

# **CHAPTER–II**

## **Planning**



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### Planning

#### Introduction

**2.1** In the context of land acquisition and allotment functions executed by NOIDA, planning plays a crucial role. The allocation of acquired land in the notified development area has to be planned and executed in sync with the approved land use and other related development guidelines. After the land is acquired, micro planning of the sector level development is an essential activity to carry out various development activities in pursuance of allotment. The Industrial Development Authority must have the macro plan of the broad development framework in its Master Plans (MPs) showing various land uses within the notified development area.

#### Context of development in National Capital Region

**2.2** The development area of NOIDA falls within the ambit of the National Capital Region (NCR); therefore, it is bound to follow the provisions of the statutes enacted and applicable for the development of NCR.

The National Capital Region Planning Board (NCRPB) Act, 1985 was enacted by the Government of India (GoI) with the objective of providing for the constitution of a Planning Board<sup>1</sup> for the preparation of a plan for the development of NCR<sup>2</sup> and for co-ordinating and monitoring the policies for the control of land-uses and development of infrastructure in NCR so as to avoid any haphazard development of the region and for matters connected therewith or incidental thereto. As per Section 7 of the NCRPB Act, 1985, NCRPB was required to prepare the Regional Plan (RP) and ensure preparation of Sub-regional Plans (SRP) by the participating states. The implementation of provisions of this Act was incumbent upon its Board which also consisted of Chief Ministers of constituent states.

Section 10(2)(a) of the NCRPB Act provides that the RP shall indicate the policy in relation to land use and the allocation of land for different uses. Therefore, the RP translates broad planning policies and proposals into physical (spatial) form to illustrate the manner in which the land in NCR is to be used for various purposes. However, the detailed specific reservation of areas for various land uses of sub-regional and urban importance will be detailed out in SRP and MPs<sup>3</sup> which are to be prepared by the respective

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<sup>1</sup> NCRPB consists of Union Minister of State (Independent Charge), Housing And Urban Affairs as Chairman and Chief Minister of Haryana, Chief Minister of Rajasthan, Chief Minister of Uttar Pradesh, Lieutenant Governor, National Capital Territory of Delhi, Chief Minister of NCT-Delhi, Minister of Urban Development, Government of Rajasthan, Minister of Urban Development, Government of Uttar Pradesh, Chairman, Railway Board, Secretary, Ministry of Road Transport and Highways, Secretary, Ministry of Housing And Urban Affairs, Chief Secretary, Government of Haryana, Chief Secretary, Government of Rajasthan, Chief Secretary, Government of Uttar Pradesh, Chief Secretary, Government of NCT-Delhi, Principal Secretary, Town & Country Planning Department, Government of Haryana, Member Secretary, National Capital Region Planning Board, Secretary, Ministry of Environment, Forest and Climate Change and Chief Planner, Town and Country Planning Organisation, Government of India as members as of January 2021.

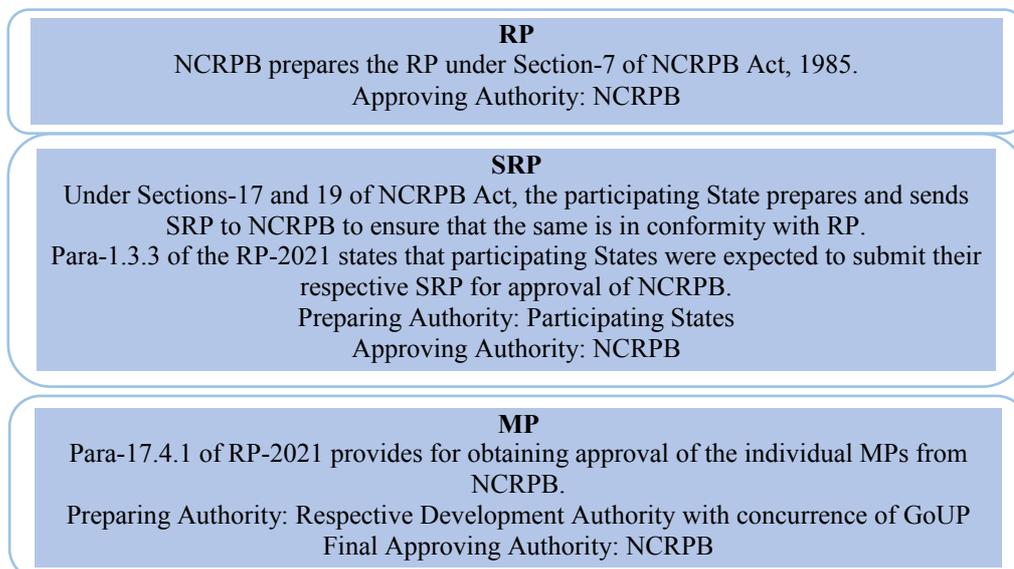
<sup>2</sup> NCR's constituent area includes Gautam Budh Nagar (NOIDA).

<sup>3</sup> SRP encompasses the five districts of Uttar Pradesh while MP is specific for NOIDA.

participating States within the overall framework of the RP (para 17.1.1 of RP 2021).

The hierarchy of RP, SRP and MP is shown diagrammatically in **Chart 2.1**.

**Chart 2.1: Chart showing hierarchy of RP, SRP and MP**

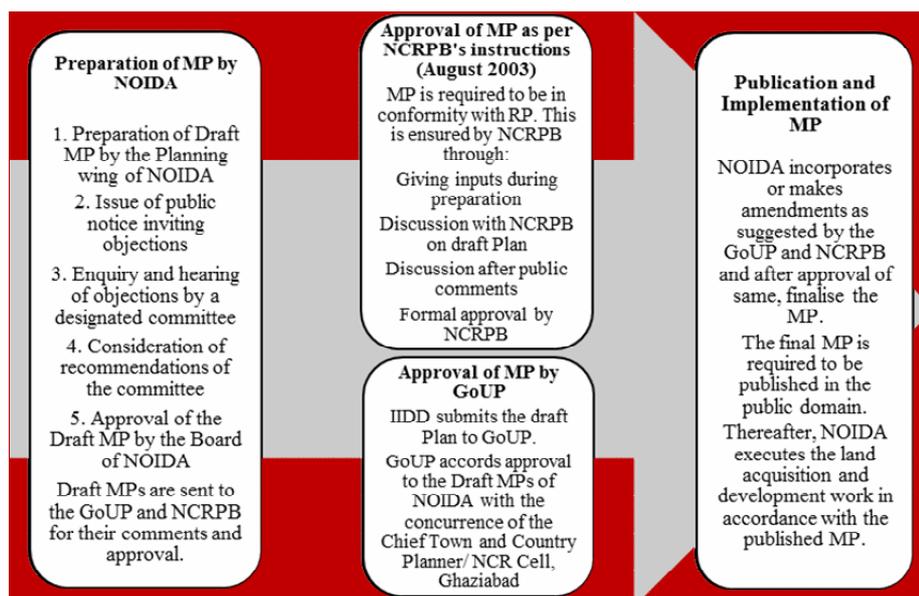


**Process of Finalisation of Master Plan**

**2.3** Existence of an MP for development of the notified area is an essential pre-condition for initiating the process of land acquisition and development in NCR. An MP<sup>4</sup> is a development plan, which has to be prepared by NOIDA in conformity with the RP and got duly approved by Government of Uttar Pradesh (GoUP) and NCRPB.

The process of finalisation of the MP has been diagrammatically depicted in **Chart 2.2**.

**Chart 2.2: Process of finalisation of Master Plan**



*Source: MP of NOIDA and Information furnished by NOIDA.*

<sup>4</sup> Section 2(i) of the NOIDA (Preparation and finalization of Plan) Regulations, 2010 provide that ‘Plan’ means the Master Plan prepared by the Authority for development of Industrial Development Area under Section 6(2) of the Act, within the meaning of the Act.

From the stipulations laid down in the RP- 2021 and the instructions issued by NCRPB (August 2003), it was evident that NCRPB was to be consulted at all stages of preparation of the MP and the approval of the MP was to be accorded by NCRPB.

### ***NOIDA (Preparation and Finalisation of Plan) Regulations***

**2.3.1** For the preparation of MP-2021, NOIDA was guided by NOIDA (Preparation and Finalisation of Plan) Regulations, 1991<sup>5</sup> (Plan Regulations, 1991) which were approved by GoUP. The objective of these Regulations was proper planning and development of NOIDA.

Thus, macro planning in NOIDA involves its conceptualisation in conformity with the RP with the dominant objective of development of the industrial development area.

### **Scope of Audit**

**2.4** During the audit period 2005-2018, two MPs viz. MP-2021 and MP-2031 were prepared by NOIDA. Audit analysed both the MPs for their consistency with the RP- 2021 along with status of their approval by GoUP and NCRPB. In this context the amendments to Plan Regulations were also analysed. The micro planning aspects are discussed in the respective allotment chapters (Chapter V) and macro planning aspects are discussed in the succeeding **Paragraphs 2.6, 2.7 and 2.8.**

### **Audit Findings**

**2.5** The audit findings, as a result of analysis of the RP and MPs have been classified as under:

- Preparation and implementation of MPs without approval (discussed in Paragraphs 2.6 to 2.6.2).
- Greater discretion with changes in Plan Regulations; (discussed in Paragraphs 2.7 to 2.7.3).
- Substantial revision/changes in land use over time (discussed in Paragraphs 2.8 to 2.8.5).

### **Preparation and implementation of MPs without approval**

**2.6** RP indicates the broad planning policies and proposals in relation to land use and the allocation of land for different uses in NCR. The MP is subservient to the RP and thereafter, in order of hierarchy, to the SRP of the State. These serve as a guidance for formulation of the MP. Accordingly, the MPs prepared by NOIDA were required to be in accordance with the RP-2021, notified by NCRPB on 03 October 2005.

The preparation of MPs by NOIDA during the audit period 2005-2018 was evaluated in light of stipulations laid down by NCRPB in RP 2021, the provisions of the NCRPB Act in respect of RP and SRP and the position laid down by the Hon'ble Supreme Court and High Court through their judgements in the matter as detailed below:

<sup>5</sup> Gazette Notification No. Bha. U./18-11-44-(N)-85, dated 12th April, 1991.

### **Master Plan**

Paragraph 17.4.1 of RP-2021 provides that no development in the controlled/development/regulated zones can be undertaken except in accordance with the Master/Development Plans for the respective controlled areas approved by the Board and duly notified by the State Government under their respective Acts.

### **Judicial pronouncements**

The Hon’ble Supreme Court in its judgment<sup>6</sup> (31 March 1994) observed that *the overriding effect of the Act by virtue of Section 27 and total prohibition of any activity of development in violation of the finally published RP provided in Section 29 of the Act is sufficient to indicate that any claim inconsistent with the finally published RP in the area cannot be sustained on any ground.*

The Hon’ble Allahabad High Court in its judgement<sup>7</sup> of 01 October 1996 stated that *one stipulation is inescapable that unless the NCRPB gives the green signal nothing can go ahead. The necessary implication of this is also that at every stage in reference to the plans, aforesaid, each constituent State, a part of the NCR Plan, has to keep a close consultation with the federal agency which is the Board (NCRPB).*

The Hon’ble High Court, Allahabad in its judgement 1998 elaborated that ‘... *land uses cannot be changed except with the tacit permission and close scrutiny of the NCRPB.*

*Whatever development is permissible must be strictly monitored under the National Capital Region Plan Act, 1985 by the authorities named and constituted under it*<sup>8</sup>.

Section-27 of NCRPB Act provides for the overriding effect of the provisions of this Act over the inconsistency in any law, instrument or any decree or order of any court, tribunal or other authority with regard to any development work being undertaken by any State Government in NCR. Section 29 of the Act clearly states that once the NCRPB publishes its RP for NCR, no development shall be made in the Region which is inconsistent with RP. It also empowers the NCRPB to direct the concerned participating State to stop such violation of RP by giving a notice in writing. Further, the Hon’ble Supreme Court in its judgment (31 March 1994) also reaffirmed the overriding effect of Sections- 27 and 29.

As per the provisions of Section-27 read with Section-29 of NCRPB Act and Para-17.4.1 of the RP-2021<sup>9</sup>, it was mandatory for NOIDA to prepare the MP(s) in conformity with RP-2021.

On analysis of the MP 2021 and 2031 prepared by NOIDA, Audit observed the following shortcomings in preparation of the same.

<sup>6</sup> Judgement dated 31.03.1994, AIR 2263, 1994 SCC (4) 42.

<sup>7</sup> Civil Misc. Petition No. 26737 of 1993 of GDA vs Delhi Auto and General Finance Pvt Ltd.

<sup>8</sup> Judgement dated 18.12.1998 in the Civil Misc. Petition No.13899 of 1998.

<sup>9</sup> No development in the controlled/development/regulated zones can be undertaken except in accordance with the Master/Development Plans for the respective controlled areas approved by the Board and duly notified by the State Governments under their respective Acts.

**NCRPB did not approve NOIDA's MP 2021 and raised objections on it.**

### ***MP-2021 not approved by NCRPB***

**2.6.1** The MP of NOIDA for the period 2006-2021 (MP-2021) was prepared in accordance with NOIDA (Preparation and Finalisation of Plan) Regulations, 1991 and approved by the Board of NOIDA on 09 September 2005. MP 2021 envisaged a population of 12 lakh of NOIDA for which land development of 14,964 hectare was proposed. Considering the position of March 2005 of population of 5.50 lakh of NOIDA and already developed area of 7,191 hectares, development targets were fixed for three phases. In the first phase, development of 9,714 hectare for population of eight lakh up to 2011, in the second phase, development of 12,237 hectare for population of 10 lakh up to 2016 and in the third phase, development of 14,964 hectare for population of 12 lakh up to 2021 was targeted.

MP 2021 was approved by the State Government on 31 August 2006 with the condition that the approval of NCRPB should be ensured before the plan was made applicable.

Audit observed that the MP was sent (31 August 2006) to NCRPB which communicated (08 January 2007) 37 objections<sup>10</sup> on which the responses of NOIDA were communicated (19 February 2007) to NCRPB along with a revised draft. NCRPB conveyed (08 January 2008) five observations on the revised draft to NOIDA. The major issues pointed out by NCRPB were preparation of Disaster Management Plan, undertaking planning according to higher population density, creation of a green buffer between NOIDA and GNIDA, increasing the allocation to commercial and recreational land uses and creating a green buffer between industrial and residential areas. In view of the above observations of NCRPB, NOIDA decided (in the 169<sup>th</sup> meeting of its Board held on 28 April 2010) to revise the plan for the Perspective Year 2031, despite provision of the NCRPB Act and RP for preparation of the MP within the overall framework of the RP.

In its reply, NOIDA stated (August 2020) that after making amendments, a revised MP 2021 was submitted to NCRPB on which five suggestions were made. One of the suggestions was to increase the population density from 80 persons per hectare to 150-200 persons per hectare for population of 25 lakh upto 2021 and preparing a MP for the same was a difficult task. Moreover, infrastructure facilities for such a population could not have been fully utilised as of 2021. Accordingly, it was considered suitable to revise the MP 2021 to the MP 2031.

From the reply of NOIDA, it is evident that the MP 2031 was initiated in absence of approval of MP 2021 by NCRPB. Hence the fact remains that MP 2021 was not approved and MP 2031 was initiated, whereas the overarching RP and SRP were prepared only upto 2021.

### ***Implementation of Master Plan 2031 without considering objections of Chief Town and Country Planner/NCRPB***

**2.6.2** The Master Plan of NOIDA for the period upto 2031 (MP-2031) was prepared in accordance with NOIDA (Preparation and Finalisation of Plan)

<sup>10</sup> On demography and settlement pattern (4), economic activities (1), transport (12), physical infrastructure (1), water supply (1), drainage & sewerage (1), solid waste disposal (1), sewage treatment (1), social infrastructure (4) and land use (11).

**In absence of approval of MP 2021, NOIDA initiated MP 2031 without the corresponding RP or SRP. Approval of NCRPB has not been obtained for MP 2031.**

Regulations, 2010 (Plan Regulations 2010)<sup>11</sup> and approved by the Board of NOIDA on 29 March 2011. MP-2031 envisaged a population of 25 lakh by 2031 for which land development of 15,280 hectare was proposed. It was envisaged to reduce the number of sub-zones<sup>12</sup> from 33 to 15 by removing the sub-zones which were not required. Accordingly zoning regulations considering different activities under prescribed land use were prepared. MP 2031 *inter alia* proposed land uses under Mixed Land Use, Recreational Land Use, Support Facilities under main activities and development of embankment areas.

MP-2031 was sent (18 May 2011) to NCRPB, which in turn, communicated (8 August 2011) 20 observations<sup>13</sup> on MP-2031, of which only three observations<sup>14</sup> were addressed in the revised draft and assurances/replies were furnished for the rest. The Chief Town and Country Planner (CTCP) under the Housing and Urban Planning Department (HUPD) of GoUP, on a reference made by the State Government (June 2011), also made (September 2011) four recommendations which were to be incorporated in MP-2031.

Audit observed that the State Government accorded (29 September 2011) its ‘No Objection’ to MP-2031 with the condition that the suggestions given by NCRPB and the CTCP will be acted upon and accordingly communicated to them. Even though RP (paragraph 17.4.1) stipulated prior approval of MP by NCRPB, conditional approval was accorded by the State Government.

Thus, it may be concluded that even though MP-2021 was replaced with MP 2031 to overcome various deficiencies but the latter also failed to address the issues raised by CTCP and NCRPB.

In its reply, NOIDA stated (August 2020) that amendments to MP-2031 were made as per NCRPB’s observations and a revised draft was submitted (01 September 2011) to NCRPB, which has not communicated any further deficiencies. NOIDA further stated that a meeting was held (08 September 2011) wherein representatives of GoUP, NOIDA, CTCP and NCRPB were given a presentation of MP-2031 and important issues related to it were discussed. In the said meeting, no observations were raised by NCRPB from which their approval is assumed. Based on this, the no-objection was given by the Government. Further proceedings to execute the suggestions of NCRPB and CTCP are underway.

From the reply of NOIDA, it is evident that the requisite formal approval of the MP-2031 has not been received as yet from NCRPB as envisaged in paragraph 17.4.1 of the RP. Rather, in absence of further observations from NCRPB, approval has been assumed by NOIDA. Conditional No Objection has been received from GoUP pending compliance with NCRPB’s and CTCP’s observations and based on the same, implementation of MP-2031 has been initiated.

Thus, it may be concluded that NOIDA implemented MP-2031 without corresponding RP in spite of directions of Hon’ble Supreme Court and

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<sup>11</sup> Notification No. 1422/77-4-10-44-(N)-85, dated 30 July, 2010, published in the U.P. Gazette, dated 31 July, 2010.

<sup>12</sup> Sub-zone denotes sub-category of activities under major land use zones.

<sup>13</sup> Land Use related (6), Demography related (4), Water Supply (2), Transport (7), Disaster Management Plan (1).

<sup>14</sup> On land use map, population density and population projection.

Hon'ble High Court, Allahabad that unless NCRPB gives the green signal nothing can go ahead. In this regard it is pertinent to mention that MP-2021 of GNIDA was expressly approved (August 2012) by NCRPB. The steps taken by NOIDA for implementation of MP-2031 in absence of a RP- 2031, could have unintended implications at a later date for the coordinated development of NCR.

### Greater discretion with changes in Plan Regulations

2.7 Plan Regulations, 1991 served as the guiding principle for proper planning and development of the area in NOIDA. NOIDA had prepared MP-2021 in accordance with these Regulations. These Regulations were amended in February 2010 (First Amendment<sup>15</sup>). The only amendment made was of Section 5 whereby the time period for sending objections and suggestions to NOIDA on the draft plan was reduced from not earlier than 30 days to 15 days.

Thereafter, in July 2010 the Regulations were again revised<sup>16</sup> and NOIDA (Preparation and Finalisation of Plan) (Second Amendment) Regulations, 2010 (Plan Regulations, 2010) were approved and notified<sup>17</sup> by GoUP wherein major amendments were made in Sections 2, 4 and 11 of the Plan Regulations, 1991. The stated reason (in 169<sup>th</sup> Board meeting of NOIDA) for amendments was to carry out changes to MPs in view of changing circumstances and requirements. These amendments are discussed in the following paragraphs:

#### *Exclusion of defined activities under different categories*

2.7.1 The changes made in Section 2 relating to definitions of various categories viz. Agriculture use, Commercial use, Industrial use, Institutional use, Plan are detailed in **Table 2.1**.

**Table 2.1: Changes made in Section 2 relating to definitions of various categories**

Plan Regulations, 1991	Plan Regulations, 2010
<p><b>Section 2. Definitions:</b></p> <p>‘Agriculture use’ means the use of land or any part thereof for farming, horticulture, piggery, fishery, poultry farming, sericulture and all legitimate uses incidental thereto;</p> <p>‘Commercial use’ means the use of any land or building of part thereof for carrying on any trade, business or profession, sale of goods of any type, whatsoever and includes private hospitals, nursing homes, hostels, hotels, restaurants, boarding house not attached to any educational institution, consultant offices in any field, cottage and service industries.</p> <p>‘Industrial use’ means the use of any land or building or part thereof mainly for location of industries and other incidental use such as offices, eatable, establishment etc. carrying out any activities.</p>	<p><b>Definitions:</b></p> <p>‘Agriculture use’ means the use as defined in the Plan as may be approved in accordance with the Act<sup>18</sup> and these Regulations;</p> <p>‘Commercial use’ means the use as defined in the Plan as may be approved in accordance with the Act and these Regulations.</p> <p>‘Industrial use’ means the use as defined in the Plan as may be approved in accordance with the Act and these Regulations;</p>

<sup>15</sup> Notified vide GoUP notification no. 49/77-4-10-44 N/85 dated 18.02.2010.

<sup>16</sup> Revisions to Sections 2, 3, 4, 5, 6, 8, 9, 10 and 11.

<sup>17</sup> Notified vide GoUP notification no. 1422/77-4-10-44 N/85 dated 30.07.2010.

<sup>18</sup> UP Industrial Area Development Act, 1976.

Specific definitions for respective land use categories as given in the Plan Regulations, 1991 were substituted with very general definitions/clauses in the Plan Regulations, 2010.

<b>Plan Regulations, 1991</b>	<b>Plan Regulations, 2010</b>
‘Institutional use’ means the use of any land/building or part thereof for carrying on any activities like testing, research, demonstration etc. for the betterment of the society and it includes educational institutions.	‘Institutional use’ means the use as defined in the Plan as may be approved in accordance with the Act and these Regulations;
‘Plan’ means the plan prepared by the Authority for the development of Industrial Development Area under sub-Section (2) of Section 6 of the Act, and it includes Sector Plan.	‘Plan’ means the Master Plan prepared by the Authority for the development of Industrial Development Area under sub-Section (2) of Section 6 of the Act, within the meaning of the Act.

Audit observed that specific definitions for respective land use categories as given in the Plan Regulations, 1991 were substituted with very general definitions/clauses in the Plan Regulations, 2010.

***Weakening provisions for systematic regulations of land use area***

**2.7.2** Section 4 (1) of the Regulations deals with sector<sup>19</sup> plans for carrying out development activities, land use by allocating different activities and systematic Regulations of each land use area. The comparative changes in Plan Regulations are detailed in **Table 2.2**.

**Table 2.2: Comparative changes in Plan Regulation**

<b>Plan Regulations, 1991</b>	<b>Plan Regulations, 2010</b>
<b>Section 4(1) (a)</b> - The Plan may include Sector Plans showing various sectors into which the Industrial Development Area or part thereof may be divided for the purpose of development.	The Plan may include various sectors into which the Industrial Development Area or part thereof may be divided for the purpose of development
<b>Section 4(1) (b)</b> - The Plan will show the various existing and proposed land uses indicating the most desirable utilisation of land for different uses allocating different activities.	The Plan will show the various existing and proposed land uses indicating the most desirable utilisation of land for different uses.
<b>Section 4(1) (e)</b> - The Plan may include Housing Plan consisting of estimates of housing requirement and proposals regarding standard type of new housing units.	Proposals regarding Housing.
<b>Section 4(1) (h)</b> - Systematic regulation of each land use area, allocation of heights, number of stories, size and number of buildings, size of yards and other open spaces and the use of land and building.	Omitted.

Audit observed that the above amendments allowed NOIDA to prepare MP-2031 without specifying the particular activities to be performed in a sector. The requirement for detailed specifications of various land uses was dispensed with through this amendment, whereby the requirements from the plan became less stringent.

<sup>19</sup> Sector is an earmarked development area demarcated in terms of geographical location and area.

***Omission of provision relating to extent of land use and standards of population density***

**Amendment to Plan Regulations in 2010 enabled NOIDA to make such changes which relate to extent of land use or standards of population density.**

**2.7.3** Section 11 of the Regulations deals with the amendments related to important alterations in the character of the Plan, extent of land use and standards of population density. The comparison of the changes in the Regulations are detailed in **Table 2.3**.

**Table 2.3: Details of changes in Regulations**

Plan Regulations 1991	Plan Regulations 2010
<b>Section 11 (4)</b> - NOIDA shall not make during the specified period in which the Plan is to remain effective, such amendment(s) in the Plan which affects the important alteration in the character of the Plan and which relates to the extent of the land use or standards of population density.	Omitted. <b>Section 12<sup>20</sup></b> - Sector Layout Plan: The Chief Executive Officer shall be competent to approve the layout plan prepared for the sector or a part of the sector or scheme. Any amendment in the layout plan of a sector or a scheme shall duly be approved by the Chief Executive Officer (CEO). If such amendment involved the change in the area of a sector and/or inter-sector changes in the location of public parks and/or green belts, it shall be done in accordance of the procedure laid down in sub-Section (2) of Regulation 11.

Audit observed that the Plan Regulations, 1991 restricted NOIDA from making such amendments which affected important alterations in the character of the plan and which related to the extent of land use or standards of population density but it was substituted in the Plan Regulations, 2010 by authorising NOIDA to make such amendments as it thought fit and making changes to land use with the permission of the State Government.

Thus, the major provisions had been diluted during the period February 2010 to July 2010 by substituting or omitting the clauses with undefined activities under different uses, important alterations in the character of the plan etc. The amendments in the Plan Regulations were also approved by GoUP. These amendments empowered NOIDA to amend the character of the MP, conferred greater discretion and reduced the requirements for detailed disclosure in the MPs. Consequently, land use conversions were regularised by introducing various activities *viz.* sports city and mixed land use, schemes not interrelated with the core objective of NOIDA were launched and various non-permitted activities in agriculture use, institutional use, industrial use and commercial use were permitted causing loss to NOIDA (as discussed in detail in relevant chapters).

In its reply, NOIDA stated (August/September 2020) that development of urban areas is a complex and dynamic process which requires continuous modifications and which cannot be carried on a static framework. The Regulations of 1991 were accordingly amended in 2010 with the approval of the Government. NOIDA MP-2031 includes Zoning Regulation and Development Codes in Chapter 7 wherein categories and sub-categories of land use are defined. Specifying the core activity and support activity for major activities has improved transparency and strengthened the process. Further, in respect of amendment of Section 11, NOIDA stated that no additional powers had been provided to CEO for making amendments to MP.

<sup>20</sup> Inserted in Plan Regulations, 2010

The reply of NOIDA citing transformations as the reasons for amendments in regulations is not acceptable as the amendments made in the Regulations modified the basic premises on which planning is done. Additionally, the stated reasons, as discussed in the Board meeting, were absence of provisions for changes to MP, change of land use and population density (Section 11). The specific definitions for land uses were swapped with very general clauses (Section 2), the requirement for detailed specification for land uses were dispensed with (Section 4) and NOIDA was empowered to make such changes to the MP as it deemed fit (Section 11). These changes have effected dilution to the restrictive covenants which regulated the planning process. Further, the reply of NOIDA describes the features included in MP-2031 which was prepared in accordance with the revised Plan Regulations 2010. The regulations are at a higher pedestal as they guide the Authority in preparation of MP. Dilution of Plan Regulations and then specifying activities in MP reverses the order of things. These dilutions are to the overarching framework and not specific to any MP. While there may be some merit in the argument that the changes are necessitated with the developments over time, Audit findings as brought out in this Report corroborate that dilutions made in the regulations have resulted in NOIDA including commercial activities in industrial and recreational categories which resulted in allotments being made at reduced rates and consequential loss of revenue (as discussed in chapters on allotment of Industrial properties and Sports City).

In the exit conference (30 September 2020), Additional Chief Secretary, Infrastructure and Industrial Development Department (IIDD), acknowledging the need for a review in the matter, directed CEO, NOIDA to compare the approved regulations of NOIDA and GNIDA. He stated that wherever a case for strengthening the regulations in NOIDA was necessary that would be done after such a review.

### **Substantial revision/changes in land use over time**

**2.8** The Industrial Development Authorities have the mandate to develop industrial townships with ancillary objectives of developing residential, commercial and institutional areas. Thus, accordingly priority should have been accorded to allocation of land for industrial purposes. Consequent to amendments to the Regulations, NOIDA was empowered to make various changes in land use. NOIDA, instead of focusing on industrial areas, focused on developing residential and commercial areas in different land uses, which is discussed in the ensuing paragraphs.

#### ***Large scale land use conversions in NOIDA***

**2.8.1** In NOIDA, large scale land conversions were carried out during the period March 2008 to June 2010 after the approval of MP-2021 by GoUP in August 2006. The proposals for land use conversion were to be sent to the State Government as well as to NCRPB for its approval.

Audit observed that NOIDA sent the proposals for conversion of land use to the State Government only. No proposals were forwarded to NCRPB for its approval even though the U.P. Government order of 23 September 1997 provided for that. Instead, the land use conversions, which affected the zoning Regulations, were made applicable without approval of NCRPB. Large scale conversions were carried out in areas marked as green (573 hectare). Further, to legitimise these land use conversions, MP was revised for the perspective

year 2031 in which all these land conversions carried out since 31 August 2006 (the date on which MP-2021 was approved by GoUP) to the date of approval (29 September 2011) of MP-2031, were incorporated.

Thus, MP-2031, accommodated the earlier changes made in land use conversions which resulted in regularisation of unauthorised conversions.

In its reply, NOIDA stated (August 2020) that all land use conversions were duly approved by the Board and thereafter by GoUP.

The reply of NOIDA is not acceptable as the requirement for NCRPB's approval has been settled in judgements by the Hon'ble Supreme Court and High Court wherein it was held that there was a total prohibition of any activity of development in violation of RP and unless the NCRPB gives the green signal, nothing is to go ahead.

### ***Diversion of industrial land to other uses***

**2.8.2** NOIDA earmarked 1,050 hectare of industrial land for establishment of Special Economic Zone (SEZ) in compliance of the revised SEZ Policy (04 August 2006) of GoUP which consisted of processing and non-processing areas. Subsequently, 50 *per cent* of the area *viz.* 525 hectare was retained as industrial and land use of remaining 525 hectare was changed to residential, institutional and commercial on the ground that as per SEZ Policy these activities were permitted in the non-processing area. This change was approved by GoUP on 04 April 2016 on the condition that there should be no violation of the directions of NCRPB with these changes and also that NOIDA will ensure that area for industrial use is not reduced from the 18.37 *per cent* proposed in MP-2031.

Audit observed that the basic premise on which the land use change was proposed was incorrect as formal approval of GOI was to be obtained for notifying the area as SEZ. As no formal approval for the SEZ was granted, the entire area remained under industrial use only and any conversion on the pretext of utilisation of non-processing area should not have been permitted. Further with this land use conversion, industrial area proposed in MP-2031 was also reduced to less than 15 *per cent* from the initially planned area of 18.37 *per cent* and was in contravention of GoUP directions.

In its reply, NOIDA stated (August 2020) that though land use of non-processing areas was changed, there was no reduction in area under SEZ.

The reply of NOIDA is not acceptable as in the absence of approval of SEZ, the area remained under industrial category and as such the conversion of 50 *per cent* area has effectively reduced the total allocation to industrial category.

### ***Mixed land use***

**2.8.3** The concept of mixed land use on industrial plot was introduced in MP-2031 and the policy for the same was approved on 19 November 2013. Under the policy, the use of industrial plot for commercial use was partially allowed.

Audit observed that the concept of mixed land use was introduced in MP-2031 without obtaining prior approval of such use by NCRPB. The Policy was formulated considering the Urban Housing and Habitat Policy 2014 whereas NOIDA was regulated by "Infrastructure and Industrial Investment Policy

**525 hectare Industrial land of proposed SEZ was changed to residential, commercial and institutional uses, even though the SEZ was not approved by the Government.**

**Auto showrooms, museums and art galleries were permitted on Industrial plots under Mixed Land Use Policy.**

2012”. Under the mixed land use policy NOIDA allowed 25 per cent of permissible industrial area for non-industrial purposes i.e. Auto show rooms, art galleries and museums. The basic objective of NOIDA was to promote industrialisation but allowing commercial activity in industrial areas not only led to debilitating its main objective but also the ancillary functions of employment generation, planned development of other categories in conjunction with its major objective etc.

Thus, the policy of mixed land use was without approval of NCRPB and the resultant reduction in industrial allocation was also contrary to NOIDA’s objective of industrial development.

In its reply, NOIDA stated (August 2020) that its policy of mixed land use was necessitated by actual requirements and is approved by GoUP. NOIDA was fully authorised to implement such policy. This Policy was introduced in MP- 2021 wherein residential, commercial and institutional uses were planned on allotted properties on major roads. It was stated that the format of MP-2031 was sent to NCRPB for suggestions and the suggestions received from NCRPB did not include any remark on mixed land use which shows that NCRPB was in agreement with mixed land use policy.

The reply of NOIDA itself confirms that under mixed land use policy residential, commercial and institutional uses were planned on allotted properties on major roads in MP-2021. However, NOIDA has implemented this policy for regularising the commercial establishments on industrial plots, which was irregular. Further, the reply of NOIDA that NCRPB was in agreement with the mixed land use policy is also not acceptable as the policy was introduced in November 2013 whereas the MP- 2031 was submitted to NCRPB in May 2011.

Thus, the policy of mixed land use was in divergence of the stated objectives which will lead to shrinking of the industrial area.

### ***Sports City***

**Sports Cities were developed on Recreational Green areas with 30 per cent land being utilised for residential and commercial uses.**

**2.8.4.** The RP-2021 provided for category of recreational land use under the urbanisable area. The MP- 2021 of NOIDA provided for sports complex use under recreational land use. Further, the sub-zone of ‘Sports City’ was included as a separate land use under recreational category in MP-2031 and relevant amendments in Building Regulations incorporating development norms for Sports City, were notified by GoUP on 27 May 2011.

Audit observed that at the time of launch of the scheme in October 2008, there was no land use category/sub-zone in MP-2021 in which Sports City could be launched. In MP-2031, NOIDA not only included a separate sub-zone of land use as ‘Sports City’ but also gave power to the Board to decide on the land use pattern of the 30 per cent area after utilising 70 per cent area for recreational land use. This allowed permission for 96.92 hectare of recreational land for other than recreational use i.e. residential and commercial use. Approval/clearance from NCRPB was not sought even though the scheme was against the recreational land use provided in RP- 2021. Table 7.4 (para 8.12) of MP-2031 provides for permissible support activities in used premises or plot which nowhere mentioned either for commercial land use or for group housing activities in Sports City.

Thus, the concept of Sports City was not included in MP-2021 but after launch of the scheme for Sports City, the concept was included in the MP-2031 without approval of NCRPB. This was also enabled by the changes made in Regulations and in contravention of the Hon'ble High Court observation wherein it was explicitly mentioned that land uses cannot be changed except with the tacit permission and close scrutiny of NCRPB.

In its reply, NOIDA stated (August 2020) that detailed proposal for Sports City was included in MP-2021 which was not commented upon by NCRPB. As per MP-2031, Sports City is not a category but an activity. The activities permitted have been spelt out in chapter 7 of MP 2031. Further, proposal for land use determination for Sports City has been approved by GoUP.

The reply of NOIDA is not acceptable as the scheme was launched (October 2008) without approval from GoUP and approval was accorded subsequently in May 2011. The residential and commercial activities permitted in recreational green areas were also contrary to the provisions of RP- 2021 and hence irregular. The above issues are discussed in detail in **Paragraphs 5.2.13.2 and 5.2.13.1** in the Sports City Chapter.

#### ***Substantial revision/changes in land use over time***

**2.8.5** As per Section 6 of the Uttar Pradesh Industrial Area Development Act, 1976, the object of the Authority (NOIDA) shall be to secure the planned development of the industrial development area. Thus, accordingly priority should have been accorded to allocation of land for industrial purposes. The status of actual allocation/development of land *vis-à-vis* MP-2031 is given in **Table 2.4**.

**Table 2.4: Detail of allocation/development of land as per MP-2031**

(Area in hectare)

Land Use	MP-2021		MP- 2031		Development upto March 2020		Percentage of development to MP-2031	Percentage of development to MP-2021
	Area	Per cent	Area	Per cent	Area	Per cent		
Industrial	1951.00	<b>20.05</b>	1756.52	<b>18.37</b>	2460.63	22.71	87.68	81.99
SEZ	1050.00		1050.00					
Residential	5334.00	<b>35.65</b>	5722.14	<b>37.45</b>	5659.47	52.23	98.90	106.10
Commercial	564.00	3.77	581.33	3.80	333.10	3.07	57.30	59.06
Institutional	1219.00	8.14	1357.97	8.89	822.08	7.59	60.54	67.44
Recreational	1513.00	10.12	2432.82	15.92	1106.14	10.21	45.47	73.11
Transport	2211.00	14.78	1942.15	12.71	58.44	0.54	3.01	2.64
Agriculture	1017.50	6.80	332.47	2.18	291.57	2.69	87.70	28.66
Water bodies	104.50	0.69	104.50	0.68	104.5	0.96	100	100.00
<b>Total</b>	<b>14964.00</b>	<b>100</b>	<b>15279.90</b>	<b>100</b>	<b>10835.93</b>	<b>100</b>	<b>70.92</b>	<b>72.41</b>

**Source: MP of NOIDA and Information furnished by NOIDA.**

The table above brings out the lopsided focus of the NOIDA over the years. Consequently, when compared with the land use plan in MP-2021 with the development of land as of March 2020, there is significant variance. Excessive development of Residential category (106.10 *per cent*), made possible by conversion of land use of other category, was in evidence. Further, residential use has been kept at 35.65 *per cent* of total land area which will in fact be more than 40 *per cent* if residential use allowed in Sports City (in recreational green area) and in institutional plots is considered. On the other hand, the actual development in most other categories viz. Commercial, Institutional,

Transport and Agriculture was well below what was envisaged in MP-2021. Development of Industrial category, the primary objective of the NOIDA, also did not receive priority.

### **Conclusion**

The Master Plan for development of notified development area was to be prepared by NOIDA as per RP- 2021 duly approved by NCRPB. The NCRPB till date has only prepared RP- 2021 and GoUP has also prepared Sub Regional Plan for the year 2021. NOIDA prepared MP-2021 to which NCRPB had raised various objections. NOIDA, instead of addressing the flaws/inconsistencies in MP- 2021, prepared a new MP-2031. Despite provision of NCRPB Act and Hon’ble Supreme Court judgement for preparing MP within the overall framework of RP, NOIDA has initiated implementation of MP 2031 without the corresponding RP and SRP. In order to accommodate and regularise various changes, major amendments/dilution in provisions of NOIDA (Preparation and Finalisation of Plan) Regulations, 1991 were effected and MP-2031 was prepared incorporating such changes. The same was not only inconsistent with RP-2021 but has also not been approved by NCRPB as yet. NOIDA, despite the ruling of Hon’ble High Court that land uses cannot be changed except after scrutiny and permission of NCRPB, proceeded with the implementation of unapproved MP. The unilateral step taken by NOIDA for implementation of MP-2031 in absence of preparation of higher level plan by NCRPB raises fundamental issues on the overall planned development of the NCR.

The IIDD was responsible for regulating and monitoring the functioning of Authorities including monitoring the MPs. IIDD, despite its overriding powers failed to ensure adherence to the regulatory framework and to check the dilution in provisions of the Plan Regulations. These dilutions and amendments to the regulations provided huge discretion at the hands of NOIDA which was blatantly misused.

### **Recommendations**

<b>Recommendation Number</b>	<b>Recommendation</b>	<b>Response of the Government</b>
1	NOIDA should ensure that preparation of MP is in alignment and conformity with the corresponding RP and SRP approved by NCRPB.	Accepted
2	The Infrastructure and Industrial Development Department (IIDD) should ensure that the approvals granted by it to the MPs and the amendments thereto are in accordance with the policies of NCRPB so as to ensure coordinated development of NCR.	Accepted

<b>Recommendation Number</b>	<b>Recommendation</b>	<b>Response of the Government</b>
3	The Government should thoroughly review and revise the NOIDA (Preparation and Finalisation of Plan) Regulations, which over time have been progressively diluted and has led to discretion and misuse at the hands of the officials in NOIDA.	Accepted. The Government stated that NOIDA should undertake a thorough review of its Regulations and make appropriate amendment wherever required and after approval of the Board, submit it to the Government for approval

