots along western side of Norzin Lam, Wogzin lam, Chang lam up to the drain north of Mendala meat shop and along east of Norzin lam up to Druk Shopping Complex requires to fulfill the following requirements for development.*

- Total permitted number of floors for plot with area less than or equal to 371.6 m² (approx. 4000 ft²): Four (G+3) storey, Basement optional;
- Permitted buildings use for plots between 371.6 m² to 223.04 m² (2400 ft²): residential use with commercial use like retail shops with a floor area less than 40m² & service establishment, small restaurant permitted only on ground floor;
- Set back: Front: 1.5m, Side: 2m, Rear: 3m.

However, audit confirmed cases of approvals¹⁴ accorded by the MoWHS for construction in deviations to the above requirements. The Note stated that development on such plot under sub-precinct I A to be 'permissible for full commercial' usage and to be permitted to build G+4 (five) storey buildings. The Note also stated these changes be incorporated in the Development Control Regulations. Further, the Head, Development Control Regulation was instructed to include such approval in the review of the DCR and its amendment.

The principal cases that were approved via the Note were for:

- Owner of plot no.1(27) located along Chang Lam with registered area of 3685 sqft.(342.35 sq.m) was given approval for construction of 5 storey building height along with full commercial space;
- Owner of plot no. I(21) located along Norzin lam was approved by Thromde vide 01/TMC/DCD/B&A/2008/4765 dated 11/07/2008 for construction of G+4 (five) storey fully commercial buildings.

ii. Increase in height of building in UV II Sub-I

In the Hejo-Samteling LAP, under the UV II Sub-I where a maximum height of only 3 storey were allowed, a building was built with 4 storey in 2011. This occurred despite taking an undertaking from the building owner. In 2016, the *Thromde* issued the occupancy certificate without considering the deviation. Subsequently, 4 floors were allowed in that LAP.

iii. 'Setback' and 'coverage' deviations approved based on earlier cases

According to the DCR 2004, for plots falling under UV II Sub-Precinct-II, the maximum permissible plot coverage, setback requirements and number of floors were as in **Table 10**.

¹⁴ Approval note of dated 09/07/2008

Table 10: Requirement as per DCR 2004					
Plot Area	Plot coverage	No. of floor	Front Setback	Side Setback	Rear Setback
371.6 - 223.04 m ²	40 %	G+2 (Three storey)) <i>Basement are only permitted for parking and other building services</i>	2m	3m	3m for sewered and 5m for unsewered area
Source: DCR 2004					

However, few buildings in this area were already built before the DCR 2004 was imposed and were not in line with permissible parameters. As was verified earlier by the then Thimphu City Corporation, earlier buildings were built before 2004 and the front and side setbacks were 1.5m and the plot coverage was more than 45%. Based on these findings, in 2010, the Minister, MoWHS approved two cases of deviations stating, ‘*Approved as requested since the building will not fall out of line with the others already constructed*’. The details of the approved cases are given in **Table 11**.

Table 11: Approved deviation				
Plot Area	Plot coverage	No. of floor	Side Set back	Name of Plot
371.6-223.04m ²	40 %	G+3+Attic storey)	2m	LIG(6) Phendey Lham
	40 %	B+G+3+Attic (4 storey)	2m	LIG(3) Phendey Lham
Source: RAA Workings				

Even with the DCR 2004 in place, approval was accorded based on events that occurred before the rule or area plan was implemented. Approval of deviations, based on earlier cases, in the long run jeopardizes the sanctity of rules that govern permissible parameters to construct a building. Subsequently, it becomes difficult to implement the rules in areas where deviations were already approved on a case-to-case basis and it would be ‘unfair’ to impose the rules on the other landowners, even if they agree, of that precinct.

Currently, as decided by the 25th Thromde Tshogde held on 17 July 2015, this UV II Sub Precinct II has been further ‘enhanced’ to UV I of the core area.

iv. **Allowing commercial activities/construction in residential area**

As per the DCR, uses permissible in Precinct UV II MD are as in **Table 12**.

Table 12: Uses permissible in UV II MD		
Designated Urban Precinct	Uses Permissible	Special conditions and restrictions
UV-2 (MD) Urban Village Periphery	Apartments and group housing are permitted. Residential, local level retail shops and services, household economic activity and cottage industries not involving use of, or installation of, a machinery driven by more than 1KW power and which do not create noise, vibrations, fumes, dust, etc. only in independent dwelling units (not in tenement dwellings or flats). Bagos Improvement Schemes.	Institutional uses in a minimum of 1000sq.m. plot may be permitted. Resorts, Hotels with boarding and lodging facilities in a minimum of 2500m ² plot may be permitted.
UV II-SUBCATEGORY I URBAN VILLAGE PERIPHERY SUB-I	Commercial uses like local level retail shops with floor area less than 40m ² or internet browsing centre, fast food outlets, canteens, snack bars not exceeding floor area of 30m ² area will be permitted only on the ground floor per plot.	
UV II-SUBCATEGORY II URBAN VILLAGE PERIPHERY SUB-II	Educational institutional buildings, day-care centers, dispensaries, clinics, public facilities and utilities, local community halls are allowed. Bars, discotheque, poolrooms and any other nighttime recreational centers and activities contradicting with residential uses would not be	

	permitted.	
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However, over the years, many of the buildings in UV II MD have been given approval for ‘uses’ in deviation to the permissible use.

The audit noted the following:

a) Hotels/service apartments in residential area

The audit noted 34 hotels/service apartments built and operating in residential areas during the course of this audit. These buildings are built on standard plot sizes and had not abided by the minimum plot size of 2500m².

Further, with the DCR 2016, *Thromde* started allowing ‘service apartments and TCB standard hotels with boarding and lodging’ in residential areas without any special conditions or restrictions.

Table 13: List of Hotels in UV II MD/LD		
Sl. No	LAP	Nos.
1	Langjophakha	6
2	Changjiji	1
3	Changbangdu	5
4	Changzamto	1
5	Motithang	10
6	Babesa	6
7	Hejo Samteling	5
	Total	34
Source: Thimphu Thromde		

b) Conversion of residential structure to commercial structure

Table 14 : Conversion of residential structure to Commercial			
Service Apartment	Location	Remarks	Year of Const.
Bhutan Suites	Changangkha	Proposed as residential	-Not Available -
Khang Residence	Motithang	-same as above-	-NA-
Rabten Apartment	Rabten Lam	Built as a residential	-NA-
Source : Thimphu Thromde			

Audit noted cases of buildings, initially proposed as residential, but later on converted to service apartments, approved by the *Thromde*. **Table 14** shows some of the cases noted by the audit team.

c) Entertainment activities in residential area

As per the DCR 2004, ‘Bars, discotheque, pool rooms and any other night time recreational centers and activities contradicting with residential uses would not be permitted’. The audit noted 51 entertainment activities in residential area as depicted in **Table 15**.

Table 15: Entertainment activities in residential area							
LAP	Disco	Drayang	Karokoe	Live Music	Snooker	Video Game	Total
Babesa	0	0	0	0	5	2	
Olakha/Changjalu	1	1	4	1	15	5	
Changjiji	0	0	0	0	0	1	
Changzamtog	0	0	0	0	12	4	
Changbangdu	0	0	0	0	0	0	
Hejo-Samteling	0	0	0	0	0	0	
Total	1	1	4	1	32	12	51
Source : Thimphu Thromde							

d) Approval for discotheque in basement

Approval was accorded for conversion of basement to commercial space vide note sheet dated TDM/DCD/01/2010-11 dated 27 May 2011 with reasoning that, “As per DCR 2004, the use of the Basement shall be either for parking or building services. **However, since most of the present**

Discotheques are operated in the Basement, basement utility could be extended to entertainment as well”.

In another case, a basement with a capacity to accommodate **58 numbers of cars** was converted to a discotheque (nightclub) and private lounge karaoke through revisions of drawing (approved by the *Thromde*) though there are no formal approvals on the conversion of the basement to commercial spaces in Core Area.

There are many instances of basement converted to commercial space by paying regularization fess approved in 19th Thromde Tshogde Meeting (April, 2014).

v. Allowing ground floor for commercial use in UV II MD area

The DRC 2004 allows usage of space for ‘*commercial use like local level retail shops with floor area less than 40m² or internet browsing centre, fast food outlet, canteen, snacks, bars not exceeding floor area of 30m² area will be permitted only on the ground floor per plot*’.

However, RAA noted instance wherein as per the note sheet 01/TMC/B & A/2010-11/3013 dated 14 April 2011, owner of plot no. HIG(03) in Changangkha area being given approval for shops at ground floor and offices at upper floor (fully commercial at ground floor) in deviation to requisite area of less than 40m².

3.2.6 Non implementation of important Regulations

The Building rules and regulations require all building having more than 4 floors to have elevators and MoWHS developed a guideline for differently abled-friendly construction. Both of which were not properly implemented as explained hereunder.

i. Elevator rules misused

As per rules, elevators are a requirement for building having more than 4 floors. The *Thromde*, with the development of DCR 2016, allows for 2% extra ‘coverage’ if elevators are provided for G + 4 building likely to encourage the use of elevators.

However, it was observed that majority of the buildings have kept provisions for elevators but no elevators were installed. Drawings are submitted with elevator provisions and are accorded the additional 2% extra coverage but most building don’t have elevators installed. Majority of the buildings currently does not have elevators installed except for institutional buildings and some hotels; and these empty elevators shafts have been converted to shops and stores in most of the buildings. The issue is that elevators are costly with maintenance cost involved which does not justify the potential rental income made by the buildings in most areas.

Moreover, monitoring of this rule was lacking since the *Thimphu Thromde* while issuing the Occupancy Certificate does not monitor it annually. It was found that, since *Thimphu Thromde* was not implementing this rule, there is resistance from building owners in implementing this rule in other developing *Thromdes* in the country as well.

ii. Guidelines for differently abled-friendly construction not implemented

‘Access to public areas is not only a matter of dignity but also a fundamental right of every person in our country’. Accordingly, MoWHS issued a guideline for differently abled-friendly construction.

The guideline was formulated to cater to the needs of the differently abled person in the society. It facilitated the adoption of obstruction-free, accessible, and usable spaces in the built environment. The guideline provided basic criterion and checklist that any structure or component of a structure should comply to declare it as accessible for differently abled person. The guidelines provide design considerations like proper signage, footpath, street furniture, ramp and pedestrian crossing requirements among others.

However, it was learnt that this guideline is hardly considered while designing buildings or public spaces. As is evidently clear, *Thimphu Throm* hardly has these design considered or implemented for the differently abled community.

3.2.7 Non-conforming Land use

As per existing regulations, *Thromde* is responsible to ‘frame rules for regulating workshops, non-conforming land use, building activity’¹⁵. The LG Act 2014 provides that *Thromde Tshogde* shall, “regulate and enforce appropriate land uses including non-conforming land uses and vehicle repair workshops, and building activities in the *Thromde*, and “regulate and enforce land use and building activity in the *Dzongkhag Thromde* in accordance with the approved plans”.

Further, the DCR states, “A lawful use of land existing prior to the notification of the TSP of which these precinct sanctions forms a part and which do not conform to the designated precinct sanctions, shall be permitted to continue, **subject to the condition that no extension, modification of the buildings, non-extension, or intensification of the non-confirming use shall be permitted.** The existing use (structures) will continue but once the structure is demolished no further development/redevelopment shall be allowed. **Uses like workshops, sawmills etc, shall be allowed to continue operations for a minimum of 5 calendar years from the date these precinct sanctions become operational.**

Non-conforming Land use includes the following as per the TSP:

- Sawmills, fuel stations, defense establishments
- Schools & institutions, hotels and business institutions

The TSP had recommended relocation of these establishments outside residential areas and defense establishments to be relocated to the National Capital Region. However, none of these establishments were relocated. In fact, more schools and sawmills were allowed at inappropriate locations and the defense establishments were allowed to expand with more infrastructure development.

In this regard the audit made the following observations.

¹⁵ Thromde rules 2011

i. Schools, sawmills and fuel stations still at inappropriate locations

There were 29 Schools in *Thimphu Thromde* allowed at various locations and some of the private and government schools were allowed at inappropriate location. For instance a private primary school namely: Thimphu Primary school and 2 government school namely: Motithang Higher Secondary school and Jigme Namgyel Lower Secondary School are located next to a fuel station in Changzamtog and Motithang area. The details of schools in Thimphu Throm are given in **Table 16**.

Table 16: Schools in Thimphu Throm	
School	Number
Higher Secondary Schools	8
Lower Secondary Schools	4
Middle Secondary Schools	7
Primary School	10
Total	29
Source : Thimphu Thromde	

Sawmills are noise intensive and not suited for residential areas. However, sawmills are still located in residential areas. 3 sawmill and few woodwork and furniture establishments were noted to be in operating in *Changzamtog LAP*. It is not safe to allow fuel stations and sawmills in residential area. For instance, a sawmill caught

fire recently in the *Changzamtog* area causing damage to surrounding infrastructures as well.

The Thromde Management, in their response, stated that they will seek directives from the Government or write to proprietors of sawmill to relocate their operation area. Further, that a committee has been formed for issuance of locational clearance for a new school. It was also mentioned that the Thromde is in the process of shifting the fueling stations from the core area and Chubachu area to suitable areas.

ii. Defense and other establishments in ‘endowment’ areas not shifted

The TSP recognizes that the city must be planned for people who not only live in it but also for the future generation. These areas are ‘Endowment Zones’ and are not for development and are to be left to future generations of planners whose use determination is deferred to the future generation.

As per the TSP, establishments like the Royal Bhutan Police in Changzamtog, the Royal Bhutan Army in Lungtenphu, and the DANTAK in Babesa occupied these areas. The TSP proposed moving these defense establishments to the National Capital Region and retaining these areas as endowment zones for the future generation. However, none of these establishments have been relocated and these settlements have developed more permanent infrastructures to accommodate offices and personnel.

iii. Development of Library (Zhichenkhar) at Langjophaka and lapses thereof

The TSP specifies land-use in the Langjophaka LAP as predominantly residential with height restrictions of 3 floors (G + 2) for the areas to the west of *Dechhen Lam* towards *Wang Chhu* and 2 floors (G+1) for areas to the east of *Dechhen Lam* towards *Wang Chhu* considering the elevation of particular areas with respects to the *Tashichho Dzong*.

The Center for Bhutan Studies proposed for a 6-floor library to be built to which the *Thimphu Thromde* responded stating that, ‘*proposal was received for construction of 6 floors structure in Lanjophaka and that only 3 floors is allowed in an Institutional Precinct*’. Further it maintained that ‘*the above findings have been reported to the higher authorities for further directives*’. The CBS wrote to the Minister, MoWHS seeking approval to build a 4 floor Library of Mind, Body and Sound in *Langjophakha*, stating that the proposal is approved by the Prime Minister and is in the long-term interest of the nation. To this letter, MoWHS responded that:

- *The proposed library deviates from the approved DCR. In terms of number of floors, the proposed library has three additional floors. (In total 6 floor) The proposed double basement is actually building floors resulting out of slit-type design.*
- *Of the four facades, the one facing west has the least Bhutanese architectural elements. Given the location, the west façade would be the most visible façade including the view from Trashi Chho Dzong and the Supreme Court.*
- *Apparently the façade facing south has more glazing than it is recommended in the Bhutanese Architecture Guidelines 2014. Further as an institutional structure in the vicinity of nationally important structures and visible from many locations the kind of image it would portray is a matter of serious concern.*
- *In terms of building footprint and the mass, the proposed library is a huge structure and consequently it could make a bigger impact be it good or bad.*

And had recommended the following:

- *Given its location and locality filled with buildings of poor architecture, there is ample opportunity to showcase Bhutanese architecture in the proposed library building and uplift the outlook of the locality.*
- *As there is adequate land (as per site plan), there is an opportunity to reduce the building height and spread the design horizontally.*

Based on the review by MoWHS, the *Thimphu Thromde* was asked to review the proposal accordingly to see the possibility for one additional floor without compromising on the essence of the structure plan.

However, the documents beyond this point were not made available for audit verification. The approval of drawings, inspection reports of the physical structure by building inspectors and Occupancy Certificate was not available. Further, the RAA noted that the center has conducted numerous programs and conferences (5 events in 2019) at Zhichenkhar without even obtaining the occupancy certificate from *Thimphu Thromde*.

iv. Development of Supreme Court and Lapses thereof

Under the proposed Open Space system of the TSP a proposal to make *Tashichho Dzong Central Park / King Jigme Dorji Wangchuck Memorial Central Park* which includes the existing golf course, Dzong and its surrounding area including the existing administrative buildings, the *Hejo* paddy fields and the open space west of the existing Dzong road with the following objectives.

- To enhance the Dzong and its Precinct into a national level landmark;
- To develop the Dzong precinct as the Green hub of the Capital;
- To enhance the image of the capital city,
- To provide a city level central open space.

The *Hejo* Paddy fields were proposed as a reserve area (passive Open Space) to conserve the rural landscape of the northern part of the Dzong precinct, conserve the image of Dzong and to avoid urban development in its surrounding. The construction of buildings/structures within the paddy reserve area was not to be permitted and no activities other than activities, which will enhance the image of the Dzong precinct, were to be allowed.

However, the Supreme Court of Bhutan was built in the Hejo paddy fields reserve area. The site was proposed by Supreme Court of Bhutan and approved by the government. 26 plot owner with the total area of 11.967 acres were affected.

The Supreme Court has been in full operation with all the amenities since 2014 without the land User Right Certificate, which was issued only on 11 May 2018 by National Land Commission Secretariat.

The land taxes as in **Table 17** are outstanding since 2016 and the *Thimphu Thromde* has not yet issued the occupancy certificate.

Table 17: Outstanding Taxes				
Sl. No	Year	Total Tax	Penalty	Total
1	2016	286,746.00	147,065.00	433,811.00
2	2017	286,746.00	78,246.00	364,992.00
3	2018	286,746.00	9,427.00	296,173.00
Total				1,094,976.00
Source: Revenue section, Thimphu Thromde as on 19/02/19				

The *Thromde* has sent several reminders for the clearance of outstanding taxes and collection of *Thram*. As of the audit period, the taxes still remain outstanding and the *Thram* still remains at the *Thromde* office.

3.2.8 Important TSP ‘proposals for actions’ not implemented

The TSP proposed many ‘proposals for action’, which were required to make the whole plan operational. These proposals include the development of Neighborhood Nodes, Urban Hubs, Open spaces, pedestrianizing *Norzin Lam*, creating a Royal Boulevard, developing the *Chhubar Chhu*, riverfront developments, creating parks and footpaths, parking provisions, a Core Gateway, and a 108 steps up to the Memorial *Chorten*. The TSP further identified heritage sites that require conservation, restoration, and improved access. Specific proposals were made to enhance the *Tashichho Dzong*, the Memorial *Chorten*, Prayer Wheels, and heritage villages. ‘Endowment’ areas were clearly identified in the TSP.

At the current stage of the TSP implementation, most of these ‘proposals’ have not materialized or have been changed; some of which are highlighted hereunder.

i. Failure to retain and develop NN nodes and Urban Hubs

The concept of Neighborhood Nodes (NN) was to create areas in most LAPs that would act as service and commercial centres, where facilities like clinics, nursery schools, commercial center, public transport stops, waste disposals, social infrastructures, public conveniences etc., would cater to Urban Villages. The idea was to help decongest city core by providing basic services in the locality, at walking distance for local residents, so that traffic and movement is reduced.

As per the TSP, 14 NN as in **Table 18** were proposed and these areas were created through land pooling scheme during the implementation of the Local area Plan.

Table 18: Proposed NN as per TSP		
1	Babesa	Node
2	Lungtenphu	Node
3	Chang Jiji housing scheme	Node
4	Near Chang Bangdu Primary school	Node

However, currently, only 4 NN are retained and none of it has been developed: one each in *Dechenchholing* LAP, *Taba* LAP, *Hejo-Samteling* LAP and *Lungtenphu*

5	Changzamto	Node
6	Chang Gedaphu	Node
7	Near Memorial Chorten	Node
8	Near Motithang water tank	Node
9	Near Motithang- shopping complex	Node
10	Finance colony (Kawajangsa)	Node
11	Lanjopakha	Node
11	Near Hejo Village	Node
13	Below Dechen lam (Taba area)	Node
14	Near RBP garage	Node

LAP. Further, there appears to be no plan in place to initiate development of these NN.

Similar to Neighborhood Nodes 2 Urban Hubs as in **Table 19**, one in the south and one in the north were proposed. Urban Hubs were supposed to have all the facilities of a Neighborhood Node plus entertainment facilities such as cinema halls, bowling alleys,

restaurants, bars, discos etc. besides libraries, banks and hotels.

Table 19: Proposed UH as per TSP		
1	Simtokha	UH
2	Below Dechen lam (Taba area)	UH

However, implementing agencies of the TSP were unable to establish these Urban Hubs as well.

The Thromde justified that during LAP preparation the planners (outsourced) failed to consider the sloppy topography and planned it assuming the topo to be flat. The affected property owners did not accept this and as a result, they had to let go of most NN. It was further explained that due to lack of budget, NN could not be developed and that efforts are in place to develop the remaining NN.

With regard to the UH, it was justified that Thromde took more than 15 years to negotiate and acquire the land for setting up an Inter-District Bus Terminal as envisioned in the TSP. However, this proposal is currently not approved by the Government.

ii. Reduced Open Spaces

The TSP stipulates that one of the most important Structural Elements of the TSP will be the Open Space System. *‘As a capital city, Thimphu requires a major open space system to set out its major national institutions. This will be in the form of an open green corridor that will run along both sides of the river. It will focus on the Dzong at the northern end and straddle the river on down to the archery grounds, move past the city core and on down through the valley to the City Gateway. Placing sports facilities, gardens, and natural open areas along it will maintain this system. The river itself would act as the major feature in this system’.*

A city has to provide a variety of open spaces, which can meet the recreational demands of different groups in the society. The city open space system should therefore contain a great variety of facilities and atmospheres, suitable for all kinds of special interest groups: challenging and autonomous places for the teens: serene rural and quiet for older people, or crowded and active areas for those who want stimulus and companionship.

However, it appears that *Thimphu Throm* currently has very less number of recreational areas in comparison to the visions of the TSP. RAA was unable to assess the situation properly due to lack of data on land coverage in terms of open space and green area.

iii. Non-development of Chubachu Circle

The TSP's proposal for extensive redevelopment of the Urban Core area includes developing the Chubachhu into an administrative center linking the town with the Dzong, extensive riverfront developments, creating parks and footpaths and provisions of parking. Further, supplementing the TSP, the Urban Design

The main intent of developing Chubachu Circle were:

- To establish the Chhubar Chhu Circle as a connector between the Tashichho Dzong and commercial urban core;
- To endow a degree of grandeur and formal character to the space, differentiating it from other minor public spaces;
- To create administrative office space which will accommodate various departments and agencies now located in residential structures;
- To rationalize a circulation pattern (Vehicular movement and pedestrian paths), that link major arteries of the city.

Proposal highlights Chubachu Circle as the foremost administrative space of the city, and a link between two different functional parts of the city, stationing important public offices, public amenities like art gallery and library, and the Town Hall.

However, Chhubachu circle is not developed as planned and in 2007 the MoWHS conveyed the approval of the Royal Government leasing the area of 4.75 acres to National Textile Museum for a period of 30 years at the rate of Nu.1 per square feet for the development and construction of Royal Textile Academy (RTA). The approval note from the MoWHS did not mention the reason or the rationale behind changing the *Chubachu* Circle project to develop as RTA.

iv. Reduced endowment precincts

Endowment precincts were earmarked in the TSP to be areas that will be left to the future generation. The implementing agencies of the TSP have failed to regain these identified areas from the establishments that existed on it. Further, lately the *Thromde* has allowed the development of a Multi-Level Car Parking building, through a PPP model, on an endowment precinct with no proper approval authorizing development in an **Endowment** zone

The government directives on parking space and multi-storied parking underscores *Thromde* office to encourage landowners to furnish parking facilities as an alternative provision without compromising the approved TSP and to ensure that all the infrastructure works is based on the TSP.

v. Other projects that did not materialize and deviations reported in Strategic Environment Assessment Report of the TSP

The RAA observed that most of the projects proposed in the TSP have not materialized and some projects are executed in deviation to the TSP. The following are some of the project.

- Pedestrianizing *Norzin Lam*,
- Riverfront developments,
- Core Gateway,
- 108 steps up to the Memorial *Chorten*,
- Creation of Environmental Enhancement Zones,
- Creation of a National Open Space System,

- Footpath system including stairways and footbridges in natural environmental zones and open space system,
- Heritage sites and villages that require conservation, restoration, and improved access,
- Specific proposals were made to enhance the *Tashichho Dzong*: and
- The Strategic Environment Assessment of the TSP conducted in November 2018 by multi-sectoral core team comprising representatives from Thimphu Thromde, MoWHS, GNHC, NECS, NLCS and UNDP also reported the construction of the building housing the Tarayana Foundation office and TCB office as deviated from TSP.

The Thromde Management, in their response, stated that Thromde is in the process of implementing the Pedestrianizing Norzin Lam and Core Gateway. However, Pedestrianizing Norzin Lam project is suspended based on orders from the previous Government and the Core Gateway project is affected as a result of Supreme Court's verdict, which was in favor of the landowner where the core gateway was planned to be constructed.

3.2.9 Transportation system compromised

As per the TSP, the main themes of the transportation plan were the '**Urban Corridor**' forming the spine of the city, connecting urban hubs, NN and commercial areas across the city, '**Road classification**' into *Arterial (primary,)* *Collector (secondary)* and *Access street*, '**Pedestrian and Bicycle Movement**' with a citywide system of pathways, (*Pedestrianization of the Norzin Lam in a phased manner is proposed as part of this concept.*), '**Public Transit System**' with interval stops of not more than 10 minutes and discouraging measure on private vehicles utilization.

The Elements of the Transportation Plan were as in **Table 20 and 21**.

Table 20: Elements of the Transportation Plan	
Urban Corridor	<ul style="list-style-type: none"> • <i>The UC will typically have 2 lanes for fast and slow moving vehicular traffic and an exclusive bus lane with provisions for installations for electric bus service on either side.</i> • <i>The Total ROW will be 24m wide, while there will be a 35m ROW section with the service lane (5.5m) on both sides is to be adopted wherever possible</i> • <i>In general the UC will have 24m wide carriage way with 10m on either side (44m total)</i>
Primary (Arterial) Roads	<ul style="list-style-type: none"> • <i>Primary roads connect the Secondary roads to the UC</i> • <i>A typical primary road will have 18 m ROW with 4-lane carriageways and footpaths on either side.</i> • <i>To be adopted where possible are 21 m ROW for service lane and bicycle lanes and 12 m ROW option only where 18 m is absolutely impossible</i>
Secondary Roads	<ul style="list-style-type: none"> • <i>A typical secondary road will have a 10 m ROW with 2 lane carriageways and on either side. 12 m where possible</i>
Access Streets	<ul style="list-style-type: none"> • <i>Access roads are designed to serve low volumes of traffic through a pedestrian-oriented environment</i> • <i>A typical access road has a 6 m ROW with 2 lanes carriageway</i> • <i>On-street parking is encouraged</i>

Public Transit System

- *At a minimum, transit stops should provide shelter for pedestrians, convenient passenger drop-off zones, telephones, adequate lighting and secure bike storage*

Table 21: Parking Facilities

On-street parking	<ul style="list-style-type: none"> • <i>Encouraged along shopping streets within core commercial areas</i> • <i>Should not be permitted on arterials</i> • <i>On-street parking helps 'civilize' the street for pedestrians by creating a buffer between moving cars and sidewalk.</i>
Off-street parking	<ul style="list-style-type: none"> • <i>In a pedestrian oriented plan, off-street parking in small pod, will allow vehicles to penetrate into the UC, UH and NN from peripheral access streets.</i>

However, majority of the plan still remains unimplemented with no possibility of doing so now since most of the areas have already been developed. With a huge increase in the number of vehicles in Thimphu, failure to maintain the ROW and service lane, coupled by bus stop stationed on the already narrow stretches of the road, and limited parking spaces, Thimphu is already facing heavy traffic congestions. The audit team made the following observations in this regard.

i. The ROW envisioned in the TSP has not been maintained

The ROWs envisioned in the TSP has not been maintained. The widest ROW noted was 12m.

ii. There are no service way or carriage way

Service lanes of 5.5m wherever possible and carriageway of 10m on either side of the Urban Corridor lane could not be maintained. Currently, public bus stops are made on the already narrow roads causing traffic congestions during peak hours.

iii. Public footpaths and bicycle lanes are disrupted by vehicle parking provisions of buildings

Footpaths and bicycle lanes are not incorporated as intended and most parts of the lanes are seen disrupted. Audit noted many instances of a building's front area being used as vehicular parking jointed with the footpath provisions thereby disrupting the footpath meant for public use.

iv. Public Transportation System unable to gain popularity

A concept of the TSP with regard to transportation network within the city was to enhance public transport system so that private transportation get an alternative to using or buying private vehicles thereby reducing the number of private vehicles in the city.

However, evidently, there has been substantial increase in the number of private vehicles over the last decade indicative that public transportation is not very popular and is still at its infancy stage. This situation is worsened by ROWs of the roads being lesser than planned and no service way or carriage way maintained. Therefore, bus stops do have the required space for parking the bus as well as space required for commuters as initially planned, causing inconveniences to commuters and most times causing traffic congestions during peak hours.

v. Parking space

Parking space has become a major concern for *Thimphu Throm*. Owing to non-compliance by building owners, unrealistic drawings, weak implementation by relevant authorities and the huge increase in number of vehicles in *Thimphu Throm*, most building do not provide for enough parking spaces in proportion to the tenants of the building which had led to on-street parking causing traffic congestions.

3.2.10 Issues with TSP slope analysis

As per slopes analysis as shown in **Table 22** in the TSP, areas greater than 30% slopes are not suitable for urban development (proposed for E4 precincts) due to the following reasons:

1. *These slopes are prone to soil erosion and landslides*
2. *Development affects the stability of the soil and slopes*
3. *Development accelerates the rate of soil erosion and surface runoff*

Table 22: Slopes analysis in TSP

	Flat terrains	Low/gradual slope	Moderate slope	Steep slope	Very steep slope
Slope (%)	5	10	20	30	Above 30
Slope angle (in degrees)	2.86	5.7	11.3	16.7	24
Slope Ratio (in meters)	1:20	1:10	1:5	1:3	1:2.2
Slope range (%)	0-5%	5-10%	10-20%	20-30%	Above 30%
Slope range (in degrees)	0-2.86	2.86-5.7	5.7-11.3	11.3-16.69	Above 16.69

However, the SEA report¹⁶ as shown in **Table 23** on the TSP states that there are cases where UV II LD and UV II MD have slopes greater than 30% as well as E4 areas with slopes less than 30%; a mismatch in Land-use and Precinct Categorization. Further, a slope analysis carried out by the *Thimphu Thromde* indicates that slope analysis carried out in the TSP was not realistic. As the findings shows, around 170 plots were found under E4 precincts where the slope was less than 30% and more than 2000 plots were found to have slope greater than 30% but were classified under other precincts than E4.

Table 23: Slopes analysis as per SEA report

Particulars	Total Area	No. of plots
Areas in E4 with slope <30%	193.99 acres	172
E4 as per Plan	1265.16 acres	973
Areas not in E4 with slope > 30%	2955.41 acres	2248
Non E4 precincts	3508.67 acres	5829

The slope categories currently identified are not entirely accurate as well because most times a particular plot has different slope categories but the plot slope is categorized based on

the centroid slope of that plot. A slope analysis report as in **Table 24** by the *Thimphu Thromde* gives the following situation in the city.

Table 24: Slope analysis report by TT

Slope Category	Total Area	No. of plots
Greater than 45° (100%)	55.04 acres	5
Between 30° to 45° (57% - 100%)	824.36 acres	187
Between 20° to 30° (36% - 57%)	1595.39 acres	1424
Between 17° to 20° (30% - 36%)	485.60 acres	638
Below 17° (30%)	3508.78 acres	5756

In some areas development has taken place accordingly. On the other hand, some 'precinct' was changed by the *Thimphu Thromde* based on 'public pressure' without consideration of these technical elements. Therefore, currently, there exist many cases of high-density development on steep slopes.

¹⁶ Strategic environmental assessment of Thimphu Structural Plan 2018

The DHS, in their response, stated that Structure Plan is a strategic document and is implemented through preparation of local area plans. Therefore, many a times due to resource constraints and unavailability of detailed data such as topographical survey, data generated from satellite images which are quicker and less time consuming) are used during the preparation of Structure Plan. Further, stating that, in general transect model is deployed at the time of plan preparation. The density and scale of development decreases as we move from the center or urban core. Slope is one of the parameter at the time of designating precinct in the Structure Plan. Within a low-density precinct such as E4, there might be instances of areas with gentler slope and because of other overriding parameters it is not designated for high-density development. Same is applicable for moderately steeper slopes in high density precinct such as urban core. Precincts designation are not carried out in isolation and isolated land parcels.

3.2.11 Housing affordability can become a major problem

With increasing number of residential buildings, housing unit ‘availability’ is increasing. As of 2017, the housing infrastructure in Thimphu provided around 24,000 units of which around 1,700 units were provided by various institutions as affordable housing and the rest belonged to the private sector. Currently more units are being built and more units are entering the market frequently. The TSP’s projected capacity for housing units was around 77,000 units by 2027 and with substantial changes to the height and coverage of the buildings in the city this projected figure will increase by the time the TSP is fully implemented. Therefore, in terms of availability of housing units in direct relation to the population of the city, the figures appear comforting.

However, the concern is with housing ‘affordability’ which is highly subjective and although there is no fixed rental standard, a widely accepted benchmark is that house rent expenses should not exceed 30%-40% of the household income. In Bhutan, the National human settlement policies require rental cost to be below 35% of average household income. The rent in Thimphu city has been ever rising, with majority of the housing unit stock belonging to the private sector (more than 80%), rent fixation being at the discretion of the house owners, high housing loan interest and lacking acceptance of the Tenancy Act provisions of disallowing rent increase before every two years.

The following are some of the issues noted in this regard.

- i. In terms of numbers, the availability of the housing unit stock appears to be in surplus if compared to the estimated households residing inside the municipality area; both TSP projection and an analysis¹⁷ done in the past indicate surplus housing units. However, weak acceptance of the Tenancy Act in the private market and majority of the housing unit stock belonging to the private sector having high rents, there seems to be a huge mismatch in terms of demand and supply. Majority of the population require low cost housing units while majority of the housing unit stock available are high cost housing units.

The BLSS 2017 states that in urban areas, private individuals own more than 80% of the housing unit stock; 20 % own their own dwellings, 17.5% live in rent-free dwellings and **63% live in rented houses**. The monthly mean house rent in urban area was Nu. 5,297.

¹⁷ SEA of the TSP

- ii. Majority of the buildings are built on loans, which have direct implication on the rental charges. For the sustainability of the investment, building will require to be fully occupied at the current market rental rates. However, given the pace of housing units that are coming into the market (*NRDCL records show more than 2500 constructions going on in the western region of the country*) with limited households that can actually afford the units at the current market rate, the market is seen susceptible to future risk of rentals crashing due to unaffordability, which would reduce the income of the house owner, who would potentially default on the loan repayments.
- iii. Lack of affordable housing is already troubling segments of the city's population giving rise to many informal settlements in and around the municipality. These settlements are mostly inhabited by municipal workers and laborers engaged in the informal sector¹⁸. In 2018, a RAA report found 138 households in 10 different locations with around 600 people living in these informal settlements during an audit. Moreover, a substantial rise in the urban population is contributed by rural-urban migration potentially increasing the informal sector populace.

3.2.12 Inadequate Sewerage system

An efficient and adequate sewerage and wastewater disposal system is seen important to ensure proper standards for health and hygiene besides proper disposal or treatment of sewerage and wastewater.

Toilets and sanitation facilities are adequate with all buildings required to providing proper facilities. In most of the LAPs implemented, sewerage treatment plants are provided where all buildings connect their toilets outlets. Where sewerage treatment plants were not made buildings are connected to onsite septic tanks and soak pits systems. However, the existing system and proposed expansion scheme do not appear adequate to meet the requirements of the existing population within the municipal boundaries.

Presently, the sewerage treatment capacity of *Thimphu Thromde* stands at 6.2 Million Liters per day with a 12 Million Liters per day project currently under construction at Babesa, expected to be completed in 2021.

As per the Draft Water Master Plan of Thimphu Thromde, estimated daily water requirement per person is 135 liter of which 80% is estimated as wastewater. Even while taking the population of 2017 for Thimphu Throm, it is estimated that the requirement is around 12 Million Liters per day. As of 2019 the operational capacity of the sewerage treatment still stands at 6.2 Million Liters per day.

In recent times, with rapid rate of urbanization and fast growth of population in the city has resulted in increased pressure on these services. Faulty designs and piecemeal works to these infrastructures in certain areas aggravate the situation. It was also learnt that a sewerage treatment plant's capacity was reduced by half due to funding issues. Further, in certain LAPs, works for both public infrastructure development and private infrastructure development happening simultaneously has created more problems.

¹⁸ National Report; The 3rd UN conference on housing and sustainable urban development

3.2.13 Construction of Multi-Level Car parking and lapses thereof

Thimphu Thomde initiated the implementation of an integrated parking system with the objective to decongest the parking load in Thimphu. The project was implemented through a Public-Private Partnership (“PPP”) concession with M/s KCR Pvt. Ltd, (a joint venture company consisting of three companies, M/s Rinson Construction Company Pvt. Ltd., Thimphu as a lead member, M/s CE Construction Pvt. Ltd., Kathmandu, and M/s KNG Pvt. Ltd., Thimphu at the estimated cost of Nu.434,627,634.24. The audit noted following as discussed below:

i. No information on land cost and payable liabilities on MLCP

M/s KCR Pvt. Ltd. Thimphu vide letter No. TT/ID/MLCP/2016-2017/2491 dated 23 June 2017 was awarded works on ‘Development and Management of Integrated Parking System’ including Two New Multi-Level Car Parks in Thimphu under Public-Private Partnership Mode for a 22 years contract period. The Contractor is required to design, build, finance, operate and transfer the concession.

The Concession Agreement Clause 7.4 Land Cost states that, ‘any charges, rates or taxes arising or payable in respect of the license granted (whether temporary or permanent) by the Concessionaire of land or buildings or of any rights or interests in respect of land or buildings shall be paid by the Concessionaire’. The Concession Agreement was entered on 1 September 2014. Similarly, the Clause 2.1.5 of DCR 2004 states, ‘*a person or body applying for permission for carrying out development shall with application pay to the implementing authority the scrutiny fees.*’ However, the RAA noted following.

- a) The Concessionaire has not paid land cost in terms of land taxes or lease fee to *Thimphu Thomde* as required by the Concession Agreement;
- b) The 25th *Thromde Tshogde* held on 17 July 2015 waived off 50 percent of Nu.1,932,220.00 drawing and scrutiny fees of MLCP in deviation to the DCR;

As such, the Concessionaire has failed to abide by the Concession Agreement and *Thromde Tshogde* waving off 50 percent of scrutiny fees is in deviation to the existing DCR.

ii. Change in concession period from 17 years to 22 years

The initial concession period was for 17 years including construction of two MLCP. The increase of concession period from 17 to 22 years was done while issuing addendum to the bid document vide TT/IFC/Thimphu Parking Project/Gen/01/2013-2014/4082 dated 08 May 2014.

However, the amendment of concession period from 17 years to 22 years was made without an approval from competent authority and any discussion ensued with all prospective bidders communicating the increase in concession period was not available on record.

As such, this would have limited the prospective bidders in getting information and must have privileged few bidders, which is highly inappropriate and irregular.

iii. Delays in completion of MLCP 1 and MLCP 2

M/s KCR Pvt. Ltd. Thimphu vide letter No. TT/ID/MLCP/2016-2017/2491 dated 23 June 2017 was awarded works on 'Development and Management of Integrated Parking System' including Two New Multi-Level Car Parks in Thimphu under Public-Private Partnership Mode for a 22 years contract period. The Contractor is required to design, build, finance, operate and transfer concession. The agreement states, "*If the work is delayed for more than 180 days, after 30 days' notice the contract shall be terminated.*"

RAA noted that, both MLCP 1 and 2 were still under construction even after lapse of MLCP 1 for 602 days and MLCP 2 for 728 days as against the stipulated completion date of 5 November 2017 and 2 July 2017 respectively. The applicable liquidated damages amounts to Nu.480,000 and Nu.300,000 respectively as of 30 June 2019. The liquidated damages is provided in **Appendix-3**.

Further, it was learnt that, the correspondence between *Thimphu Thomde* and MoF as per letter no. TT/ID/MLCP/2018-19/152 dated 06 November 2018 and MoF/DMEA/IGGD/PPP-08/652 dated 26 December 2018 pertains to seeking directives from MoF over time extension and levying of liquidated damages with *Thimphu Thomde* maintaining that, they are in a dilemma with such case. However, MoF insisted for an additional information and justification on the time extension.

Therefore, in absence of any decision and pending directives from the MoF, the liquidated damages are applicable as per the concession agreement. It was also learnt that *Thimphu Thomde* took no such action even after lapse of more than 2 years and works for MLCPs continued as of 30 June 2019.

As a result, the Concessionaire and *Thimphu Thomde* have failed to abide by the Concession Agreement and substantial delays have caused loss for *Thimphu Thomde* in terms of potential revenues from MLCPs.

iv. Outstanding liabilities from delayed completion of MLCP 1 and MLCP 2

The Concession Agreement and Detail Project Report mentions on the Concession fee payable to be discounted to 65% of the full Concession Fee applicable at the time when the first MLCP is complete. This is then increased from 65% by increments of 3% on a yearly basis, until 100% of the Concession Fee is paid.

As per the DPR, the Concession Fee is determined by multiplying the concession fee per type of asset (for off-street parking vehicle spaces, the bid parameter) by the inventory of Parking Spaces in the given payments period. According to Financial Proposal the off-street excluding MLCP- 1 & MLCP- 2 was estimated at Nu.12, 345.67 annually per vehicle parking space.

As a result of substantial delays in the completion of MLCP, the *Thimphu Thomde* was deprived of Nu.8,153,520.18 in terms of revenue loss due to delays in completion of MLCPs. The detailed calculation is provided in **Appendix-4**.

RAA noted that, *Thimphu Thomde* had written to M/s KCR Pvt. Ltd. to deposit the liquidated damages and revenue loss. However, as of 30 June 2019 the amounts remain still recoverable.

v. **Thromde's 'share' from parking fees and other charges**

According to the Concession Agreement and Financial Proposal submitted by the M/s KCR Pvt. Ltd. the fees for off-street parking, excluding MLCP- 1 & MLCP-2 was agreed at Nu.12,345.67. The fees for Norzin Lam was fixed at Nu.18,518.52 (at an increase of 1.5 percent of 12,345.67 annually).

Similarly, Kuenchap Enterprise was awarded the work for operations & collections of the parking fees within Thimphu Thromde outside the concession area of MLCP. The details of the application of the rates and fees paid by respective contractors are reproduced in **Appendix-5**.

RAA based on the prevailing practice of parking fee collection and information provided in DPR (*the parking fee chargeable is Nu.10 per 30 minutes for all off street parking facilities and on street parking areas, except on Norzin Lam, where a parking fee of Nu.15 per 30 minutes is applicable*), has assessed the rates and share of contribution to *Thimphu Thromde* from parking fees and charges. The details of parking fees and charges worked out based on the prevailing rate are given in **Appendix-6** and the summary reproduced in the **Table 25**.

Table 25: Summary of concession fees paid and payable as per the DPR (Nu. in Millions)					
No. of slots	Annual payment to Thromde as per Financial Proposal and Contract agreement	Annual collection as per DPR & Prevailing practice	Percentage contribution to Thromde	(+,-)	Contractor
1460	20.14	145.1	13.88%	-125	M/s KCR Pvt. Ltd & M/s Kuenchap, Enterprise Pvt. Ltd
Source: RAA workings					

The RAA noted the following in this regard.

- As evident from the Table above, the *Thimphu Thromde's* share of contribution from the parking fees and charges is only 13.88% (Nu.20.14 million) annually and the contractors' share is estimated at 86.12% (Nu.125 million) annually from the parking fees and concession fees.
- The Concession Agreement on Commercial Activities Area provides for built-up area not greater than 20% of the total built-up area in MLCPs. However, the same agreement is silent on share of contributions to *Thimphu Thromde* for the use of this space except for Parking space in MLCP.

Further, the NIT published in Kuensel, Business Bhutan, *Thromde* website and Economic Times, India specify the scope of the project as:

- Design, construction, operation and maintenance of two (2) Multi-Level Car Parks (MLCP)
- Up-grade and management of off-street surface parking lots within the exclusive area ('off-street-parking facilities')
- Up-grade and management of on-street surface parking spaces within the exclusive area ("On-street-Parking Areas")

However, the RAA is of opinion that, the scope of work is silent on the usage and built-up of Commercial space. The use of commercial space not greater than 20% of the total built-up area in MLCPs is assumed to have stemmed while formulating and signing of the Concession Agreement with the lone qualified bidder M/s KCR Pvt. Ltd.

It was learnt that 20% commercial space was included only while issuing the addendum to bid document vide TT/IFC/Thimphu Parking Project/Gen/01/2013-2014/4082 dated 08 May 2014. However, the amendment was made without an approval from competent authority and any discussion ensued with all prospective bidders communicating 20% of the total built-up as commercial space in MLCPs was not available on record. The audit report issued vide (AIN: 15859) period covering 2015-2017 also do not mention any on the usage of commercial space in the scope of work.

Further, the occupancy certificate for MLCP 1 and 2 was found issued on 16 July 2019 and 31 July 2019 respectively. However, there were no inspection reports and handing taking note on the physical structure of MLCPs and it also lacked clarity on the use of Commercial Space as to whether it is ‘hotel, disco, bars, snooker room’ etc.. The audit team has confirmed that a ‘hotel’ is being placed inside the MLCP 1.

As such Thimphu Thromde is losing out in millions in terms of potential revenue from the parking and commercial space. Further, addendum issued at later stage without approval from competent authority would have limited the prospective bidders in getting information and must have privileged few bidders, which is highly inappropriate and irregular.

vi. Lack of inventory and inconsistent data on parking slots

An inventory will enable efficient decision-making through proper planning, prioritization needs and to determine new or additional Urban Roads, Parking slots and footpath. Further, it will aid in maintenance budgeting and taking appropriate decisions on new constructions, maintenance, use and replacement plans.

Thimphu Thromde has no proper records (Inventory) maintained for Urban Road, footpath and parking slots. The data used so far has no baseline and are not up to date. The details of parking slots are inconsistent with what the Infrastructure Division provided to the audit team and what is being tabulated for payments as concessional fees and charges by the parking fee contactors. The data for Urban Road, Parking and Footpath are given in **Table 26**.

Due to differences and inconsistencies in the parking slots data, *Thimphu Thromde* appears to be losing revenue receivables as depicted in **Table 27**.

Table 26: Data for Urban Road, Parking and Footpath					
Type of road	Year			Increase	Remarks
Urban blacktopped road (KM)	2015	2017	2018	27 KM	
	243 KM	270 KM			
Public parking (Nos.)			2532		No baseline data
Taxi parking (Nos.)			86		No baseline data
Footpath					Data N/A
Source: Road & Bridge Section, Infrastructure Division, Thimphu Thromde					

Table 27: Differences in Parking slots and revenue receivables						
Nos. of parking (Inventory)	BOQ of Contract & payment details as per Accounts section	Difference	(Avg) Monthly rate	Monthly (Nu.)	Yearly Total (Nu.)	Remarks
535	447	88	2700	237,600.00	2,851,200.00	M/s Kuenchap Enterprise, Thimphu
1118	1013	105	2572	270,060.00	3,240,720.00	M/s KCR Pvt. Ltd. Thimphu
Total (Nu.)				507,660.00	6,091,920.00	
Source: RAA workings						

The Thromde Management, in their response, stated the following;

1. During the preparation of the concession document the PPP policy was under preparation and it could not referred.
2. Land registration could not be done with NLCS, which took months.
3. Documents were maintained by the IFC and Thromde did not have a dedicated unit with adequate personnel to record proceedings and documents the process.
4. Thromde lacked experience on implementation such project since it was the first of its kind in the country.
5. Delay occurred due to issues of FDI partners not able to remit dollars from Nepal and the structural design changes that had to be made requiring increased volume of steel and concrete.
6. Increase in cost, difficulty in mobilizing the additional fund requirement, and withdrawn of FDI partner delayed the project completion schedule
7. Fines and penalties were not settled because the parking facilities have not been utilized as expected with very low occupancy rate.

CHAPTER 4: RECOMMENDATIONS

Based on the audit findings and assessment of past reports with regard to the Thimphu Structure Plan, the RAA has provided recommendations not only to mitigate the challenges faced and enhance efficiency and effectiveness in urban planning and development in *Thimphu Throm*, but also to objectively guide and ensure proper and timely implementation of other plans in the pipeline for the country. The recommendations are discussed below:

4.1 The Government should develop a clear institutional Framework for implementation of the TSP

With regard to the Institutional Framework of urban planning and development in *Thimphu Throm*, especially in the context of implementing the TSP, there is a need for relevant authorities to bring about clarity and institute a proper framework specifically for urban planning and development. In TSP's regard, it appears, majority of the confusion was not because of the clarity in the governance institutional framework but due to weak inter agency coordination in communication, reporting and monitoring processes between the agencies involved in implementing the TSP. Some of the deviations made to the TSP have become an accepted norm in other *Thromde* plan implementations as well. Therefore, the RAA recommends the government to:

- i. Expedite the enactment of the Spatial Planning Bill to minimize more irreparable damage being done to development plans currently being implemented.
- ii. Improve the urban planning and development institutional framework with proper and defined communication strategy, timely reporting of the activities to relevant agencies, and timely monitoring in the form of audits and reviews carried out by oversight agencies.

These actions would not only help the implementation of TSP but will also guide the other development plans being implemented across the country and development plans in the pipeline.

4.2 The Government should consider adequate representation of stakeholders in Thromde decision making

To ensure proper implementation of the TSP, and any other urban development matters, it is felt that there needs to be proper representation of stakeholders. Especially where majority of the stakeholders are influential players in the successful implementation of the development plans. In the case of TSP, the primary stakeholders are the landowners and permanent residents of Thimphu Throm. However, at the Thromde Tshogde these stakeholders are underrepresented.

Therefore, the RAA opines that the residents of *Thimphu Throm* should be properly represented in the *Thromde Tshogde*, the highest decision making body of all matters related to the *Thromde* developments. The ministry responsible for urban development is urged to take up this matter with the government to ensure adequate representation of stakeholders in making decisions related to implementation of spatial plans.

4.3 MoWHS and Thimphu Thromde should carry out comprehensive review of TSP and DCRs

As evident from the issues in this report, a primary cause of the deviations, which is difficult to assess now, over the implementation period of TSP was the absence of timely review, audit and monitoring of the activities, agencies, the TSP document and the pertinent regulations. Moreover, a serious issue appears to be the inaccurate slope analysis carried out in the TSP, which could potentially pose serious risks in the future if it not addressed immediately.

The following recommendations are made in this regard.

- i. It is suggested that MoWHS and *Thimphu Thromde*, together with relevant agencies carry out a comprehensive review of the TSP and DCRs and accordingly take necessary action.
- ii. Relevant rules and regulations like DCR and other important regulations like ‘lift rules’ and ‘guidelines for differently abled-friendly construction’ should be uniformly implemented.
- iii. A more realistic slope analysis of the TSP is desirable to ensure correct development activities are approved.

4.4 MoWHS in collaboration with Thimphu Thromde should strengthen the coordination between themselves

As evident from some of the findings in this report, many of issues hindering the efficient implementation of TSP have stemmed from weak coordination between relevant agencies, primarily the principal agencies. Therefore, it would be imperative to strengthen communication and coordination between the MoWHS and *Thimphu Thromde*. In this regard, RAA suggests instituting the following approach.

- i. A signed MoU is recommended to enhance coordination and communication between the MoWHS and *Thimphu Thromde*.
- ii. There needs to be clarity on a procedure to develop and implement urban development plans. It is suggested this procedure be developed involving all agencies relevant to urban planning and development.
- iii. Formation of a technical committee is urged, constituting relevant officials from both MoWHS and *Thimphu Thromde*, to carry out proper technical assessment of cases before the Ministry or the *Thromde Tshogde* makes changes to approved plan.

4.5 Proper record keeping and efficient monitoring should be instituted

Presently, the reporting and monitoring system is inadequate with weak documentation in the relevant agencies and lacking monitoring initiatives. The following recommendations are made in this regard.

- i. The MoWHS, as the oversight body for urban matters, should conduct timely and periodic planning audits of *Thimphu Thromde* as required under the LG Act.
- ii. The MoWHS is urged to institute a standard record keeping system for, not just TSP, but also for all the urban spatial plans that are in the pipeline.

4.6 MoWHS and Thimphu Thromde should carry out a resource need assessment for timely execution of development activities

Evidently, there is a mismatch between the mandate of implementing a spatial plan like TSP and the resources allotted to relevant agencies to carry out this mandate. Although, the RAA was unable to carry out a comprehensive study to understand this issue due to limitation of information, RAA is certain there exist serious human resource and financial resource limitations that impede the smooth implementation of the development plan activities. These constraints translate to other issues like inadequacy in carrying out their roles and responsibilities, cost overrun and time overrun due to fund unavailability, and responsibility multitasking by some sectors. Further, it also becomes difficult to assess whether lapses or misgivings occurred due to resource inadequacies or whether these lapses were a result of incompetence.

In this regard, the RAA recommends that a need assessment be carried out jointly by the principal agencies responsible for implementing the TSP.

4.7 Deviations should be reviewed and reported to relevant authorities for necessary action

The RAA confirmed substantial deviations from the original intent of the TSP like major changes made to precinct categories, regularization of deviations, no action taken on non-conforming land use and failure to implement important proposal for actions identified in the original plan. Further, RAA studied the construction of MLCPs in detail, which revealed many lapses and delays with significant financial implication as highlighted in this report.

However, the RAA was unable to eliminate the possibility of some of these deviations being made with vested interest of individual parties and not because it was genuinely required due to planning lapses or unavoidable circumstances.

Therefore, it is recommended that:

- i. The DHS, MoWHS conduct a comprehensive review of these deviations to establish whether these deviations were genuinely necessary.
- ii. The MoWHS should develop a framework/guideline to carry out these compliance reviews, more importantly; the framework should address how the findings will be addressed.
- iii. MoWHS should conduct timely Compliance and Development Reviews and *Thromde* should provide proper justifications for these reports with an action taken report.

4.8 MoWHS & Thimphu Thromde in consultation with relevant agencies should come up with action plan to address transportation issues

The transportation system envisioned in the TSP for *Thimphu Throm* appears to be highly compromised with ‘right of way’ not maintained as planned, inadequate parking spaces, and public transportation system unable to gain popularity. Currently, with the huge increase in number of vehicles in the city many sections of the transportation network is overloaded and congested most times of the day. This situation will further deteriorate if immediate attention is not accorded to mitigate the situation.

Therefore, it is suggested that the MoWHS and *Thimphu Throm* in consultation with other relevant authorities like the RBP and MoIC draw up an action plan to address all these issues in best possible way.

4.9 Housing affordability issue requires special attention

The RAA is of the view that, housing affordability will become a major issue if it is not accorded proper attention. There appears to be a serious mismatch between the housing unit stock entering the market and the potential demand for these units. With a huge chunk of the stock belonging to the private sector and weak acceptance of the Tenancy Act, the situation appears more alarming. Another factor contributing to this issue is seen to be conversion of residential units to commercial units there by further reducing the residential unit stock. In this regard the RAA recommends the following.

- i. The MoWHS and *Thromde* could jointly ensure the Tenancy Act is implemented and followed, since building owners depend on *Thromde* for all their utility services.
- ii. Effective monitoring and enforcement of regulations is suggested to stop residential units being converted into commercial units.
- iii. The MoWHS should review and update the National Housing Policy 2002.

4.10 Thimphu Thromde should enhance the sewerage treatment capacity

Given the huge increase in population density and building construction, the sewerage treatment capacity of *Thimphu Throm* is gravely inadequate. Currently, estimates show that the operational capacity stands at 50% of the required capacity. Moreover, the sewerage master plan is not approved and is in its draft stage currently.

Therefore, it's urged that *Thimphu Thromde* expedite approval of the sewerage master plan for *Thimphu Throm*, not only considering the current situation but also bearing in mind the potential growth of the city in the nearby future.

4.11 Issues with Construction of MLCP 1 and MLCP 2 should be properly addressed by Thimphu Thromde

The two cases of MCLP construction was studied by the RAA as case studies and many lapses of financial nature were noted. In this regard, the RAA recommends the following;

- i. The Thromde management should provide all missing documents or information while submitting the Management Action Plan to RAA in order to validate the responses submitted. In the event of failure to submit the necessary documents the findings regarding construction of MLCP will be pursued as it is.
- ii. The Liquidated damage and outstanding liabilities for delay should be levied and accordingly reported in the Management Action Plan.
- iii. The Thromde management should provide proper justifications or actions in Management Action Plan with regard to Thromde's minimal share from parking fees and other charges. If regularization is required, it should be approved by competent authorities.
- iv. The Thromde Management should institute proper inventory of parking slots.

Urban planning and development refers to how governments (local, regional and national) together with stakeholders decide how to plan, finance and manage urban areas and involves a continuous process of negotiation and contestation over allocation of resources. In the case of *Thimphu Throm*, the primary document with regard to urban planning and development appears to be the Thimphu Structure Plan 2002-2027 (revised 2004), implemented in 2001 and currently under implementation.

The RAA's review revealed that inaction by principal agencies, responsible for implementing the TSP, coupled by confusion over the institutional framework with regard to the TSP has resulted in significant deviations from the actual intent of the plan. Although, TSP is the primary development plan with regard to urban planning and development in *Thimphu Throm*, confusion over the legal mandate and lack of seriousness on the part of the principal agencies, appears to have led to many of its components either not implemented as intended or were regularized or authorized by the Ministry or *Thromde Tshogde* on case-by-case basis. Regularization and authorization of individual cases have led to these cases being used as precedent cases in order to regularize and authorize other cases. Another major issue appears to be underrepresentation of stakeholders at the highest decision making body of the *Thimphu Thromde* which could pose potential risk in terms of lesser attention accorded to areas underrepresented or more attention accorded to areas properly represented. This audit also noted growing concerns over the carrying capacity and sustainability of *Thimphu Throm*. Further, the audit noted serious concerns with regard to the transportation system, sewerage system, slope analysis and housing affordability in the capital city.

Based on the findings, the RAA has provided 11 recommendations aimed at not only mitigating current issues with regard to the implementation of the TSP but also aimed at providing a clearer and more transparent framework for urban planning and development activities in the country.

APPENDICES

- Appendix - 1 : About the Land Use Techniques*
- Appendix - 2 : About the Precincts*
- Appendix - 3 : Liquidated damages for MLCP and MLCP 2*
- Appendix - 4 : Calculation of loss of Revenue due to delays in completion of MLCP1 and MLCP 2*
- Appendix - 5 : Details on parking fees paid by contractors*
- Appendix - 6 : Workings on parking fees and charges based on the prevailing rates and DPR*

Land use techniques

‘Land acquisition’ is acquisition or expropriation of any land or property within the municipal boundaries for the preparation of a local area plan. In doing so, all of the registered private lands are acquired by the government and consolidated into one parcel and thereby, reconfigured in order to provide for basis infrastructures and amenities. The government may provide substitute land or cash payment, or both as compensation in return. After the completion of the plan, the reconfigured plots are then sold back to the residents, with preference given to residents with commercial license. eg: Bajo town in Wangdue.

Land Act 2007 (142)

“The Government may acquire a registered land for public interests”.

‘Land pooling’ is a planning technique to redefine ownership of land in such a way that, the shape and configuration of plots is more appropriate for urban structure and uses; and the size of all plots is reduced by an agreed proportion to create sufficient public and planned provision of roads, infrastructure, social facilities, open space and reserve plots. The original landowners are provided plots within the shaped area, which, although smaller in size, now have access to infrastructure and services. The contribution ratio of land pooling differs among LAPs due to infrastructure requirements, available government land and topography.

Land Act 2007 (112)

“In case of Thromde, land pooling or any such tools may be adopted to merge or consolidate the plots”.

Local Government Act 2009, 61(f)

“The thromde tshogde shall approve local area plan including land pooling schemes and any other relevant planning techniques”.

The Land Pooling Rules and Regulations (August 2009) describe the land pooling approach used as a key means to minimize displacement and acquisition. Accordingly, land pooling is defined as a planning tool that redefines ownership in such a way that: (i) The shape and configuration of plots are more appropriate for urban structures and uses; and (ii) The size of all plots is reduced by an agreed proportion to create sufficient planned provisions of roads, public infrastructure, social facilities, open space, and reserve plots

‘Guided land development’ technique is used for the pockets areas that are already developed where the provision of infrastructure like access road to each plot is difficult. Accordingly few pockets within the LAPs are included under GLD Scheme. The GLD would provide basic infrastructure such as secondary and access roads, as well as footpaths, drainage and water, whereas the cost for the provision of infrastructure would be recovered through betterment taxes (levies)

Precincts

Precincts coordinate land use with building density and it regulates land use by controlling elements like level of developmental activity, population density, number of floors, plot coverage etc..

As per the TSP, each precinct protects a group of human activities from interfering, or destructive aspects of other human activities. The definition of Precincts maintains an ecological balance between nature's order and an order of human activities. Precincts classify environmental and ecological sensitive areas, geological sensitive area, and culturally sensitive area. The following precincts were defined in the TSP.

Precinct plan shall mean a geographical area designated in the approved Urban Development Plan/Structure Plan for the purpose of regulating land use within the approved Municipal boundary.

Precincts sanctify various human activities, separating non-conforming activities from each other and integrating complimentary activities.

Unlike a "Zoning Plan" which separates land uses and isolates activities, precincts brings compatible activities together in manner which enriches the life of the city.

	Precincts	TSP 2002
1	UV-1 Urban Village Core	HD residential
2	UV-2 (MD) Urban village Periphery	MD residential
3	UV-2 (LD) Urban village Periphery	LD residential
4	UV-3 Urban Village Enclave	Bagos and unplanned settlements
5	TV traditional village	Traditional villages
6	UC Urban Core	Trade and commerce
7	UH Urban Hub	Major entertainment, transport and shopping (north and south of Thimphu)
8	NN Neighborhood Nodes	Convenience shopping, basic services and amenities for UVs
9	I Institutional	Local, national and international institutions
10	H Heritage precincts	Scared activities and places of historical importance
11	D Dzong Precinct	National Icon
12	G-1 National Open Green Space	National sports complex, archery range, exhibition areas etc
13	G-2 Green Space System	Public assets like parks, gardens, recreation area
14	E-1 Environmental Conservation	Enhancement and protection of Thimphu's fragile ecological legacy
15	E-2 Forest Environment	Natural forest 'no development zone'
16	E-3 Agricultural Environment	Paddy lands, agricultural area, flood plains, farming activities
17	E-4 Agricultural based environments	Very steep slopes, orchards, green houses, on-farm food processing and research
18	SSIC satellite service and industrial centers	Industrial, heavy maintenance, wholesaling & warehousing, National Capital Region
19	M Military	Proposed at portals NCR
20	R Royal uses	Royal uses
21	EN Endowment for Future	Land whose use determination is differed to future generations
22	CP Urban Corridor Precinct	A corridor of land 44 m wide running through the city

Precinct Sanctions to be implemented within the local area and at individual plot level are clearly illustrated in the Local Area Plans (LAPs)

Local Area Plans (under TSP)

Some of the Local Area Plans were made right after the TSP was approved and implemented. It appears *Changzamtog* LAP was the first LAP approved in 2001 & Land pooling technique was first experimented, it was also an area where building activities preceded local area planning.

The LAPs are derived from the TSP and TSP has some **non-negotiable** elements and components of land utilization that are supposed to stay in line with the TSP while preparation and implementation of the LAPs. These non-negotiable elements and components include; **sanctity of forest areas, river and stream setbacks, steep slopes likely to erode, habitats of rare flora and fauna, and other protected environmental areas.** The TSP requires these be **conserved in the LAPs.** Plus the ‘Urban Corridor’ right of way, access points on to the corridor side, service lanes and other major roads are ‘**givens**’ in the LAPs.¹⁹

The LAP reconfigures plots within the area in a way that all plots have access to municipal infrastructure and services. A LAP, on average, covers an area of 1 Km² with 150-400 landowners. The TSP has 15 Urban Villages divided into 22 LAPs.

The aim was to develop each area into a dense, compact settlement connected to a Neighbor Node (NN) where services like shops; markets, school, healthcare etc. are available at a walking distance, with all NN linked via the transport corridor. Local Area Plans were prepared based on the cadastral record/map to:

1. Accommodate potential population increase
2. Distribute population density in a sustainable way
3. Realization of an efficient public transit system
4. Appropriate patterning of infrastructure services

The following table depicts information on the 10 LAPs, as of 2017, identified for this audit.

As of 2017 stock taking for 10 LAPs				
Urban Village	LAP	Area in Acres	Plan status	Remark
Babesa	Babesa	588.30 (Including Serbithang)	Approved by City Committee in 2005	Babesa Completed, Serbithang LAP not yet developed
Changbangdu	Lower Changzamtok (Chnagiji)		Approved by City Committee in 2007	On-going
	Upper Changzamtok		Approved by City Committee in 2007	On-going
	Middle Changzamtok		Approved by City Committee in 2007	On-going
Core Area	Core	240.7	Approved by CCM in 2003	Completed
Hejo-Samteling	Hejo-Samteling	504.6	Approved by City Committee 2008	Unimplemented
	Langjophakha		Approved by City Committee 2007	Completed
Lower Motithang	Lower Motithang	251.4	No LAP	No LAP but development activities are happening
Upper Motithang	Upper Motithang	241.9	No LAP	No LAP but development activities are happening
Changangkha	Changangkha	366	No LAP	No LAP but development activities are happening
Source: Strategic Environmental Assessment of Thimphu Structure Plan 2018				

¹⁹*Chang Bangdu Local Area Plan 1.3.5*

National Capital Region (NCR)

The theme of developing the NCR arose from the idea that at some point in time the capacity of the valley to accommodate more people will be exhausted. Therefore, the plan was to gradually move, inappropriate activities and facilities, outside the city boundaries. The TSP identified many facilities in the city that were not appropriate and would have functioned more effectively outside the city. The following activities were highlighted in the TSP that could be moved to the NCR or those requiring relocation in the near future.

- Industries: eg. Sawmills, furniture and other woodwork shops
- Auto city: Major workshops, body shops and auto parts wholesaling
- Wholesale marketing and storage
- Military bases and Police
- Satellite towns/villages:
- The Olympic city

Other important projects of TSP

The TSP proposed many ‘proposals for action’, which were required to make the whole plan operational. These proposals include the development of Neighborhood Nodes, Urban Hubs, Open spaces etc.. Extensive redevelopment of the Urban Core was another important proposal which included pedestrianizing *Norzin Lam*, creating a Royal Boulevard along the present *Doebum Lam*, developing the *Chhubar Chhu* into an administrative center linking the town with the *Dzong*, riverfront developments, creating parks and footpaths, parking provisions, a Core Gateway, and a 108 steps up to the Memorial *Chorten*.

Other important proposals include the creation of Environmental Enhancement Zones, creation of a National Open Space System, footpath system including stairways and footbridges in natural environmental zones and open space system. The TSP further identified heritage sites that require conservation, restoration, and improved access. Specific proposals were made to enhance the *Tashichho Dzong*, the Memorial *Chorten*, Prayer Wheels, and heritage villages.

Liquidated damages for MLCP 1 and MLCP 2

Appendix-3

Failure to Complete MLCP 1 after completion of due date : 5th November 2017					
Liquidated damages days (A)	Liquidated damages days (B)	Amount (A x B)	From 5/11/15 - Till date	Remarks	5th Nov 2017-30th June 2019
60 days	Nu.1500	90,000.00	4/1/2018	60 days after date completion	602
60 days	Nu.2500	150,000.00	5/3/2018	120 days after date completion	
60 days	Nu.4000	240,000.00	3/5/2018	180 days after date of completion	
Total (Amount Nu.)		480,000.00			602
* After 180 days after date for completion :Concessionaire event of default (after 30 days ' notice the contract shall be terminated as per CA)					
Failure to Complete MLCP 2 after completion of due date : 2nd July 2017					
Liquidated damages days (A)	Liquidated damages days (B)	Amount (A x B)	From 5/11/15 - Till date	Remarks	2nd July 2017-30th June 2019
60 days	Nu.1000	60,000.00	4/1/2018	60 days after date completion	728
60 days	Nu.1500	90,000.00	5/3/2018	120 days after date completion	
60 days	Nu.2500	150,000.00	3/5/2018	180 days after date of completion	
Total (Amount Nu.)		300,000.00			728
* After 180 days after date for completion :Concessionaire event of default (after 30 days ' notice the contract shall be terminated as per CA)					

Calculation of loss of Revenue due to delays in completion of MLCP1 and MLCP 2 Appendix-4

Sl. No.	Location	A No. of parking slots	B KCR quoted rate /annual/slot	C = A*B Annual concession fees	D Per day concession fees / 365 days	E Delayed days as at 30th June 2019	D*E Total Revenue loss
1	MLCP 1	350	12,345.67	4,320,984.50	11,838.31	602	7,126,664.85
2	MLCP2	220	12,345.67	2,716,047.40	7,441.23	728	5,417,212.35
				7,037,031.90			12,543,877.20
						65%=	8,153,520.18
▪ First year after the commencement of MLCPs, 65% of revenue will be collected, and 3% will be added till 100% from the MLCP revenue							

Details on parking fees paid by contractors

Appendix-5

Agency	Location	No. of Parking slot on 09.04.2018	Current rate per month	Per day	Yearly	Monthly Fees (Amount)	Annual fees (Amount)	Contractor /Execution
Thimphu Thromde	Norzin Lam	244	1543.21	51.44	18,518.52	376,543.24	4,518,518.88	M/s KCR Pvt. Ltd
	On/Off Street Parking	769	1028.8	34.29	12,345.60	791,147.20	9,493,766.40	
	Total	1013				1,167,690.44	14,012,285.28	
Thimphu Thromde	South of Thimphu CFM market,	255	1500	50	18,000.00	382,500.00	4,590,000.00	M/s Kuenchap, Enterprise Pvt. Ltd
		25	150	5	1800.00	3,750.00	45,000.00	

	along main shopping & excluding CFM parking	132	900	30.00	10,800.00	118,800.00	1,425,600.00	
		35	150	5.00	1,800.00	5,250.00	63,000.00	
	Total	447				510,300.00	6,123,600.00	

Workings on parking fees and charges based on the prevailing rates

Appendix-6

Agncy	Location	No. of Parking slot at at 09/04/2018	Current rate per month	per day	Yearly	Annual	Ideal time * Rate (Every or less than 30 minutes * Nu.15 in core areas & Nu.10 in other areas per day	Current rate per month	Yearly	Annual	Percentage contribution in to Thromde	(+,-)	Contractor /Execution
Thimphu Thromde	Norzin Lam	244	1543.21	51.44	18,518.52	4,518,518.88	360	10,800.00	129,600.00	31,622,400.00	13.88	(27,103,881.12)	KCR Pvt.Ltd
	On/Off Street Parking	769	1028.8	34.29	12,345.60	9,493,766.40	240	7,200.00	86,400.00	66,441,600.00		(56,947,833.60)	
	Total	1013				-		-	-	-			
Thimphu Thromde	South of Thimphu CFM market, along main shopping & excluding CFM parking	255	1500	50	18,000.00	4,590,000.00	360	10,800.00	129,600.00	33,048,000.00	13.88	(28,458,000.00)	Kuenchap, Enterprise Pvt.Ltd
		25	150	5	1,800.00	45,000.00	120	3,600.00	43,200.00	1,080,000.00		(1,035,000.00)	
		132	900	30.00	10,800.00	1,425,600.00	240	7,200.00	86,400.00	11,404,800.00		(9,979,200.00)	
		35	150	5.00	1,800.00	63,000.00	120	3,600.00	43,200.00	1,512,000.00		(1,449,000.00)	
	Total	447				20,135,885.28				145,108,800.00		(124,972,914.72)	

I. Note: Parking start from 09.00 AM-09.00 PM (i.e. 12 Hrs daily) : The collection is made for every less than or 30 minutes Nu. 15 in core areas and Nu. 10 at others place . Therefore, 12 hrs *60=720 minutes /720 minutes/30 minutes :24 (30 minutes)

ANNEXURES

- Annexure -1 : Combined responses to draft audit report with RAA's remarks*
- Annexure -2 : Response to draft audit report from DHS, MoWHS*
- Annexure -3 : Response to draft audit report from Thrompon's Office, Thimphu Thromde*
- Annexure -4 : Response to draft audit report from Thimphu Thromde*



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ROYAL AUDIT AUTHORITY
Bhutan Integrity House

Reporting on Economy, Efficiency & Effectiveness in the use of Public Resources



RAA/PSAD/ (PA -UPD) 06/2019-20/

24 December 2019

Hon'ble Secretary
Ministry of Works and Human Settlement
Thimphu

The Thrompon
Thimphu Thromde
Thimphu

Subject: Remarks on response to Draft Performance Audit Report on Urban Planning and Development

Dashos,

The RAA had received responses from MoWHS and Thimphu Thromde vide letter no. MoWHS/DHS/CDRD/adm/2019-2020/2375 dated 29 November 2019 and letter no. TT/UPD/21/2019-20/3212 dated 12 December 2019 respectively on the Draft Performance Audit Report on Urban Planning and Development issued on 21 October 2019. We also received a response from Thrompon's office vide letter no. 01/Thrompon/TT/2019-2020/1989 dated 2 December 2019.

In this regard, the RAA would like to inform MoWHS and Thimphu Thromde of the following:

1. The responses received will be appended in the final report;
2. The RAA's remarks on each response submitted by the MoWHS and Thimphu Thromde are also included in the final report for clarity. (A copy of response is attached for reference)
3. Wherever appropriate the RAA has changed the report content based on the responses; and
4. Since there is no appropriate response provided for the findings on the 'construction of Multi-level car parking', the RAA has included a new recommendation to follow up on the issues in future.

*"Every individual must strive to be principled. And individuals in positions of responsibility must even strive harder."
-His Majesty the King Jigme Khesar Namgyel Wangchuck*

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We take this opportunity to acknowledge the co-operation and support extended by the officials of MoWHS and Thimphu Thromde for rendering necessary co-operation and support during the audit.

Yours sincerely,



(Chimi Dorji)

Deputy Auditor General

Department of Performance and Commercial Audit

Copy to:

1. Hon'ble Auditor General, Royal Audit Authority, Thimphu;
2. Director, DHS, MoWHS, Thimphu
3. Executive Secretary, Thimphu Thromde, Thimphu
4. Office copy;
5. Guard file.

"Every individual must strive to be principled. And individuals in positions of responsibility must even strive harder."

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Response received from MoWHS with remarks from RAA			
Page No.	Audit Report Findings	Comments and Remarks from MoWHS	RAA's remarks
1.	Thimphu Structural Plan.	Change to Thimphu Structure Plan in the entire document.	<p>DHS, MoWHS had provided detail comments and remarks on the draft performance audit report on urban planning and development in Thimphu Thromde.</p> <p>Based on their responses, the RAA has made changes in the content of the Final Audit Report wherever appropriate.</p>
2.	1.7. Audit Limitations. b) The documents pertaining to the planning and development of the TSP document could not be audited because there were no records available, and	The present system of record keeping makes it difficult to present old files, especially more than 10 years. None of the documents and correspondences pertaining to TSP is digitized. Besides, there is a practice of closing and storing the files (more than 5 years) in stores as it may be the case with other agencies. Besides, there were different officials dealing with the TSP project who are no more with the DHS and it makes it difficult to track the files. However, there are still files available for reference. Therefore, this statement may not be fair.	
5.	Table 1: Urban Development Plans/Urban Planning.	Change Urban Plans to Spatial Plans.	
	Figure 1: Under Policy makers/Government Agencies.	Insert other agencies are also involved, MoAF, MoEA, MoIC, NSB.	
	Figure 1: Under Financers (Parliament)	Is it Parliament or the Royal Government of Bhutan? Other partners also finance such the Government of India, Climate Funds, JICA, UN.	
	There is no specific Act to guide urban planning currently, with the Spatial planning bill of Bhutan 2019 still not endorsed by the Parliament.	It is submitted to the Cabinet for further submission and deliberation in parliament.	
	The National Consultative Committee for Human Settlement (NCCHS), constituted in 2001 is a committee constituted by the government secretaries from agencies relevant to planning.	Now reconstituted as NCHS (National Committee for Human Settlements) with revised TOR. (Attached)	
6.	The broad role of the Committee was to provide sectoral input on policies, plans, programmes, legislation etc. with regard to urban sector and the specific task was to guide and advice the Ministry on urban development aspects.	The erstwhile NCCHS and the current NCHS are responsible for human settlement planning and development in the entire country, not just URBAN.Refer ToR of NCHS.	
	In principle, MoHCA is responsible for the overall governance of local governments and MoWHS is responsible for the overall governance of urban area matters, which are mostly technical in nature.	MoWHS has no role in governance as per LG Act 2009 & Amendment 2014. Pl refer section 210 through 212. MoWHS is responsible for monitoring and supervision of activities, formulation of plans and policies pertaining to urban planning.	

7.	Bhutan Building Rules 2018	Change to Bhutan Building Regulation 2018	
9.	Part I: Positive Achievements. b) DHS initiated preparation of settlement plans for Kanglung and Nganglam Regional Hub and strategic program for climate resilient settlement.	DHS has prepared close to 65 human settlements plans. Kanglung and Nganglam Regional Hub Plans, Bumthang Valley Master Plan and Paro Valley Development Plans are some initiatives where new planning approaches have been adopted. Now the Department has also initiated the incorporation of climate resilient component in the planning process. The Strategic Program for Climate Resilience is one such initiative. Therefore the observations may have to be rephrased such as... for the entire nation.	<i>Changes have been incorporated accordingly.</i>
10.	3.1. Institutional Framework. MoHCA is responsible for the overall governance of local governments and MoWHS is responsible for the overall governance of urban area matters, which are mostly technical in nature.	MoWHS has no role in governance as per LG Act 2009 & Amendment 2014. Pl refer section 210 through 212. MoWHS is responsible for monitoring and supervision of activities, formulation of plans and policies pertaining to urban planning.	<i>Changes have been incorporated accordingly.</i>
12.	...due to laxity on part of MoWHS and Thimphu Thromde...	The use of the term laxity implies that the concerned agencies did not care. On the contrary, this issue about thromde tshogde making technical decisions was raised time and again in various forums.	<i>As agreed the terminology has been changed to inadequacies from laxity in the Final Report.</i> <i>The response has been incorporated into the report.</i>
14.	ii. Lacking Inter agency coordination a. The Local Government Act requires the <i>Thrompon</i> to “submit periodic reports to the <i>Thromde Tshogde</i> and to the <i>Ministry responsible for urban development on the status of progress of work as well as the status of funds approved by the Thromde Tshogde for activities contained in the plan.</i> ” b. “Dzongkhag Thromdes shall submit a copy of half-yearly and annual reports along with any other report to the <i>Ministry responsible for urban development and other relevant agencies.</i> ” These documents were not available for audit verification.	There is a framework and format on the reporting by the LGs as per the LG Act. Other tools apart from the Compliance and Development Review that the ministry has in place for monitoring and reporting such as the Bi-annual Reports, the Thromde Coordination Meeting (minutes) and Awareness Program (minutes) were submitted to the Audit team.	<i>The response is not relevant since the observation was directed toward Thromde.</i> <i>Periodic reports, status of progress, statuses of funds, half-yearly and annual report were not made available for audit verification</i>
	iii. Procedure for Preparation of Human Settlement Plan needs clarity	The planning process was discussed on many forums including that of annual MoWHS conference, Thromde Coordination Meeting (TCM)	<i>The response has been incorporated into the Final Report</i>

		and urban planners, architects and Building Inspectors training at CST. It was adopted as a resolution during the 5th Thromde Coordination Meeting in February 13-14, 2017 and the resolution of the TCM were circulated to all the Thromdes for implementation and necessary actions. May be this section require rephrasing as submitted above.	
15	Too many legislation and policy documents	The compendium of relevant documents relevant to human settlement is a collection of all the documents by different agencies that are relevant to the human settlement.	<i>Noted</i>
17	Planning audits of Thimphu Thromde not done	Technically, the Ministry considers Compliance and Development Reviews as Planning Audits. The ministry conducted Compliance and development reviews for Lungtenphu LAP in 2012-2013 and three other LAPs 2016-2017. The requirement to have separate compliance and development reviews and planning audits in the audit recommendation should be put as compliance and development review.	<i>The response has been incorporated into the Final Report</i>
17	Weak reporting and monitoring system	<p>The Department of Human Settlement as per its mandate of monitoring and technical supervision of activities of thromdes carried out the following:</p> <ol style="list-style-type: none"> 1. 7 thromde coordination meetings 2. Awareness program in 20 Dzongkhags and relevant agencies in 11th Five year plan 3. Reporting of Urban Planning and Development Activities to the MoWHS for Monitoring, Coordination and Technical Support initiated as a resolution of the 3rd Thromde Coordination Meeting held on December 5, 2013. 4. Technical backstopping to the local governments as and when required. 5. Review of development proposals as and when received. 6. Refresher course for municipal engineers, architects, urban planners and building inspectors every year at CST, Phuentsholing 	<i>The response has been incorporated into the Final Report</i>
25.	The total population that can be accommodated, projected then, was 107,809. As of 201713, Thimphu had a population of 114,551 persons compared to 107,809 persons projected in the TSP; in excess of 6,742 persons, and it most likely increased in the last two	The no. of foreign workers in the city has to be validated with proper source.	<i>The response has been incorporated into the Final Report</i>

	years. This is not including the 15,000 plus foreign workers in the city as of 2019.		
35.	i. Schools, sawmills and fuel stations at inappropriate locations.	As per TSP the fuel stations in the core town and chubachhu is to be relocated. Still not carried out. Even the sawmill at Changzamtog is to be relocated. As discussed please delete.	<i>Noted</i>
36.	As per the TSP, the Royal Body Guard in Dechencholing, the Royal Bhutan Police in Changzamtog, the Royal Bhutan Army in Lungtenphu, and the DANTAK in Babesa occupied these areas.		<i>Noted</i>
43.	3.2.10 TSP slope Analysis not accurate.	May be rephrased as just Slope Analysis in TSP, or TSP Slope Analysis. The inadequacies can be captured in following text. As submitted during the meeting, Structure Plan is a strategic document and is implemented through preparation of local area plans. Therefore, many a times due to resource constraints and unavailability of detailed data such as topographical survey, data generated from satellite images (which are quicker and less time consuming) are used during preparation of Structure Plan. Such data is adequate for Structure Plan Level. In general, transect model is deployed at the time of plan preparation. The density and scale of development decreases as we move from the center or urban core. Slope is one of the parameter at the time of designating precinct in the Structure Plan. Within a low density precinct such as the E4, there might be instances of areas with genteeleer slope and because of other overriding parameters it is not designated for high density development. Same is applicable for moderately steeper slopes in high density Precinct such as Urban Core. Precincts designation are not carried out in isolation and isolated land parcels. As discussed please delete.	<i>The observation topic has been rephrased as discussed in the exit meeting</i> <i>The ministry's response has been incorporated into the Final Report</i>
54.	i. The DHS, Mo WHS conduct a comprehensive compliance review of these deviations to establish whether these deviations were genuinely necessary. Housing affordability issue requires special attention		<i>As discussed in the exit meeting the recommendation has been rephrased</i>
55.		Since the comments under these segment addresses mostly housing issues, and not just the affordability aspect, the title could be changed to Housing issues.	<i>As discussed during the Exit meeting, the observation was intended towards highlighting housing affordability</i>

			<i>issues. Further, the recommendations are intended to assist the agencies towards addressing the housing affordability issues and should not be taken as the solution for addressing housing affordability issues.</i>
56.	The RAA's review revealed that inaction by principal agencies, responsible for implementing the TSP, coupled by confusion over the institutional framework with regard to the TSP has resulted in significant deviations from the actual intent of the plan. Although, TSP is the primary development plan with regard to urban planning and development in Thimphu Throm, confusion over the legal mandate and lack of seriousness on the part of the principal agencies.	The use of terminologies as demonstrated in the report seems too harsh after rationale was provided as to why things are the way they are.	<i>Noted. As discussed appropriate changes has been affected in the Final Report.</i>

Response received from Thrompon's Office

Comments and Remarks from Dasho Thrompon	Audit Remarks
<p>This has reference to the Draft report on the 'Performance Audit Report on Urban Planning and development in Thimphu Throm.</p> <p>Firstly, I would like to commend the efforts put in by the Audit officials in successfully completing the audit and coming up with such comprehensive report with realistic and achievable recommendations provided by the audit team.</p> <p>However, with to clause 3.1.3 'DCR was prepared and approved solely by the Thimphu Thromde', we would like to clarify that the DCR 2016 was not approved by the Thromde Management. The DCR 2016 was deliberated and approved by the Thromde Tshogde comprising of the peoples representatives' elected by the general public as per the Local Government Act governed by the Election Act in line with the Constitution of the Kingdom of Bhutan.</p> <p>The DCR 2016 has been approved based on the following clauses from the Local Government Act 2009 (2014).</p> <p>Chapter 2, Section 11, 5 Chapter 4, Section 61 (a) (e) (f)</p>	<p><i>Dasho Thrompon has provided his comments and remarks on the draft performance audit report on urban planning and development in Thimphu Thromde.</i></p> <p><i>The RAA has incorporated the comments and remarks into the Final Audit Report wherever appropriate.</i></p>

Response received from Thimphu Thromde with remarks from RAA

Page No.	Audit Findings	Comments From Thromde Management	RAA's remarks
9	Part I: Positive Achievements	<p>One of the major positive achievements is application of Land Pooling Scheme, which did not have any legal support at the time of implementing the Thimphu Structure Plan 2002-2027. Thromde officials in collaboration with the officials of the erstwhile Ministry of Communication took an extra effort to convince not just the affected property owners but the residents as well. Comparative analysis between the LP Scheme and the Land Acquisition were shown and explained in detail to the property owners and made to understand the benefits of LP scheme over the Land Acquisition. Although some of the property owners were not happy with the scheme and even took Thromde officials to the Court, a majority of the complainants properly understood the scheme later and withdrew the case. Through this LP scheme, we managed to pool more than 260 acres from the total area of 1846 acres and saved the government a substantial amount which otherwise would have incurred in acquiring the land required for the infrastructure development. Only upon the enactment of LG Act 2009, the Land Pooling Rules 2009 was formulated and put into use thereafter. We also managed to get 100% LP Agreement signed by the affected owners and secured a fund from the Asian Development Bank & World Bank and carried out infrastructure development despite many constraints such as lack of professionals like Urban Planners. The Human Resource records of the past show that the Thromde lacked professionally trained urban planners and were managed mostly by Architects and Civil Engineers during the Local Area Plan implementation phase. This problem was further aggravated by high rate of attrition in the Urban Planning Division. Even today, we do not have professionals like Transport Planner, Urban Designer, Landscape Architect, Sociologist and GIS Expert. Despite all these shortfalls, we managed to develop almost all the LAPs.</p>	<i>Changes have been incorporated accordingly.</i>

		<p>When the elected local government first came in 2011, the following were found to be causes of concern with the city governance: The implementation of the TSP was not effective and many undesirable changes had already occurred such as changing of the precincts and land use.</p> <p>Attic Rule 2009 was not implemented properly, the height of the attics were not controlled.</p> <p>Private plots were relocated and those who have connection could get their plots placed in good locations.</p> <p>People have almost lost their confidence in the city corporation officials and implementation of the plans and programs did not take off effectively.</p> <p>City offices were scattered in three four different locations and people had big difficulty in meeting the officials.</p> <p>Corruption and favoritism was rampant, many people were unhappy and unsatisfied with the service delivery.</p> <p>In order to address many and all of the above issues, the thromde management under the guidance of the Thromde tshogde initiated and implemented following measures:</p> <p>Thromde management brought all the different divisions and sections under one roof in the present location, facilitating public to avail services without delay.</p> <p>Customer service section was introduced and front desk personnel's were trained on public dealings. People have now come and expressed satisfaction on service delivery and customer service.</p> <p>Attic in every building looks odd and spoils the beauty of the building. Thromde tshogde proposed to the ministry to do away with the attic rule and allow one floor extra in place of the attic. The ministry then could not provide the approval on time and thromde went ahead with the implementation of the proposal as there were many buildings under construction and getting completed. Finally the proposal got approval of the cabinet during the visit of the prime minister and cabinet</p>	
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		<p>ministers to the ministry for a meeting on national disaster recovery plans of 2009.</p> <p>TSP was followed holistically in implementation of the local area plans (LAPs) except for few changes in building heights, setback changes and basement rules.</p> <p>Old pending issues related to building construction approvals based on deviations, planning issues and encroachment amongst neighbours and enforcement of DCR 2004 were resolved through many Tshogde sittings.</p> <p>Road construction and maintenance within the city boundary was taken over from Department of Roads in July 2011, to improve the road infrastructure and avoid coordination issues.</p>	
10	II. 3.1 Institutional Frame work	<p>The LG Act 2009 (amended 2014) provides provisions for coordination between Thromdes and the MoWHS in terms of urban planning and development stating ‘The Ministry responsible for urban development shall carry out technical supervision and monitoring of activities of Thromdes’ and that ‘The Ministry responsible for urban development shall formulate national urban policies, guidelines, and standards; approve structure plans including land use plan of the Thromdes; and carry out planning audits in the Thromdes.’</p> <p>The LG Act also provides that the Thromde Tshogde shall, ‘carry out preparation of structure plans including land use plans within Thromde areas and recommend their approval by the Ministry responsible for urban development’ and ‘approve local area plan including land pooling schemes and any other relevant planning techniques’¹ Further, it states, ‘The Thromde Administration shall formulate local area plans and priorities in respect of the Dzongkhag Thromde and submit to</p>	<p><i>No response found.</i></p>

		<p>Thromde Tshogde for approval²;</p> <p>The overarching framework in terms of urban planning and development appear adequate. It clearly states the Ministry responsible for urban development, to be the approving authority in terms of urban matter.</p> <p>However, with regard to TSP the institutional framework that governed the plan in the earlier years was different from the one that developed after the Local Government Act came into existence. Currently, there appears to be lack of clarity disagreements erupted over the roles and responsibilities of the principal agencies involved in completing the TSP which is also indicates the same situation for urban planning and development in Bhutan. These issues likely emerged due to the change in institutional framework of the municipal agency and oversight agencies responsible for implementing the TSP.</p> <p>Before the Thromde Act 2007, the agency responsible for implementing the TSP was under the Ministry of Communication. Later the TCC changed to Thimphu Thromde and MoIC changed to MoWHS. After the LG Act 2009 MoHCA is the parent ministry of Thimphu Thromde and other local government bodies, and when it came to urban planning and development matters, MoWHS is the parent Ministry. Another major change was that, initially the Thrompon was appointed by the government and the Thromde Tshogde members were elected by the residents (those who lived in the Throm for more than 5 consecutive year) of Thimphu Throm³. After the changes, only the ‘residents with their civil registration’ in Thimphu Throm elected the Thrompon and Tshogde members.</p> <p>Over the years, the NCCHS committee’s role minimized and most</p>	
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		<p>decisions regarding the TSP were made at the Thromde Tshogde and Ministry, most times without proper communication or in isolation. As reported in this report, there are many instances of decisions made without proper consultation with relevant agencies or bodies and changes to TSP made without conducting required analysis or sourcing technical briefings. It was learnt that over the years, communications broke down between the agencies relevant to TSP, and lot of confusion erupted over decisions made regarding implementations of the TSP. Under the local government framework, roles and responsibilities between Dzongkhags and Thromdes appears symmetrical, given both are 'local governments' under the Local government Act of Bhutan. In existence, their functions are very different, especially with regard to 'highly technical' projects like the TSP. Another difference lies in their mandates and there are substantial differences in terms of economic and natural endowments, financial resources, human resources, and roles and responsibilities among the local governments and a Thromde. In fact the difference is quite substantial among the current 'class A' Thromdes themselves. Thromdes have the responsibility to provide municipal services, urban planning and development services, operations and maintenance of municipal infrastructures et al in the Thromde areas, which are very 'technical' functions that may require additional guidance and support in addition to those provided to the local governments via the existing legislation framework.</p> <p>Legality issues and lack of clarity in the institutional framework have lead to implementation issues that ultimately affected, proper and timely implementation of urban development activities in Thimphu Throm. Another issue that require immediate attention is the requirement of a planning Act which could potentially avoid issues faced by the urban planning and development sector to repeat itself while implementing urban planning and development plans in other parts of the country.</p>
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12	3.1.2. i Delay in enactment of ‘Spatial Planning Act’	It appears, efforts to formulate a Spatial Planning Act started sometime in 2016, however, currently it is still a bill, yet to be discussed and passed by the Parliament.	<i>No response found.</i>
18	3.1.5.i Inadequate human resource	<p>It may be incorrect to say that Institutional memory, record keeping and documentation regarding the TSP are poor based on the following reasons;</p> <p>When the attrition rate is high in the Urban Planning Division and Development Regulatory Division, it is almost impossible to inculcate the institutional memory.</p> <p>The past document such as note-sheet that were processed with the Ministry up-to 2011 for affecting any changes in the plan are still available and any changes after 2011 are well recorded in the Thimphu Thromde Tshogde’s Minutes of the Meeting.</p> <p>Although after the approval of TSP in 2003, Local Area Plan(s) were initiated, many of the information (such as topographical data and land data) that were gathered during the preparation of TSP did not tally on the ground and as a result, after countless discussion with the affected property owners, changes were affected in the LAP. Further, there was one major issue with the coordinate system as the NLCS shifted the land data from local truncated system to DrukRef 03 System in 2011 and this resulted into shifting of plot boundary on the ground. As required by the Land Act 2007, the validation of Thram was initiated by the National Land Commission Secretariat with the beginning of 2011 and as a result, changes were affected on the location and the shape the plot depending the ground reality and acceptance of the affected property owners. Upon completion of this exercise, a joint report called “National Cadastral Re-survey Program” for each LAP was produced and today, this report forms the basis for resolving any pending issues. Nevertheless, Thromde also initiated to update (up-dation on what has happened on the ground) TSP 2002-2027 in 2015 and this updated document is still available.</p>	<p><i>(1) These reasons are already captured in the audit observation.</i></p> <p><i>(2) The audit team was provided only a few note-sheets regarding the changes in the plan. The Minutes of the Meeting only have decisions taken and did not provide the audit team enough information</i></p> <p><i>(3) These instances are also briefly captured in the audit observations and the audit team is aware of these hindrances</i></p>

3	3.2.2.i Reduction in Environmental Precincts Area	As rightly reflected in the findings, yes there is reduction in Environmental precincts area. However, this is mainly due to inadequate land ownerships data that were used during the preparation of the TSP as TSP being a broad document. During the preparation of LAP(s) and public consultation, the land ownership details were taken into consideration as required and necessary changes were affected which resulted into change in precinct.	<i>These reasons have been already captured in the audit findings.</i>
25	Table 9: Technical approval	Some of the note-sheets that were processed with the Ministry to make changes are still available in the record and it is incorrect to mention under the remark's column that such note-sheets are not available.	<i>The audit team made the remarks during the preparation of the draft report because the required note-sheets were not made available after the audit team put up the document requisition.</i> <i>When the notes-sheets are provided to the audit team the changes will incorporate accordingly.</i>
26	Regularization of Attic and Basement	Regularization of attic happened with the approval of the cabinet, during the visit of the prime minister and four cabinet ministers to the ministry of works and human settlement to discuss on the restoration works of the earthquake of September 2009. At the meeting, many architects and engineers from various consulting firms and all officials of MoWHS were present. Regularization of basement had to be carried out as more than 180 basements were approved and constructed as parking but practically it was never possible to drive in and out considering the size of the plots. All these basements were built with strict compliance to 75% of the sides covered.	<i>The audit observation is not against the regularization of Attic or the regularization of basement that occurred over the implementation of the TSP.</i> <i>The observation points out the consequences of those decisions on the other elements of the TSP.</i>
35	3.2.7.i Schools, sawmills and fuel stations at inappropriate locations	We will seek directives from the Government or write to the proprietors of sawmills to relocate their operation area. Moreover, a committee has been formed for issuance of locational clearance for a new school. Besides, we are in the process of shifting the fueling stations from the Core Area and Chubachu area to a suitable area and the discussion with the property owners are still underway. Further, such issues shall be taken up during the review of TSP.	<i>These responses are incorporated into the Final Report wherever appropriate.</i> <i>However, these actions should be captured in the MAP that is to be submitted to RAA after three months from the date of issue of the Final Report.</i>
38	3.2.8.i Failure to retain and develop NN and Urban Hubs	As the TSP being planning document which provided a broad framework for developing a Local Area Plan, a detailed analysis to the extent of land ownership data were carried out and LAP prepared.	<i>These responses are incorporated into the Final Report wherever appropriate.</i>

		<p>However, the hired outside urban planners failed to consider the sloppy topography and as a result, it was planned assuming the topo to be flat. This was not accepted by the affected property owners and as a result, we have to let go most of the NN. However, the NN of Langjophakha was forced to scrap when NLCS regularized the excess land and resulted into re-planning the LAP from the scratch. It is true that as of today, we just have four NN. The past records show that due to lack of budget, Thromde has not been able to develop the NN as envisioned. However, the idea of developing the NN collectively was floated with the relevant stakeholders during the discussion and accordingly, some portion of NN were allocated for development (for setting up of Satellite Clinic, Community Police Post, Fire Station, Park). Nevertheless, Thromde took initiative to set up vegetable markets in these NN to decongest the traffic and park has been created for the benefits of the community.</p> <p>As for the Urban Hubs, Thromde took almost more than 15 years to negotiate with the affected property owners and acquired the land in 2018 for setting up of Inter-District Bus Terminal as envisioned in the TSP. The conceptual design is ready and appraised the Government to carry forward the project on PPP model. However, as of today, the Government has not approved the proposal and instructed to explore other location for such proposal.</p>	
41	3.2.8.v. Other projects that did not materialize and deviations reported in SEA Report on TSP.	<p>Although some of the proposed projects were not materialized as envisioned in the TSP, efforts have been put in materialize the following projects</p> <ul style="list-style-type: none"> • Pedestrianizing Norzin Lam: The area stretching 1.5km from the present BoD to Chubachu Roundabout (Royal Textile Academy) falls under the Norzin Lam Pedestrianization project. The construction drawings for the entire stretch including the Bill of Qualities (for 500m) is ready for implementation. However, as of today, the project has been suspended based on the Executive Order issued by the previous Government. 	<p><i>These responses are incorporated into the Final Report wherever appropriate.</i></p>

		<ul style="list-style-type: none"> Core Gateway: As covered in the media recently, the Supreme Court ruled in favour of Tashi Commercial Corporation on the interpretation of G-2 Precinct. This verdict is likely to make us more difficult to implement Core Gateway project. 	
46	3.2.13 Construction of Multi-level Car Parking and lapses thereof	<p>Initially International Finance Corporation (IFC), a World Bank group carried the study to do urban transport for Thimphu city through PPP model. However, after the comprehensive study the PPP model was going to be feasible only if government provides about Nu.500 million. After this didn't materialize, then the cabinet instructed to do the multilevel car park (MLCP) through the PPP model.</p> <p>Based on this IFC carried out the feasibility study and structuring of the PPP model after signing of the tripartite agreement between the Ministry of Finance, IFC and Thimphu Thromde.</p> <p>The concession document preparation after the detailed studies were submitted to the project steering committee constituted amongst the relevant agencies. During such times the PPP policy was under preparation and couldn't be referred then.</p> <p>Meanwhile, the land for the two sites were submitted to National Land Commission (NLC) for registration before award of the PPP concession agreement. NLC informed that the land cannot be given on lease for the PPP and was kept in abeyance for few months. The approval to register the land with Thromde was finally given after the visit of His Majesty the King on August 12, 2014.</p> <p>The concession period was increased from 17 years to 22 years during the prebid meeting held in presence of the IFC officials and the relevant thromde officials. The request to increase the concession period and the commercial space from 15% to 20% was received from the prospective bidders. If these issues were not considered, the project would not have</p>	<p><i>While the audit team appreciates the detailed response submitted by the Thromde Management, the audit team was already made aware of the issues mentioned here.</i></p> <p><i>The responses are not in line with the audit observations.</i></p> <p><i>The audit team noted the following;</i></p> <p><i>(i) No information on land cost and payable liabilities on MLCP</i></p> <p><i>(ii) Change in concession period from 17 to 22 years was made while issuing the addendum to the bid document as per records</i></p> <p><i>(iii) There was delay in completion of MLCP 1 & 2</i></p> <p><i>(iv) Liabilities from the delayed completion of MLCP 1 & 2 remain uncollected.</i></p> <p><i>(v) The audit team noted Thromde's share from parking fees and other charges is only 13.88% and Thromde has share on Commercial activities allowed in the MLCPs</i></p> <p><i>(vi) Parking slot data was inconsistent and inventory was not maintained properly.</i></p>

		<p>received enough bids to make it more competitive. The outcome of the prebid meeting was then submitted to the project steering committee, followed by approval of the same from the Thromde Tshogde.</p> <p>Many of the documents were maintained by the IFC as the advisory partner for development of the concession agreement. Thromde did not have a dedicated unit with adequate personnel to record all the proceedings of the whole process of project preparation to documentation.</p> <p>The Multi Level Car Park (MLCP) is the first of its kind in the country, being implemented through PPP model. Thromde therefore lacked experience on implementation of such projects. The concessionaire is formed of three partners, major investor from Nepal and then the other two Bhutanese companies. The construction of the MLCP has gone through its own challenges such as FDI partner not able to remit dollar from Nepal. The structural design changes that the drawings underwent also have increased the volume of steel reinforcement and concrete, increasing many fold the cost of the project.</p> <p>The increase in cost and difficulty in mobilizing the additional fund requirement has delayed the project completion schedule. The difficulty in arranging dollar remittance from Nepal for the additional cost has resulted in the FDI partner withdrawing from the partnership.</p> <p>The renewal of performance bank guarantee for the concession period is also a requirement, which is not very necessary after completion of the construction of the MLCPs. They have not been able to submit the renewed BG.</p> <p>As an update, the concessionaire has not been able to settle the fines and penalties imposed and also the revenue due after the soft opening of the two parking structures. The parking facilities have not been utilized as expected over the last few months and thromde is working on to remove any free parking areas available within the concession</p>
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		<p>area, so that over the next few months the occupancy rates for the two structures will improve.</p> <p>Thromde has no option but to work closely with them to increase use of the parking facility and make the project financially viable. Otherwise, the government would need to invest to acquire the share in the project and be the owner of the MLCP.</p>	
	Section 62 (a)	<p>Citing the above clauses from the Local Government Act, The Thromde Tshogde would like to reiterate that the DCR 2016 has been approved by the Thromde Council and not the Thromde management. Since the Thromde Tshogde has been mandated with the above powers and functions of approving Land use, Development Plans, framing and adopting rules and guidelines and approving Local Area Plan, the DCR is a regulation part of the Local Area Plan for its implementation and is in line with the laws made by the Parliament.</p> <p>Regarding the increase in number of floors, it should be noted that before the Local Government was elected, attic has been a widespread culture amongst almost all the building owners. Though the attic was regularized by the Ministry, it was an absolute catastrophe to the Bhutanese Architecture (aesthetics), based on which the Thromde Tshogde allowed the owners to construct a full floor in place of attic to preserve the Traditional Bhutanese Architecture.</p> <p>Similarly, many such amendments had to be made by the Thromde Tshogde to tackle such issues in implementation of the Local Area Plan keeping in mind the overall plan as reflected in the TSP. DCR 2016 was just an update of DCR 2004 which included the amendments that had been made by the Thromde Tshogde as mentioned earlier.</p> <p>Therefore, we would like to request the audit team to kindly go through the observation once and see if the observations are still valid to be kept in the report.</p>	



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 ROYAL GOVERNMENT OF BHUTAN
 MINISTRY OF WORKS AND HUMAN SETTLEMENT
 DEPARTMENT OF HUMAN SETTLEMENT
 THIMPHU : BHUTAN

"Construction Industry: Solution through innovation and improved technology"

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MoWHS/DHS/CDRD/Adm/2019-2020/2375

November 29, 2019

Deputy Auditor General,
 Department of Performance and Commercial Audit,
 Royal Audit Authority.

Subject: Response to audit observations in the Performance Audit Report on Urban Planning and Development.

Dear Sir,

Please find attached herewith the response to the observations made by the Royal Audit Authority in the Performance Audit Report on Urban Planning and Development. As agreed during the Exit Meeting held on November 25, 2019 at the Ministry of Works and Human Settlement between the Department of Human Settlement, Thimphu Thromde and the Royal Audit Authority, the Department has provided justifications/clarifications on some of the observations made by the Royal Audit Authority.

The exit meeting gave both the Department and the Thimphu Thromde a platform to discuss and clarify several issues and we are hopeful that the recommendations from the Royal Audit Authority would help in resolving and avoiding similar issues in future.

Thanking you for your continued support.

Yours sincerely,

Offtg. Director

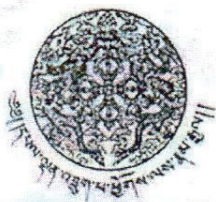
Copy to:

1. Hon'ble Secretary, Ministry of Works and Human Settlement, for kind information.
2. Dasho Thrompon, Thimphu Thromde, for kind information.
3. Executive Secretary, Thimphu Thromde, for kind information.

PSAD

Royal Audit Authority
 Thimphu : Bhutan
 Dairy No. 63245
 Date 3/12/2019

Response to draft audit report from Thrompon's Office, Thimphu Thromde



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Thimphu -11001: Bhutan



01/Thrompon/TT/2019-2020/1989 .

Date 02/12/2019

The Deputy Auditor
Royal Audit Authority
Thimphu

Subject: Response for Draft Performance Audit Report

Sir,

This has reference to the Draft report on the "Performance Audit Report on Urban Planning and Development in Thimphu Throm".

Firstly I would like to commend the efforts put in by the Audit officials in successfully completing the audit and coming up with such comprehensive report with realistic and achievable recommendations provided by the audit team.

However, with regard to *clause 3.1.3 "DCR 2016 was prepared and approved solely by Thimphu Thromde"*, we would like to clarify that the DCR 2016 was not approved by the Thromde Management. The DCR 2016 was deliberated and approved by the Thromde Tshogde comprising of the peoples representatives' elected by the general public as per the Local Government Act governed by the Election Act in line with the Constitution of the Kingdom of Bhutan.

The DCR 2016 has been approved based on the following clauses from the Local Government Act 2009 (2014):

Chapter 2:
Thromde Tshogde

11. The Thromde Tshogde shall be the highest decision making body of the Dzongkhag Thromde.

Local Governments

5. Local Governments shall not be law-making bodies and thus shall not have legislative functions while they may make rules and regulations consistent with law made by parliament.

Dasho Thrompon: +975-2-323665, Executive Secretary: +975-2-340355

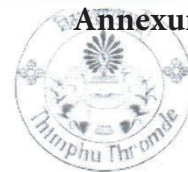
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www.thimphucity.bt

Response to draft audit report from
Thimphu Thromde



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Annexure - 4

TT/UPD/21/2019-20/3212

Date: 12th December 2019

The Deputy Auditor General
Department of Performance & Commercial Audit
Royal Audit Authority
Kawajangsa: Thimphu

Sub: Response to audit observations in the Performance Audit Report on Urban Planning and Development of Thimphu City

Dear Sir

In pursuance to the Exit meeting held on November 25, 2019, at the Ministry of Works & Human Settlement, and in addition to the responses already communicated by MoWHS vide their letter no. MoWHS/DHS/CDRD/Adm/2019-2020/2375, dated 29th November 2019, we hereby submit the responses/comment on the observations as an attachment to this letter in a tabulated format.

We thank you for giving us time extension to submit our comments.

Thanking you

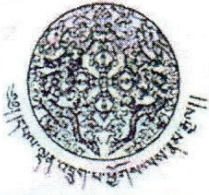
Yours sincerely

Executive Secretary

Copy to:

1. Hon'ble Secretary, Ministry of Works & Human Settlement, for information.
2. Dasho Thrompon, Thimphu Thromde, for kind information
3. The Chief Urban Planner, Thimphu Thromde, for information
4. The Chief DRD, Thimphu Thromde, for information.
5. The Chief Administrative Officer, Thimphu Thromde, for information.
6. Guard File

Royal Audit Authority
Thimphu : Bhutan
Dairy No. 63288
Date 12/12/2019



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Chapter 4:

Powers and Functions of Local Government

Powers and Functions of Thromde Tshogde

General Powers and functions

61. Thromde Tshogde shall:

- a) **Formulate policies and priorities in respect of the Dzongkhag Thromde;***
- e) **Approve land use and development plans in accordance with the laws made by Parliament and rules and regulations made thereunder;***
- f) **Approve local area plan including land pooling schemes and any other relevant planning techniques;***

Regulatory powers and functions

62. Thromde Tshogde shall:

- a) **Frame and adopt rules and guidelines for enabling the Thromde to carry out its functions;***

Citing above clauses from the Local Government Act, The Thromde Tshogde would like to reiterate that the DCR 2016 has been approved by the Thromde Council and not the Thromde management. Since the Thromde Tshogde has been mandated with the above powers and functions of approving Land use, Development Plans, framing and adopting rules and guidelines and approving Local Area Plan, the DCR is a regulation part of the Local Area Plan for its implementation and is in line with the laws made by the Parliament.

Regarding the increase in number of floors, it should be noted that before the Local Government was elected, Attic has been a widespread culture amongst almost all the building owners. Though the Attic was regularized by the Ministry, it was an absolute catastrophe to the Bhutanese Architecture (aesthetics), based on which the Thromde Tshogde allowed the owners to construct a full floor in place of Attic to preserve the Traditional Bhutanese Architecture.

Similarly, many such amendments had to be made by the Thromde Tshogde to tackle such issues in implementation of the Local Area Plan keeping in mind the overall plan as reflected in the Thimphu Structure Plan. DCR 2016 was just an update of DCR 2004 which included the amendments that had been made by the Thromde Tshogde as mentioned earlier.

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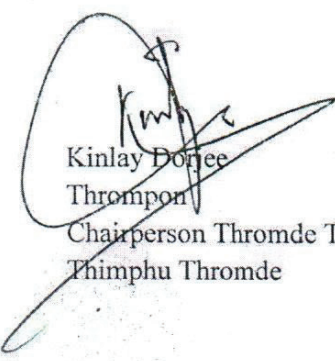
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Therefore, we would like to request the audit team to kindly go through the observations once and see if the observations' are still valid to be kept in the report.

Thanking you for the continued support.

Yours Sincerely


Kinlay Dorjee
Thrompon
Chairperson Thromde Tshogde
Thimphu Thromde

Cc:

1. Executive Secretary, TT for information
2. All Thuemis, Thimphu Thromde Tshogde for information
3. Office Copy



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