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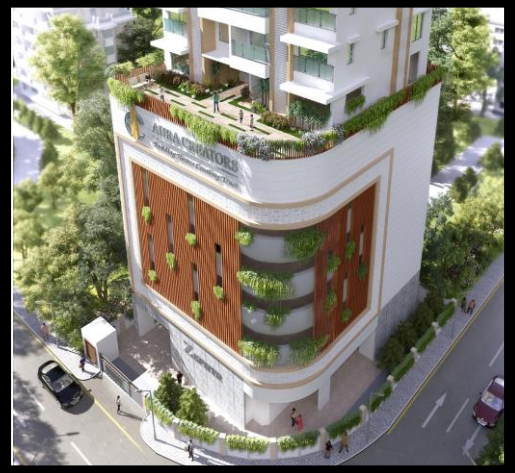
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MODIFIED DCPR 2034 NOTIFICATION VIDE 37(1AA)(C) DATED 08.07.2021

FUTURE OF REDEVELOPMENT WITH 33(7) AND 33(9) CLUSTER DEVELOPMENT

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What is **REG 33(7)** – DCPR 2034

Redevelopment of ..
Cessed buildings – where repair cess was levied under MHADA act 1969-1971, MHADA act 1976 (**rents were frozen at the year 1940 as per the provisions of the Rent Control Act**, formed the Bedekar Committee in the year 1968. and there after detailed regulation 33(7) was formulated as per Study Group under the Chairmanship of Shri D.M. Sukhtankar, former Municipal Commissioner after numerous meetings of all stake holders Tenants /Landlords etc)

- **Societies** paying repair cess as on date.
- **De-cessed buildings –** Buildings which use to pay repair cess and thereafter due to ownership or formation of society have now been de-cessed. –FSI 2.5 – no increase in FSI
- **Building of corporation** existing prior to 1969 –MCGM- Municipal tenanted plots.

Basic FSI pattern in 33(7) …

REG 33(7)… 16104 approx. Buildings left out to be developed … which are old and have outlived their live with poor sanitation and habitable conditions

FSI – 3.00 on gross plot + 5% / 8% / 15% add BUA provided to tenant under sub clause 33(7)(5)

Or Incentive 50% - single plot , 60% - 2 to 5 plots and 70% for more than 5 plots was the earlier provision before the said notification of 08.07.2021

Now – **in case of FSI 3.00 schemes – THERE IS NO CHANGE IN FSI and for de-cessed - FSI is 2.5 – No change or increase in FSI**

More than half the development is under above schemes and not incentive

Basic FSI pattern in 33(7) …

HOWEVER - In **incentive cases** incentive has been increased ranging from 75% to 100% which was earlier 50% to 70% (**25% to 30% more than earlier provision**

AND

Not Double as misinterpreted in some media reports) these schemes were unviable and stuck , due to high cost of premiums incremented over last 6/8 years by MCGM/Estatedepartment /Collector cost for lesae hold plots

33(7) – Need for change

What was the need for change of rules …

- **Slow pace** of development of cessed building **due to poor viability** and every monsoon more and more structures being declared dilapidated and **tenants being dis-housed**. And more than 16000 building still left to develop. Today post RERA / And streamline of Rules to count all areas in FSI and high cost of premium had let to poor viability

- **Promote cluster development by providing more incentive to tenant as well as developer if more plots are amalgamated for better SUSTAINBLE PLANNING .**

- At times due to high density , **consumption of FSI was a big issue due to small size of plot in B,C, D wards old Mumbai** , as a result **clubbing of schemes was necessitated** also to avoid high density on small plots . Restriction on consumption due to Heritage buffer in Grade 1 /11 in A , C wards , plots along railway line as a result project were stuck due to non viability

33(7) – Benefit to Tenant

- Changes have been made such that **tenants get 12months advance rent , Bank guarantee** for 10% CC for rehab to protect the tenant – benefit to tenants

- If land lord doesn't develop property , **in 6months of building declared dilapidated , MHADA can intervene and develop , notification awaits president nod. -** benefit to tenants

- Government has taken right steps at right times to boost development which will directly benefit tenants and entire industry which is the **second largest employment sector .**

- **Landlords can come together for better incentives for themselves as well as tenants – giving planned sustainable development**

What is proposed now in REG 33(7)(1)…

For reconstruction / redevelopment to be undertaken by same or different landlords or Cooperative societies of landlords and Cooperative Housing Societies (existing or proposed) of existing tenants or by Co-op. Housing Societies of landlords and/or occupiers of a cessed building existing prior to 30/9/1969 in Island City, which attracts the provisions of MHAD Act, 1976 and for reconstruction/redevelopment of the buildings of Corporation existing prior to 30.09.1969, **or buildings which were earlier constructed by MHADA under PMGP and have completed 30 years of age or declared unsafe by Competent Authority,** FSI shall be 3.00 on the gross plot area or FSI required for rehabilitation of existing tenants plus incentive FSI as specified in sr. no 5(a) below whichever is more.

Note :

PMGP – Prime minister Grants program and there are more than 66 such colonies across Mumbai . However MCGM properties needed to be added here which was recommended. What about MCGM buildings more than 30 yrs old ? Or MHADA reconstructed buildings ?? …

REG 33(7)(4)

Deals with provision of surplus BUA to MHADA , **earlier cost of construction was to be recovered** by developer from MHADA and now same is to be **provided free of cost.**

Reg 33(7)5A/ 5B and 5C – **Earlier**

Earlier the FSI required was 3.00 + 5% / 8% / 15% BUA (exact provided to tenants or incentive based on no. of plots

Single plot	– Rehab +5% x sale 50% incentive
2 – 5 plots	– rehab +8% x sale 60% incentive
More than 5 plots	– rehab + 15% x 70% incentive

Now same has been rationalized based on no. of plots and LR- LAND RATE / CR. CONSTRUCTION RATE RATIO

Reg 33(7)5A/ 5B and 5C – **Now Proposed**

Sr.no	LR/CR ratio	Single plot Incentive	2 -5 plots incentive	More than 5 plots
1	Above 6	75 %	85%	90%
2	Above 4 up to 6	78 %	88 %	95%
3	Up to 4	80 %	90 %	100%
	Benefit to rehab	5%	8%	15%
	Earlier incentive	50%	60%	70%
Note : There is no Change in FSI for FSI 3.00 + 5%/8%/15% Add BUA to rehab schemes				

33(7) increase in FSI – impact on MHADA surplus

Sr. no	Rehab	Incentive %	Sale BUA	Total BUA	Surplus % (TBUA -rehab) /TBUA	Appendix III - % if Residential development	Surplus area	Appendix III - % if Mix use development	Surplus area
1	1000.00	50%	500.00	1500.00	33%	0.00	0.00	0.00	0.00
2	1000.00	60%	600.00	1600.00	38%	0.00	0.00	0.00	0.00
3	1000.00	70%	700.00	1700.00	41%	0.00	0.00	5%	35.00
4	1000.00	75%	750.00	1750.00	43%	0.00	0.00	5%	37.50
5	1000.00	78%	780.00	1780.00	44%	0.00	0.00	5%	39.00
6	1000.00	80%	800.00	1800.00	44%	0.00	0.00	5%	40.00
7	1000.00	85%	850.00	1850.00	46%	0.00	0.00	10%	85.00
8	1000.00	88%	880.00	1880.00	47%	0.00	0.00	10%	88.00
9	1000.00	90%	900.00	1900.00	47%	0.00	0.00	10%	90.00
10	1000.00	95%	950.00	1950.00	49%	0.00	0.00	10%	95.00
11	1000.00	100%	1000.00	2000.00	50%	0.00	0.00	10%	100.00

IMPACT on surplus area NOW to be provided to MBRRB /MHADA due to add incentive

Therefore MBRRB/MHADA will now benefit from more surplus if mix use is planned

Reg 33(7)(5)

Further in case of Municipal tenanted plots – **if density more than 650 per HA. , FSI shall be as per** FSI available will be 3.00 or incetive FSI required of rehabilitation for occupiers FSI or **as admissible as per column 4 of above table (should be clause 5 above not column 4)** whichever is more and the occupier shall be eligible for 15% additional rehab Carpet Area as per serial no 2 above subject to maximum limit.

However this provision needs to be modified and should be brought on par with 33(9) modified Table to rationalize as per size of plot and LR/CR ratio

Further there is a provision for municipal tenanted plots can claim benefit under 5a/5b/5C is "the above provision 5(a) and 5(b) shall also be applicable to municipal plots under redevelopment under this Regulation **having different residential societies on different plots** " which is again **grossly erroneous as Municipal tenanted plots proposal are submitted under single society name and not Different society names**

Reg 33(7)(5) . Clause added

Provided in case of plots with FSI 3.00 scheme and incentive scheme are amalgamated for better planning **FSI permissible shall be applicable on individual plots as per 5(a) & 5(b) above.**

Which means in case of amalgamation of 2 schemes , and if individual schemes one plot has more FSI from FSI 3.00 and other plot is incentive , higher of each plot will be considered before amalgamation …..which was logically needed to promote amalgamation

Reg 33(7)(6)

Earlier un-used FSI was allowed in form of **TDR as per reg 32** which was injustice as this was not amenity and now it is proposed to be **TDR equivalent to unused BUA**

33(7) –Impact on lease hold and free hold or lease hold of diff tenure - amalgmation

33(7) (7)	Construction or reconstruction of old cessed building falling under reservation/zones contemplated in the DP shall be permitted as specified in Regulation No.17(3)(B). Contravening structures in TP Scheme and structures on the road shall also be included in the redevelopment scheme. FSI for the same will be as under DCR 33(12) or as provided in these Regulations whichever is more.	Construction or reconstruction of old cessed building falling under reservation/zones contemplated in the DP shall be permitted as specified in Regulation No.17(3)(B). Contravening structures in TP Scheme and structures on the road shall also be included in the redevelopment scheme. FSI for the same will be as under DCR 33(12) or as provided in these Regulations whichever is more. **The land under, composite redevelopment with permissible FSI as per 5(a) and 5(b) above. irrespective of the tenure of the plots comprised therein, shall be treated as one plot.**

Impact … now

Govt owned lands Collector lease and estate MCGM owned lease hold lands need to take note of same so not to insist conversion of free hold land to lease hold land to amalgamate as this provision now supersedes . A suitable policy needs to be implemented in lieu of above notification by UD-GOM. Notional amalgamation similar to 33(9) for FSI and lease rent to be charged on proportioned land component only.

33(12) combination with 33(7) greatly increases Viability of project and MCGM benefits due to structures in alignment of road are removed ..

33(7)(8)- OSD/Staircase premium

Relaxation in building and other requirements for rehabilitation: Notwithstanding anything contained in these Regulations, the relaxations incorporated in sub Regulation No.6 of Regulation No. 33 (10) of these Regulations except clause 6.11, 6.16 & 6.18 shall apply. The payment of premium at the rate of 10% of normal premium or at the rate of 2.5% of the land rates as per ASR (for FSI 1), whichever is more shall apply.

The clause No.6.15 incorporated in sub Regulation No.6 of Regulation No.33 (10) shall apply. *Which is again an ERROR …as 6.15 is for composite building and same always applicable*

It was proposed as 6.16 to be made applicable so that Open space def benefit shall be made available t=at 2.5% instead of 25% as per 1991 DCR provision which has increased cost of OSD premium by 10 times and making schemes unviable

MCGM to allow a transition policy for smooth implementation with an undertaking to allow benefit of such premium and difference to be paid in case UD does not allow

33(7) MODIFICATION APPROVED UNDER 37(1)(AA)(C) AS ON 08.07.2021

Reg 33(7)(13) – Non tallying

Non tallying areas which are authorized certified by MBRRB as per 2002 directive to be considered towards rehab and incentive . And as provided in MHADA act itself

Reg 33(7) (15)- ADC

Add development cess earlier was worked out as = Total BUA (without fungible) - **less existing BUA** x 5000 /- sqm or 100% DC

Now shall be worked out as = Total BUA (without fungible) - **less Rehab BUA** x 5000 /- sqm or 100% DC

33(7)(19) . **Impact will reduce the premium …**

Non-cess prior to 1969 – **earlier limit of 25% now increased to 45% can be considered under provision of 33(7)** i.e. for rehab and For FSI 3.00

Clarification on incentive to be granted on such non-cess is needed through transition policy by MCGM being logical which was not allowed till date

Hon VP Sir/CO , MBRRB powers … to convert

10. In case of redevelopment scheme in progress and such schemes where LOI has been issued, the Owner/ Developer/Co-op. Housing Society with the prior approval of Vice president and Chief Executive Officer, Maharashtra Housing and Area Development Authority, may convert the proposal in accordance with modified regulations.

However, such conversion is optional and shall not be binding.
Further for conversion of Schemes from FSI 2.5 to 3.00 will continue to go to UD /Housing for approval –UD notification dated 04.05.2021

Hon MC sir powers to condone ….

In cases were proposals are converted in accordance with this modified regulation, **on the buildings constructed /being constructed above plinth,** considering hardship the **municipal commissioner by special permission may relax norms of stair case width, open spaces considering the various factors such as width and No. of abutting roads , available open space etc. as per regulation 6(b).**

33(7) Clubbing need ...

Clubbing of scheme was needed due to various factors

1) **To prevent overconsumption of FSI on single plots**

2) **Plots with restriction of height due to either railways / AAI/ Heritage Buffer of Grade I and II can now be developed as consumption of plots affected will be restricted and balance potential can be shifted to another plot to make schemes viable**

3) **Due to restriction earlier height / room size were compromised which can now be enhanced to improve quality of living**

4) **Restriction due to small plots and high density areas of B/C/D wards**

Clubbing of scheme :-

At the option of the owner / developer two or more schemes under this regulation can be permitted to be integrated. A developer / **developers** making an application under this regulation may club more than one plot belonging to **single or multiple owners. Rehab as well as sale component BUA** of the plot shall be allowed to be clubbed with other plots provided all right holders of these plots agree and **make a joint application.**

1. Premium The developer shall have to pay a premium equal to **30% of difference as per ASR of the plots where such clubbing have been permitted .**
2. The premium shall be paid to the Planning Authority in two stages 50% at the time of further C.C. above plinth and 50% at the time of issuing full C.C.
3. Out of the total premium amount collected under this Regulation shall be shared in 1/3 proportion by Government, MCGM & MHADA shall be kept in the separate account to be utilized for infrastructure improvement 2.
4. Conditions a. The clubbing of scheme will be allowed **after the due approval of the Commissioner and he is satisfied with hardship as** per the provision of the DCPR. b.
5. Such clubbing can be allowed for the schemes falling within the distance of **10 km.**

Note : Clubbing doesn't not entitle plot owners for higher FSI as per provision of 33(7)(5)

33(7) Clubbing of Schemes – example

Scheme plot 1 – FSI 3.00

1) Plot Area - 1000 sq.m
2) FSI - 3.00
3) Total BUA - 3000 sq.m
4) Fungible -1050 sq.m
5) Total BUA (A) - 4050sq.m
6) Land ASR per sq.m - 98000/-

+

Scheme plot 2 – Incentive

1) Plot Area - 1000 sq.m
2) FSI rehab 2000sq.m - 75% on
3) Total BUA - 3500 sq.m
4) Fungible -1225q.m
5) Total BUA (b) - 4725sq.m
6) Land ASR per sq.m - 1,25,000/-

=

Total FSI on scheme = 4725 + 4050 sq.m = 8775 sq.m

Now Proposed to consume FSI in plot 1 – 2000 sq.m

And in plot 2 – 8775- 2000 = 6775 sq.m excess area from plot 1 to plot 2 = 2050 sq.m

Add premium payable to planning authority = 2050 x (12500 – 98000) = 27000 x 30% = Rs 1,62,00,000/- Benefit to MCGM

Note : premium to be paid in 2 stages – 50% plinth CC and 50% further CC

Consumption and transition to modified DCPR provision

1) To avail the benefit Revised NOC from MBRRB /MHADA will be required and as per provision VP/CO, MHADA approval is requested. **Transition policy to allow issue of IOD** if NOC issued post 2018 in DCPR 2034 as **tenant certification was scope of MBRRB and Grant of FSI and planning is under MCGM purview. MBRRB NOC to be proposed as IOD compliance**

2) In case of **FSI 2.5 which now intent to convert to FSI 3.00 - approval of Housing** / UD required asper notification dated **04.05.2021- MBRRB NOC pre requisite**

3) Transition policy expected from MCGM for **clubbing of proposal –MCGM purview**

4) Transition policy needed to ensure lease hold plots such as from MCGM –**Estate department don't levy double OTP /Higher OTP due to clubbing of schemes –** one time premium of higher ASR land as unearned income is already paid to GOM

5) Representation needed from MCHI/other bodies to **correct various ERRATA** in the notification detailed next on various issues

Summary on ERRATA provision which need clarification from UD/MCGM

1) In case of Municipal tenanted plots clause " **having different residential societies on different plots. " needs to be deleted as submission is always made as single society (proposed)**

2) **Correction of Errata 6.15 mentioned to be replaced with 6.16** which will allow OSD concession of 2.5% for sale component for non composite schemes

3) Definition of composite schemes similar to modified provision in 33(9) – 13.8 13.8 A composite building (**comprising all wings)** under CDS shall have at least 50 percent of BUA as rehabilitation component.

4) Clarity by transition policy to allow **incentive on non cess** component prior to 1969 for which FSI to be on par with 33(7)(19)

5) Benefit of incentive **without capping of 120 sq.m** is needed as MCGM recovers premium on entire area under various heads except (Staircase lift / ADC /DC) to compensate as any other rehab incentive

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33(9) 1.1 Min Criteria

Earlier

Plot in city 4000 sq.m and suburb 6000 sq.m and **HPC may consider** after verifying traffic simulation study to allow CDS on a plot having access from existing **minimum 12m. wide dead end road originating from 18 m. wide public road.**

Now proposed

- in addition to above , further if Plot in city 4000 sq.m and suburb 6000 sq.m and Commissioner may consider allowing CDS on a plot having access from **existing 12.0 mt. road, depending on availability of 18.30 m. arterial road within the vicinity of 500m**. from the Scheme.

Note : Clause of traffic simulation may be insisted

33(9) MODIFICATION APPROVED UNDER 37(1)(AA)(C) AS ON 08.07.2021

33(9) 1.2

Earlier – (ii) (a) Buildings at least 30 years of age and acquired by MHADA under MHAD Act, 1976.

Now proposed (ii) (a) Buildings at least 30 years of age and acquired **/ reconstructed by MHADA under MHAD Act, 1976.**
Provided further that **HPC / Municipal Commissioner** may consider buildings reconstructed by MHADA having age **less than 30 years on specific recommendation by MHADA.**

In addition to original list under 33(9) 1.2 cessed / all authorized building more than 30 year old , state / central /MCGM / Slums etc …

33(9) 2A.iii

Earlier Mezzanine allowed if constructed prior to 13/06/1996 and regularized subsequently shall be allowed for rehab and incentive

Now proposed : **OR assessed by MCGM and reflected in Inspection Extract year 1995-1996 shall be eligible for rehabilitation and incentive FSI.** Provided that necessary charges for regularization of mezzanine floor shall be recovered and necessary condition to that effect shall be incorporated in IOD.

33(9)(3) –Land pooling for CDS

if such user public Authority gives consent /permission, in terms of compensation in any form, **then decision on such proposals be taken by the Municipal Commissioner** and such proposals need **not be referred to the empowered Committee (EC).** Otherwise any of the following method of land pulling may be resorted:

33(9) MODIFICATION APPROVED UNDER 37(1)(AA)(C) AS ON 08.07.2021

33(9) 4a- consent can be **notarised** earlier was required to be **registered** - 51 percent of each buildings or 60 percent overall of the scheme involved in the CDS

33(9)(5)a – Min area to residential tenement increased from **27.88 sq.m to 35 sq.m** minimum in cluster development for for NR – remains same as per existing

In addition to above add area to rehab asper Table A - tenants to benefit if come together for cluster development

Table-A

Area of the Cluster	Additional Area (over & above basic area)
Above 1 ha up to 2 ha	15%
Above 2 ha up to 5 ha	20%
Above 5 ha up to 10 ha	25%
Above 10 ha	30%

Earlier provision -

Existing or 20.90 sq.m whichever is **less** in case of non-residential.

Table-A

Area of the Cluster Development	Additional Area (over & above basic area)
Above 4000 Sq.mtr and up to 5000 Sq.mtr	10%
Above 5000 Sq.mtr and up to 1 ha.	15%
Above 1 ha and up to 2 ha	20%
Above 2 ha and up to 5 ha.	25%
Above 5 ha and up to 10 ha.	30%
Above 10 ha.	35%

Now proposed

Existing or 20.90 sq.m whichever is **more** in case of non-residential.

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33(9) 6b- Incentive

Earlier

per the Table-B below:

Table-B

Basic Ratio (LR/RC)	Incentive (As % of Admissible Rehabilitation Area)			
	For 0.4ha up to 1 ha	More than 1 ha upto 5ha	More than 5 ha up to 10 ha.	For more than 10 ha
Above 6.00	55%	60%	65%	70%
Above 4.00 and upto 6.00	65%	70%	75%	80%
Above 2.00 and upto 4.00	75%	80%	85%	90%
Upto 2.00	85%	90%	95%	100%

Now proposed

Table-B

Basic Ratio (LR/RC) (LR/RC)	Incentive (As % of Admissible Rehabilitation Area)			
	For 0.4ha up to 1 ha	More than 1 ha upto 5ha	More than 5 ha up to 10 ha.	For more than 10ha.
Above 6.00	85%	90%	95%	100%
Above 4.00 and upto 6.00	95%	100%	105%	110%
Above 2.00 and upto 4.00	105%	110%	115%	120%
Upto 2.00	115%	120%	125%	130%

Again increased is 30% not double

Needed as in last 15 years only 5/6 schemes approved

33(9)(9)[-30% of the incentive FSI can be used for nonresidential purposes as otherwise permissible under the DCPR. **or 50% with the approval of Municipal Commissioner.**

Clarification needed by MCGM to allow permissible user as per Reg 34 if permits full commercial also … as per road width as DCPR allows same for any other development.

33(9) 13.4
CD plot abuts a DP Road having width of 18.3 m and above. The front marginal open space shall not be insisted upon beyond **3.0 m** provided such road is not an Express Highway or a road wider than 52 m.

However, with the condition that for the CDS fronting 12.00 mtr wide road, the Front Open Space (FOS) will be 4.50 mtr in City and Suburbs.

33(9)(13.8)

33(9)(13.8)	13.8 A composite building under CDS shall have at least 50 percent of BUA as rehabilitation component.	13.8 A composite building **(comprising all wings)** under CDS shall have at least 50 percent of BUA as rehabilitation component.

33(9)(13.11)

Provided further that in case of proposal of conversion of old scheme sanctioned under Regulation **33(7)**, **33(9) to modified provision of DCPR 33(9)**, wherein work of more than **50% area of plinth is completed on site**, then such cases for conversion, **Commissioner, MCGM shall have the power to relax 10% additional LOS** area in such cases only. In cases were proposals are converted in accordance with this modified regulation, considering hardship on the buildings constructed / **being constructed above plinth**, the municipal commissioner by special permission may **relax norms of staircase width, open spaces considering the various factors such as width and No. of abutting roads, available open space etc. as per Regulation 6(b). (note) : no mention to condone by charging premium – clarification needed by MCGM**

33(9) 13.15
Relaxation in building and other requirements for rehabilitation: Notwithstanding anything contained in these Regulations, the relaxations incorporated in sub Regulation No.6 of Regulation No.33 (10) of these Regulations except clause 6.11, 6.16 & 6.18 shall apply. The payment of premium at the rate of 10% of normal premium or at the rate of 2.5% of the land rates as per ASR (for FSI (1), whichever is More shall apply.

This is erroneous clause as earlier OSD benefit was granted to Sale component at 10% which will now be 10 times to 25% ***as 6.16 is under exception similar mistake made in modification proposed in 33(7)***

Benefit reversed…in 33(9) as same was earlier anyway permitted for sale component 13.15 granted osd to sale at 2.5%

33(9)(20)	20. If HPC approves areas for amenities such as Fire Stations/Hospitals/Police Stations/Schools, etc. other than reservations/designations under the DP, such amenities shall be handed over to the concerned Authority free of cost. The BUA of such amenity shall be considered towards rehabilitation FSI, and incentive FSI as admissible under this Regulation shall be permissible	20. If **MC/MCGM** approves areas for amenities such as Fire Stations/Hospitals/Police Stations/Schools, **PAP/R&R, etc. additional Area required by the Land owning Authority** other than reservations/designations under the DP, such amenities shall be handed over to the concerned Authority free of cost. The BUA of such amenity shall be considered towards rehabilitation FSI, and incentive FSI as admissible under this Regulation shall be permissible.

Insert new sub clause-23 in 33(9)	--	23. Any ongoing Cluster Development Scheme (CDS) sanctioned under Regulation 33(9) of DCR 1991or DCPR-2034 prior to the date of coming into force of this Regulation **including partly completed schemes** can be allowed to be converted as per this modified Regulation at the request of the Promoter/Developer, with the prior approval of the High Power Committee, subject to compliance of provisions of this modified regulation including rehab area as per this modified regulation. However, such conversion is optional and shall not be binding.

A sincere request to all my colleagues to promote sustainable and Green development no matter, whether mandated or not in regulation to improve quality of life and development and gain trust and respect

Thank you .....