

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 325, CUTTACK, WEDNESDAY, FEBRUARY 24, 2021/FALGUNA 5, 1942

HOUSING & URBAN DEVELOPMENT DEPARTMENT

NOTIFICATION

The 24th February, 2021

GUIDELINES ON DIVERSION OF FOREST LAND FOR CONSTRUCTION OF FACILITIES AT THE URBAN SLUMS SITUATED OVER FOREST LAND UNDER THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT., 2006.

BACKGROUND:

S.R.O.NO.55/2021.—The Odisha Land Rights to Slum Dwellers Act., 2017 is a reflection of the vision of the Government of Odisha to transform the underprivileged slums situated in the urban areas of Odisha into decent liveable habitats. H&UD Department has established "Jags Mission" to realise this vision in a holistic manner. In the first phase, the Mission concentrated on distribution of Land Rights Certificates, but the second phase of the Mission is marked by activities relating to upgradation and delisting of slums. Upgradation of slums would mean establishment of the six most basic development infrastructure i.e. development of roads, drains, household piped water supply, household electricity, toilets and street lights. An aggressive timeline has been set by the Government to complete the process in all the existing slums within a span of three years. The process has already been initiated in as many as 500 slums and the upgradation of these slums will be completed by the 31st March, 2021.

An analysis of the data collected through USHA survey reveals that a few slums are situated over such land which have been recorded as forests of different classifications. These slums are primarily old habitats with inadequate civic amenities with poorly built tenements occupied by native citizens of the respective localities predominantly belonging

to tribal and other traditional forest dweller communities. They have been residing in these settlements for generations.

During a high level meeting held on the 13th January, 2021 under the chairmanship of the Chief Secretary, there emerged a consensus on development of the basic infrastructure in these slums as per the procedure laid down under the Scheduled Tribes and Other Traditional Forest Dwellers Recognition of Forest Rights) Act., 2006 (hereinafter referred to as the FRA), rules made thereunder.

Since, implementation of FRA had primarily been confined to rural areas in our State, it has become expedient to draft a comprehensive guideline, encapsulating relevant provisions of the FRA to help the Urban Local Bodies and other stakeholders understand the processes to be adhered to while diverting the forest land for creating facilities/infrastructure in the slums situated over forest land in urban areas. The institutional mechanism has been well set out for administering the provisions of FRA in rural areas and some of the institutions are common for both the rural and urban areas, but there exist scope for clarification regarding the Gram Sabha for urban areas. The guidelines seek to address these issues.

OBJECTIVES:

The specific objectives of the Guidelines are:

- To develop a ready reckoner consisting of relevant provisions of the FRA and the instructions issued under FRA from time to time;
- To develop a SOP with tentative timelines for completing various activities to be undertaken at different levels.

EXTENT OF OPERATION OF THE GUIDELINES:

These Guidelines, in the first phase, extends to all Municipalities and Notified Area Councils (NAC) in Odisha and shall apply to all slums which have been covered under USHA survey.

DIVERSION OF FOREST LAND FOR DEVELOPMENT OF FACILITIES INSIDE THE SLUMS AS PER F.R.A.

Sub-section (2) of Section 3 of the FRA envisages that "notwithstanding anything contained in the Forest (conservation) Act., 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:—

- (a) Schools;
- (b) dispensary or hospital;

- (c) anganwadis;
- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres:

Provided that such diversion of forest land shall be allowed only if:—

- i. the forest land to be diverted for the purpose mentioned in this sub-section is less than one hectare in each case; and
- ii. the clearance of such development projects shall be subject to the condition that the same is recommended by the Gram Sabha".

The Act. very clearly mentions the shelf of admissible projects which can be developed by Government Authorities by means of diversion of forest land subject to conditions laid down under the proviso. For the purpose of diversion of forest land each project i.e. Roads, Parichaya, Water tank, etc. may be considered as a "case" and for each such case, a separate proposal can be submitted by the Government authorities i.e. the Executive Officer to the Gram Sabha.

DEFINING GRAM SABHA FOR URBAN AREAS:

Gram Sabha has been defined under section 2(g) of FRA as "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women.

However, the term "village" has been defined under section 2 (p) of FRA, which does not clearly indicate about the settlements or wards constituting the urban areas. In order to clarify any confusion in implementing the provisions of the Act. in such units of the urban areas, Ministry of Tribal Affairs, Government of India vide their Office Memorandum issued on 5th March, 2015 has clarified, *inter alia*, that:

" in municipal areas, all references to the term 'Gram Sabha' in the FRA, the FR Rules, the Guidelines, clarifications, etc. shall be understood to mean the Wards

Committee, if constituted under Article 243S of the Constitution and if not constituted, the assembly of adult residents of the settlement where such a habitation or settlement has continued to exist and is clearly identifiable; and if such settlement is not clearly identifiable, the Mohalla Sabha or Pada or Tola, whichever is smaller.”

GRAM SABHA IN URBAN AREAS:

In the State of Odisha, the Urban Local Bodies comprise of different wards. Currently, in some of the ULBs, the Ward Committees are in place, which can be construed as 'Gram Sabha' as per the memorandum cited supra. However, these Wards are very often amalgamation of a number of erstwhile villages or a combination of a few full and part villages. The slums, on the other hand, are compact settlements situated over clearly delineable geographical areas mostly confined to a single revenue village or Mouza. It is therefore evident that the Wards do not adequately or exclusively represent the slums,

In view of the above, in such ULBs where the Ward Committees are not in place or the Ward Committees do not adequately or exclusively represent the slums under consideration, the Slum Dweller Associations (SDAs) or Resident Welfare Associations (RWAs) formed by the inhabitants of the settlements consisting of all the adult members of that slum shall be considered as Gram Sabha for the purpose of FRA.

PRINCIPLES TO DETERMINE THE COMPOSITION AND FUNCTION OF SDA/RWA:

Since the SDAs and RWAs shall function as Gram Sabhas in majority of the cases, the following principles may be adhered to, as far as possible, by the SDAs and RWAs while considering the request of Government Authorities for diversion of forest land for the facilities to be developed and managed by Government Authorities:

1. There shall be a General Assembly of the Gram Sabha (SDA/RWA);
2. The General Assembly of the Gram Sabha shall comprise of all adult members residing in the slum;
3. The SDA/RWA General Assembly meeting shall be convened by the adult inhabitants of the Slum and in their first meeting they shall elect, from amongst its members, a committee of not less than nine but not exceeding fifteen persons as members of the Executive Committee, wherein at least one-third of the members shall be women;
4. The members of the Executive Committee shall nominate among themselves a President, a Secretary and a Treasurer ;

5. The terms of the office bearers of the Executive Committee shall not ordinarily be more than two years, however the general assembly by a simple majority of the members present can elect a new executive committee even before expiry of the term of two years;
6. A membership register shall be maintained by the Secretary, which shall contain the following information about the members:
 - (a) Name of the members;
 - (b) Age & Gender;
 - (c) Name of the father/mother/spouse;
 - (d) Educational qualification & occupation;
 - (e) Details of the identity card number (showing address and age proof);
 - (f) Details of membership fee, if any;
 - (g) Date of joining and date of leaving the Gram Sabha.
7. All membership application for the new member shall be approved by the Executive Committee;
8. The quorum of the General Assembly and Executive Committee meeting shall not be less than one-half of all members of such Gram Sabha;
Provided that at least one-third of the member's present shall be women.
9. As per the provisions of the FRA, the SDA and RWA shall be competent to pass resolutions or make recommendations, as the case may be for the limited purpose of development of infrastructure or any other function as may be specified, through notification, by Government from time to time.

COMPOSITION OF SUB-DIVISIONAL LEVEL COMMITTEE DISTRICT LEVEL COMMITTEE FOR URBAN AREAS:

The Act clearly delineates the role and responsibility of the Sub-divisional Level Committee and the District Level Committee, These Committees exercise Authority to accept or reject the decisions taken in the Gram Sabha in certain cases. Relevant portions of the memorandum cited supra dealing with SDLC and DLC are therefore reproduced for guidance of all concerned:

" The Sub-divisional Level Committee (SDLC) constituted under Section 6(3) of the FRA shall also receive, consider, decide on all claims from municipal areas in the said Sub-division, subject to modification in Para. below. The existing District Level Committee (DLC) constituted under Section 6(5) of the FRA, shall also consider and take decisions on all claims from municipal areas in the said District, subject to modification in Para. below:—

The SDLC and DLC, composition in municipal areas, shall be as follows:

- a. In municipal areas not covered under the Sixth Schedule to the Constitution, the three representatives of the Panchayati Raj Institutions in the SDLC, as specified in rule 5(c) of the FR Rules shall be replaced with representatives nominated by the municipality/ municipalities in the Sub-division; of whom at least two shall be Scheduled Tribes (STs) preferably those who are forest dwellers, or who belong to particularly vulnerable tribal groups, and where there are no STs, two members who are preferably other traditional forest dwellers, and one shall be a woman member:

Provided that where there are more than one municipality in the Sub-division, the members shall be nominated from different municipalities in decreasing order of tribal population residing therein

- b. In municipal areas other than those falling under the Sixth Schedule to the Constitution, the three members of the District Panchayat in the DLC specified in rule 7(c) of the FR Rules, shall be replaced by 3 members from the Town Panchayat/ Municipal Councils/ Municipal Corporations in such District to be nominated by the municipalities of the District; of whom at least two shall be STs preferably those who are forest dwellers, or who belong to the particularly vulnerable tribal groups, and where there are no STs, two members who are preferably other traditional forest dwellers, and one shall be a women member:

Provided that where there are more than one Nagar Panchayat/Municipal Council/ Municipal Corporation in the District, the members shall be nominated from different municipalities in decreasing order of tribal population residing therein."

NODAL OFFICER:

The Executive Officer (EO) of the respective ULB shall act as the Nodal Officer for diversion of forest land for development and management of facilities at the urban slums situated over forest land under the FRA and shall submit the proposal in the Gram Sabha for consequential examination and recommendation.

SOP FOR DIVERSION OF FOREST LAND FOR CONSTRUCTION OF FACILITIES AT THE URBAN SLUMS SITUATED OVER FOREST LAND :

In line with the instructions issued by Forest & Environment Department vide their Letter No, 19678 dated the 19th October, 2019, a step by step Standard Operating

Procedure for diversion of forest land along with timelines have been outlined below for reference of all concerned.

Step	Description	Timelin	Responsibility
(1)	(2)	(3)	(4)
1.	Meeting with the members of SDA, Preparation of the proposal and required documents as per requirement of Form 'A' ^[1] (a map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map ^[2] , purpose-wise breakup of the total forest land required ^[3] and a geo referenced map showing coordinates and boundary of forest area proposed to be diverted ^[4])	2 weeks	Executive Officer
2.	Every Executive Officer, that wants to use any forest land for any developmental project, specified in Section 3(2) of the Act. shall make proposal in the appropriate Form appended, i.e., Form 'A' and place it before the general assembly of the concerned SDA/RWA for adopting a resolution to that effect.	2 weeks	Executive Officer, and Members of SDA/RWA
3.	On receipt of a recommendation of the proposal by the Gram Sabha, the Executive Officer shall submit the proposal to the concerned Forest Range Officer (FRO) of the area along with the resolution adopted by the SDA/RWA.	1 week	Executive Officer
4.	The Forest Range Officer (FRO) concerned will carry out site inspection of the proposed area to opine on the acceptance of the proposal. The Forest Range Officer (FRO) concerned will submit the proposal and his recommendation to the concerned Divisional Forest Officer (DFO) in 'Form 'B' ^[5] appended along with his site inspection report and his opinion after receipt of complete proposal from the User Agency.	1 week of receipt of SDA/RWA Resolution	Forest Range Officer (FRO)

5	The Divisional Forest Officer(DFO)concerned will consider the proposal and if he agrees, he will accord his approval and communicate his decision to the Forest Range Officer (FRO) concerned with a copy in the Chairperson of the District Level Committee after receipt of the proposal from the FRO.	1 week of Site Inspect/on by Range Officer	Divisional Forest Officer (DFO)
6	After receipt of the approval from the concerned Divisional Forest Officer (DFO), the Range Forest Officer (RFO) will demarcate the area of the forest land approved for diversion and hand over the same to the User Agency under the supervision of the Gram Sabha Officer.	1 week	Forest Range Officer (FRO)
7	If the Divisional Forest Officer (DFO) concerned does not approve the proposal submitted by the User Agency through Forest Range Officer (FRO), he shall forward the proposal to the District Level Committee for a final decision.	1 week of Site Inspection Report from Range	Divisional Forest Officer (DFO)
8.	The District Level Committee (DLC) will meet and take a final decision with at least 1/3 quorum and convey the Divisional Forest Officer (DFO) for implementation and correction of records and map if the proposal is accepted.	1 week	District Level Committee (DLC)
9.	Divisional Forest Officer (DFO), will communicate the decision of the District Level Committee (DLC) to Forest Range Officer (FRO) concerned.	1 week	Divisional Forest Officer
10.	After receipt of the communication from the Divisional Forest Officer (DFO), the Forest Range Officer (FRO) will demarcate the area of the forest land approved for diversion and hand over the same to the User Agency under the supervision of the SDA/RWA.	1 week	Forest Range Officer (FRO)

N.B. Total Time required for approval of the proposal: 6 - 8 weeks.

[No.4497—HUD-DIR-POLICY-0035/2020/HUD.]

By Order of the Governor

G.MATHI VATHANAN

Principal Secretary to Government

- ^[1] Proposal is to be prepared as per *annexure 1* (Form-A) attached.
- ^[2] A sample topo map sheet is attached at *annexure 2*.
- ^[3] Sample sheet for developing purpose-wise breakup of the total forest land required is attached at *annexure 3*.
- ^[4] Sample map showing coordinates and boundary of forest area proposed to be diverted is Attached at *annexure 4*.
- ^[5] Recommendation of FRO in form B is attached at *annexure 5*.

FORM-A

[See Paras. 2.2 (I)]

1. Project Details:

- I. Short narrative of the proposed project/scheme for which the forest land is required.

The proposal is for construction of a community Centre where local peoples can gather for various purpose as there no other community Centre available nearby.

- II. Details of the forest land required (two options to be indicated)

(a) Location- survey No./Compartment No.

(b) Extent of the area (in hectare): **0.98 ha**

(c) Forest Division: **Dhenkanal Forest Division**

(d) Map Showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.: **Enclosed in the proposal at Plate-1.**

- III. Justification for locating the project in the proposed forest land(s)

- IV. Number of trees to be felled (per hectare) and number that will be kept standing:

2. Detailed purpose-wise break-up of the total forest land required with proposed building/activity area map: **Enclosed in the proposal at Plate-2.**
3. Confirmation that User Agency will plant at least twice the number of trees to be felled, in the project or adjacent area and the amount to be provided annually for protection and maintenance of these plants for at least five years.
4. Recommendation of the Gram Sabha —Accepted/ Rejected (Copy of the Grama Sabha Resolution to be attached)

Signature of the authorized person for the User Agency

Address _____

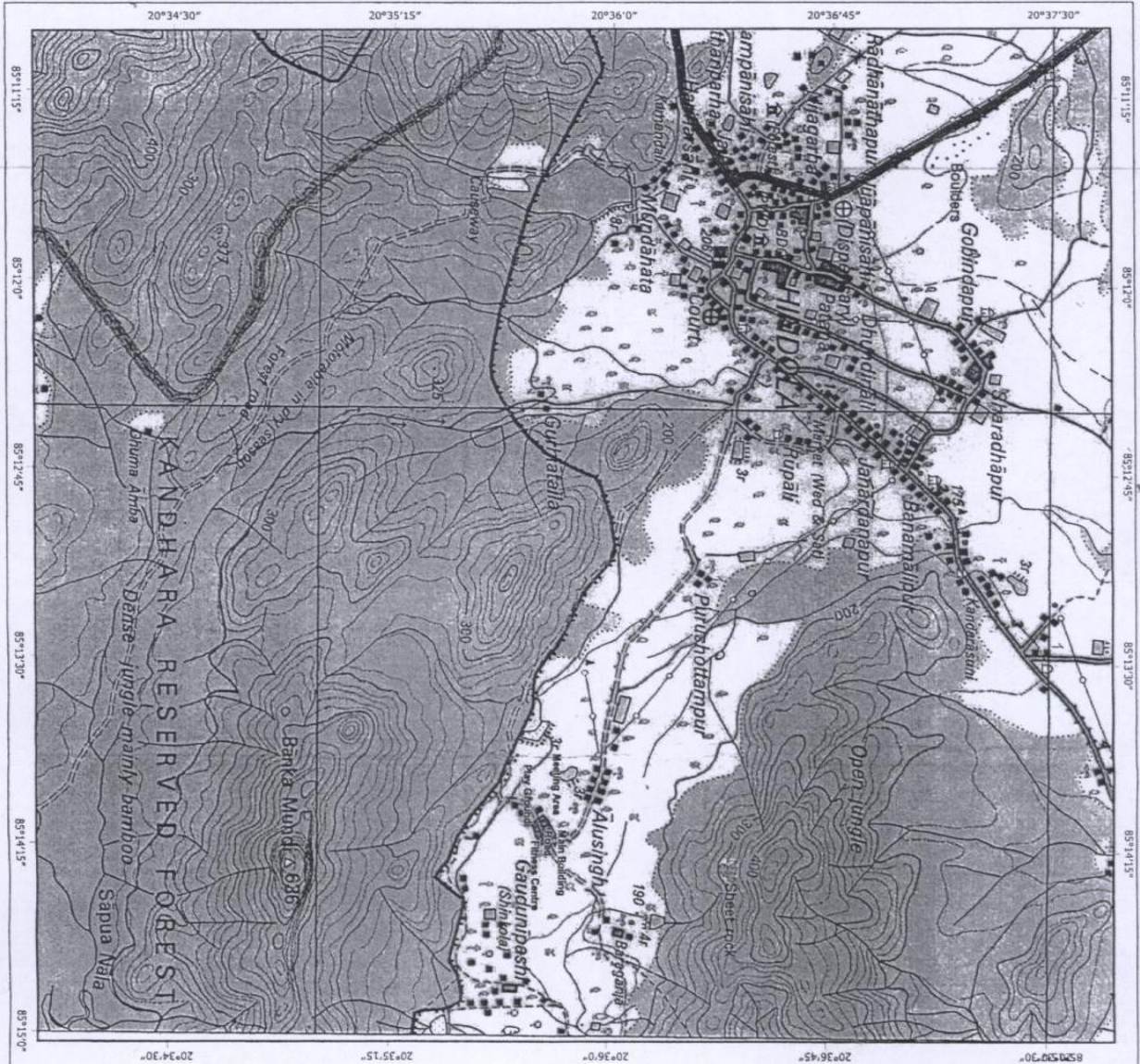
Date:

Place:

Serial No. of the proposal _____

(to be filled by the Lange Forest Officer with date of receipt)

SAMPLE



Project Area Map of Community Centre in Village Alushingh depicted on Survey of India Topo Sheet No - F45T2

Scale : 1:25,000

Legend

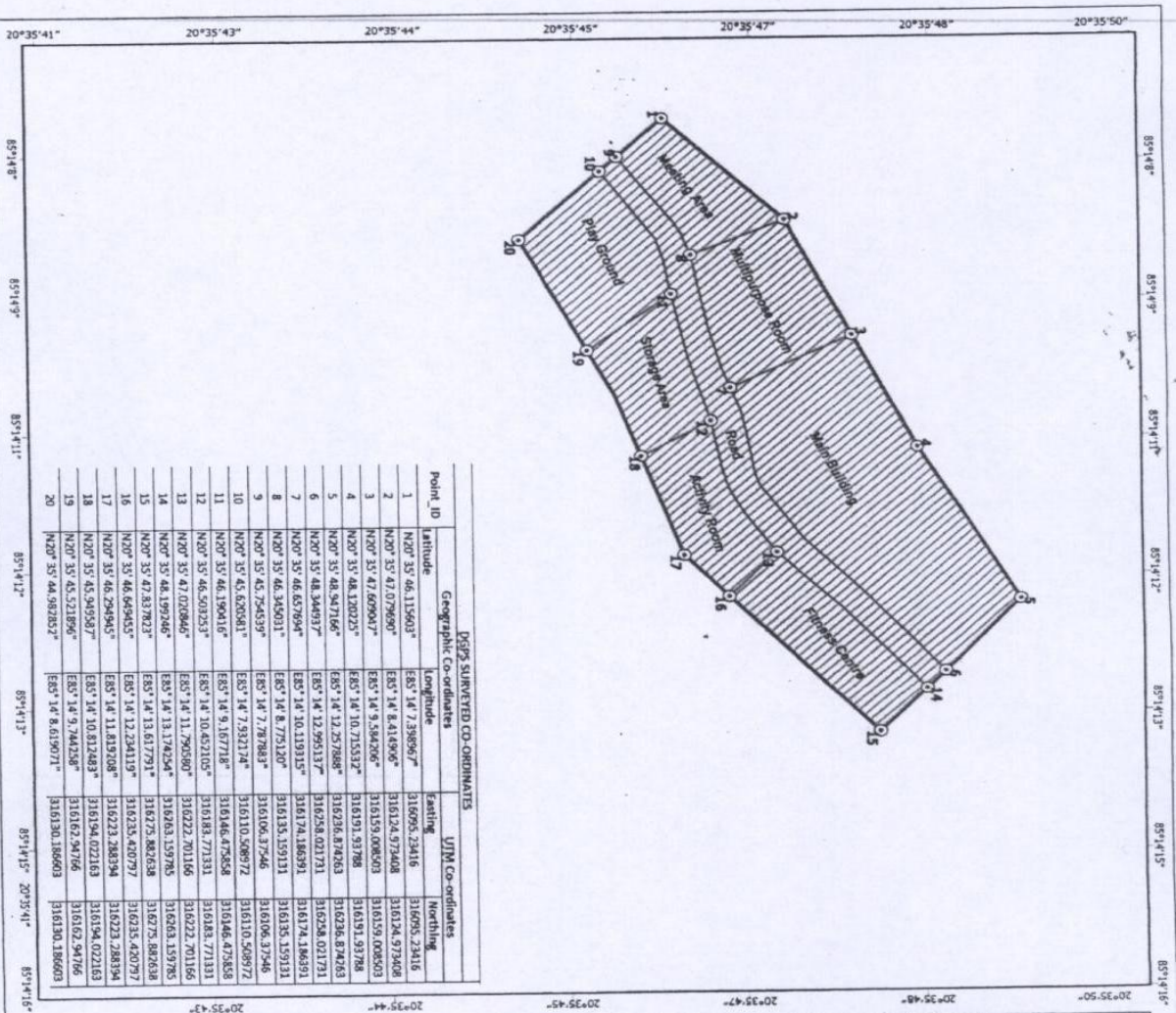
- Community Centre

SAMPLE

Spatial Planning And Analysis Research Centre Pvt. Ltd.

Land Schedule						
Sl.No.	Name of the Village	Khata No.	Plot No.	Kissam	Purpose	Area (In Ha)
1	Alusingh	106	118	Jungle Dui	Main Building	0.318
2					Multipurpose Room	0.113
3					Fitness Centre	0.094
4					Meeting Area	0.071
5					Playground	0.107
6					Storage Area	0.076
7					Activity Room	0.079
8					Road	0.122
Total						0.98

SAMPLE



DEFS SURVEYED CO-ORDINATES

Point ID	Geographic Co-ordinates		UTM Co-ordinates	
	Latitude	Longitude	Easting	Northing
1	N20° 35' 06.115603"	E85° 14' 7.398967"	316095.23416	316095.23416
2	N20° 35' 47.079890"	E85° 14' 8.414966"	316124.973408	316124.973408
3	N20° 35' 47.669947"	E85° 14' 9.584266"	316159.008603	316159.008603
4	N20° 35' 48.120225"	E85° 14' 10.715337"	316191.93788	316191.93788
5	N20° 35' 48.347166"	E85° 14' 12.257888"	316236.874263	316236.874263
6	N20° 35' 48.344937"	E85° 14' 12.995137"	316258.021731	316258.021731
7	N20° 35' 48.637094"	E85° 14' 10.19115"	316174.186991	316174.186991
8	N20° 35' 46.345031"	E85° 14' 8.775120"	316135.159131	316135.159131
9	N20° 35' 45.754539"	E85° 14' 7.787883"	316106.37246	316106.37246
10	N20° 35' 45.620841"	E85° 14' 7.932174"	316110.508972	316110.508972
11	N20° 35' 46.190416"	E85° 14' 9.167718"	316146.475858	316146.475858
12	N20° 35' 46.502653"	E85° 14' 10.627105"	316183.77131	316183.77131
13	N20° 35' 47.020646"	E85° 14' 11.796580"	316222.701166	316222.701166
14	N20° 35' 46.199246"	E85° 14' 13.174254"	316263.159785	316263.159785
15	N20° 35' 47.387823"	E85° 14' 13.617791"	316275.882638	316275.882638
16	N20° 35' 46.664945"	E85° 14' 12.224119"	316235.420797	316235.420797
17	N20° 35' 46.294945"	E85° 14' 11.619108"	316223.288394	316223.288394
18	N20° 35' 45.940587"	E85° 14' 10.612483"	316194.022169	316194.022169
19	N20° 35' 45.521896"	E85° 14' 9.744258"	316162.947166	316162.947166
20	N20° 35' 44.982827"	E85° 14' 8.619071"	316130.186603	316130.186603

Geo-referenced map showing Co-ordinates and boundary of forest area proposed to be diverted for community centre in village Alushingh, Tahasil Hiridol, Dhenkanal Forest Division, Dist- Dhenkanal, Odisha.

Legend

- Pillar Co-ordinates
- ▭ Proposed forest Plot Boundary

Scale 1:1,000

0.1 0 0.1 km

Area Statement

Village Name	Plot No	Hectare
Alushingh	Plot-1	0.98

SAMPLE

Spatial Planning And Analysis Research Centre Pvt. Ltd.

FORM-B
[See Para. 2.2 (iv)]

(To be filled up by the concerned Range Forest Officer)

Serial No. of proposal _____

1. Location of the project / Scheme:

- (i) State / Union Territory
- (ii) District
- (iii) Forest Division
- (iv) Proposed forest land (s) (two options to be indicated)
 - i. Location - Survey No./Compartment No.
 - ii. Extent of the area (in hectare)
- (v) Whether part of biosphere reserve, tiger reserve, elephant corridor, etc..

2. Site inspection report (to be attached), containing the date of visit, and justified opinion on the acceptability of the proposal (separately for the two options).

3. Specific recommendation of the Range Forest Officer for acceptance or otherwise of the proposal and the better option.

Signature of the RFO Name

Official seal

Date: _____

Place: _____

Accepted / Not accepted
with reasons to be recorded

Signature of the DFO

Name _____

Official seal

Date: _____

Place: _____

SAMPLE