JOINT RESPONSE TO DRAFT NOTIFICATION DATED 31ST JULY 2024 ON THE WESTERN GHATS ECOLOGICALLY SENSITIVE AREA

Submitted on September 29, 2024

This Joint Response is submitted by the Vidhi Centre for Legal Policy ("**Vidhi**") and the Centre for Policy Design at the Ashoka Trust for Research in Ecology and the Environment ("**ATREE**") in response to the Draft Notification S.O. 3060(E) dated 31st July 2024 ("**Draft Notification**"), published by the Ministry of Environment, Forest and Climate Change regarding the Western Ghats Ecologically Sensitive Area.

Vidhi is an independent think-tank doing legal research to make better laws and improve governance for the public good.

ATREE's mission is to generate rigorous interdisciplinary knowledge for achieving environmental conservation and sustainable development in a socially just manner, to enable the use of this knowledge by policymakers and society, and to train the next generation of scholars and leaders.

We believe it is important to participate in this process, and hope that public feedback, such as ours, are of assistance to the government in the finalisation of the Draft Notification to ensure the long-term conservation in the Western Ghats, along with its peoples' prosperity.

We seek your kind consideration of our comments and suggestions in the preparation of the final notification and would appreciate the opportunity for further discussions.

We appreciate the opportunity to contribute to this important process and remain available for further clarifications if required.

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1. BACKGROUND

1.1 Understanding Ecologically Sensitive Areas

Ecologically sensitive areas ("**ESA**"), in various forms, designations and contexts, are intended to play a crucial role in maintaining ecological balance and biodiversity by protecting regions with high ecological value or high vulnerability to disturbances from unsustainable development. They serve as refuges for endangered species, preserve genetic diversity, and maintain ecosystem services essential for human well-being (Sayer *et al*., 2013). ESAs can also contribute to climate regulation, water conservation and soil protection, assist in mitigating the impacts of climate change, reduce the risk of natural disasters, and support sustainable livelihoods for local communities (Myers *et al*., 2000). By virtue of their biological richness, they could potentially be of high value to human societies (Gadgil *et al.,* 2011). Effective and equitable practices in the management of ESAs can play a vital role in achieving long-term environmental sustainability and resilience.

In the Indian context, ecological sensitivity has been defined as the imminent possibility of (a) permanent and irreparable loss to extant life forms and (b) significant damage to the natural processes of evolution and speciation (MoEF, 2000). The Committee for Identifying Parameters for Designating Ecologically Sensitive Areas in India (Sen Committee) identified 13 primary criteria and 7 auxiliary criteria of ecological sensitivity, falling into three broad categories of ecological significance (given in the table below). The Committee's analysis was based on the need for a balance between the protection of ESAs and the needs of national development, without unduly impinging on the latter.

	Species based	**Ecosystem based**	**Geo-morphological feature based**
Primary criteria	Endemism Rarity Endangered species Centres of evolution of domesticated species	Wildlife Corridors* Specialised ecosystems Special breeding site/area Areas with intrinsically low resilience Sacred groves Frontier Forests	Uninhabited Islands in the sea* Steep Slopes* Origins of Rivers
Auxiliary criteria	Areas or centres of less known food plants	Wetlands Grasslands	Upper Catchment areas Not so Steep Slopes High Rainfall Areas Other uninhabited Islands
* These criteria were not accepted by the MoEF on the grounds that other parameters can cover these areas (Kapoor *et al.,* 2009)			

The Environment (Protection) Act, 1986 ("**EPA**") is the primary legal instrument for declaring ESAs in India. Section 3(2)(v) of the EPA and Rules 5(3)(d) of the Environment (Protection)

Rules, 1986 ("**EPR**") empower the Central Government to restrict or prohibit the location of an industry or the carrying on of processes and operations in specified areas, for the protection and improvement of the environment. The criteria for identifying such areas include ambient thresholds of environmental pollutants and the likelihood of emissions, topographic, climatic and biological features, land-use compatibility, proximity to areas of high ecological or cultural values and human settlements, and the net adverse environmental impact of developmental activities (MoEF, 1986).

The concept of ESAs in India has evolved over time in response to growing environmental concerns and the need to protect critical ecosystems. For instance, eco-sensitive zones ("**ESZ**") refer to a specific category of ESAs aimed at primarily protecting the ecological integrity of protected areas (sanctuaries and national parks), their adjoining landscape and identified wildlife/ecological corridors from unsustainable activities by acting as shock absorbers and transition zones from a degree of higher protection (within protected areas) to multiple-use areas (at their peripheries). However, ESAs are not limited to protected areas but may include any location or region or landscape that holds significant biodiversity, ecosystem value and/or geomorphological features. The primary objective of designating ESAs is to ensure landscape-level protection and to ensure conservation of unique biological resources and critical ecosystem services therein. ESAs (not being ESZs) have been notified in the Doon Valley, Uttarakhand (1989), Dahanu Taluka, Maharashtra (1991), Pachmarhi, Madhya Pradesh (1998) Mahabaleshwar-Panchgani, Maharashtra (2001), Matheran, Maharashtra (2003), Mount Abu, Rajasthan (2005) and Bhagirathi, Uttarakhand (2012), amongst others.

1.2 Western Ghats and its Ecological Salience

The Western Ghats ("**WG**") – a UNESCO World Heritage Site – is a region characterised by diverse ecosystems, unique geological formations and rich biodiversity, many of which are highly endemic and threatened. The WG, predating the Himalayas by 30-40 million years, stretches over 1,600 kilometres in length almost continuously along the western coast of India, covering an area of about 1,60,000 km^2 (Bawa *et al.*, 2007). It spans the states of (north to south) Gujarat, Maharashtra, Goa, Karnataka, Tamil Nadu and Kerala. It contains 2 biosphere reserves, 10 national parks and 37 wildlife sanctuaries (Kumara *et al*., 2023). The WG meets the Sen Committee's foremost criterion for ESA identification, i.e., endemism, while also qualifying under several other criteria.

The WG is one of 36 global biodiversity hotspots (and one of the eight "*hottest*" hotspots), renowned for its high endemism, with a significant proportion of species found nowhere else on Earth (Myers *et al*., 2000). The WG species communities include around 5,000 vascular plant species (1,700 endemics), 288 freshwater fish species (118 endemics), 179 amphibian species (117 endemics) and 157 reptile species (97 endemics), 508 bird species (17 endemics) and 139 mammal species (17 endemics) (UNESCO, 2012). These include many globally threatened species too. It has been estimated that at least 41% of the freshwater fish species are globally threatened (Dahanukar *et al*., 2004). This pattern of high endemism is also observed in ancient predatory arthropods, such as scolopendrid centipedes, and other invertebrate taxa, such as land snails, where the southern WG exhibit the highest diversity and endemism (Aravind *et al.*, 2005; Bharti *et al.*,

2021). Furthermore, the WG are also key to the conservation of a number of threatened habitats, such as unique seasonally mass-flowering wildflower meadows, Shola forests and Myristica swamps (UNESCO, 2012). The WG's unique montane forests, known as the 'Shola Sky Islands', are characterised by a natural complex of forests and grasslands and is home to endemic radiations of songbirds, highlighting the region's role in diversifying ancient lineages (Robin & Nandini, 2012; Robin *et al*., 2017). The total biodiversity values of the WG are not yet known, with many species still being discovered (UNESCO, 2012).

This region plays an important role in regulating the regional climate, water cycles, and soil conservation. The mountain range influences the Indian monsoon, contributing to the distribution and intensity of rainfall across peninsular India (Raghavan, 1964). The natural ecosystems of the WG act as watersheds for numerous rivers, including the Godavari, Krishna, Kaveri, Thamaraparani and Tungabhadra, which provide water for approximately 245 million people in peninsular India (including urban agglomerations such as Bengaluru, Mysuru and Coimbatore), and support agriculture and industry uses (Gadgil & Guha, 1992; Gadgil, 2014; WWF, 2024). Additionally, the dense vegetation of the WG helps prevent soil erosion, maintain soil fertility, and support diverse agricultural systems. The region's ecosystems also sequester carbon, contributing to climate change mitigation (Sayer *et al*., 2013).

The WG has a long and unbroken history of human presence and influence from prehistoric hunting-gathering to modern anthropogenic activities. The region's first human influences trace back to hunter-gatherers over 12000 years ago, gradually transitioning to primitive agriculture and pastoralism, with evidence of domesticated animals and cultivation of food crops (Chandran, 1997). Agro-pastoralist societies migrated into the WG around 4000 years ago, leading to significant vegetational changes and was followed by intensive settlement, with numerous burial sites and an intensification of forest clearance for agriculture (Chandran, 1997). The WG are home to ancient petroglyphs near biodiversity hotspots like sacred groves, reflecting a deep cultural and historical connection to the region and the integration of cultural heritage with conservation efforts (UNESCO, 2012; Kaur *et al.*, 2023). Historical records indicate that the WG were part of ancient peninsular Indian history, with references to human occupation, trade, and agriculture in various literary works (Chandran, 1997; Kuriakose & Sebastian, 2016). The broad land and resource use patterns in the WG during the pre-colonial days reflected a balance of forest utilisation and conservation, in line with indigenous values and practices (Chandran, 1997; Bhagwat *et al.*, 2005). The colonial period brought about significant changes in forest management in the WG. The colonial government, while disregarding traditional practices and banning shifting cultivation, initiated large-scale forest exploitation and commercial plantations, aimed primarily at timber generation for shipbuilding and railway infrastructure and fuel (Chandran, 1997; Mathew, 2019). This period also witnessed state policies favouring natural resource control by immigrant populations who were engaged in commercial trade, as also an influx of migrant labour populations increasing the human pressure on the ecosystem (Chandran, 1997; Gurusamy & Basil, 2021). Post-colonial state forestry continued many of these practices, with a focus on commercial timber extraction and monoculture plantations. Thus, the process of commoditisation of forests from the early 19th century had a disruptive effect not only on the ecology of the WG, but also the balance of local communities with nature (WGEEP, 2011).

Although commercial timber extraction was restricted by the Supreme Court vide *TN Godavarman Thirumulpad v. Union of India & Others* (1996)[1], increasing anthropogenic activity in the region like diversion of forests for non-forestry purposes, unsustainable agricultural practices, expansion of infrastructure and industry, and untenable tourism continue to aggravate the threat of habitat destruction, fragmentation, and degradation leading to significant losses in biodiversity and ecosystem services in the WG (Jha *et al*., 2000). Further, climate change poses significant risks to the region's ecosystems, altering rainfall patterns, increasing temperatures, and exacerbating the impacts of natural disasters (Sayer *et al*., 2013). The WG region is also a hotspot for landslide risk exposure accounting for 14.7% of major areas in India which are affected by landslides, with the highest vulnerability of human risk due to high population and household density (NRSC, 2023).

The WG holds immense cultural and spiritual significance for local communities, traditionally living in harmony with nature (Kasturirangan *et al*., 2013). The WG are a source of livelihoods and well-being for many adivasi and local communities who mostly live either in proximity of or within the WG and are dependent on it for cash and non-cash crops, such as coffee, pepper, nuts, honey, coconut, rubber, tapioca, potato, and millets. Non-timber forest products ("**NTFP**") yielding plants constituted about 40% of the WG flora, but only less than 50% of the 229 NTFP species are commercially exploited (Muraleedharan *et al.*, 2005). The estimated economic value of ecosystem services provided by the WG is US $612 million (2021 valuation), suggesting that conserving the WG ecosystems is vital for supporting peoples' well-being, delivering ecosystem services at a regional scale, and protecting biodiversity (Balasubramanian & Sangha, 2023).

1.3 Western Ghats as an ESA

The Central Government initiated the process of declaring the WG as an ESA by appointing a Western Ghats Ecology Expert Panel (WGEEP, also known as Gadgil Commission after its Chairperson Dr. Madhav Gadgil) in 2010 through an executive order (WGEEP, 2011). Considering the wide-ranging comments of the stakeholders to the WGEEP report, the Central Government appointed a High-Level Working Group ("**HLWG**") under the Chairpersonship of Dr. K. Kasturirangan in 2012 to review the WGEEP report and submit its independent recommendations on the WG ESA.

The HLWG submitted its report in 2013 and recommended that 37% of the WG (mainly forests), covering six states—Gujarat, Maharashtra, Goa, Karnataka, Kerala, and Tamil Nadu—be notified as ESA and suggested instituting a "prohibitory and regulatory regime" for activities with significantly negative ecological consequences. The suggestions of the HLWG were accepted "in principle" (MoEF, 2013) with some modifications by the Central Government (Kumar, 2014). On 20th December 2013, the Ministry of Environment, Forest & Climate Change(MoEFCC) formerly known as the Ministry of Environment & Forest (MoEF) sought comments from state governments regarding modifications to the ESA boundaries based on physical verification. Based on the inputs received, the MoEF published the first draft ESA notification for the WG on 10th March 2014, pending consensus from the states. In 2014, the National Green Tribunal emphasised the duty of the MoEF to act expeditiously in finalising the ESA notification, while ensuring that the interests

[1] W.P. (Civil) No. 171/96, ¶4.

of all concerned stakeholders are addressed.[2] The draft was revised a second time on 4th September 2015, the third time on 27th February 2017, the fourth time on 3rd October 2018, and for the fifth time on 6th July 2022.

The Draft Notification is the sixth revision of the WG ESA notification, and suggestions from the public are invited till 29th September 2024.

This submission aims to provide feedback on the Draft Notification, highlighting concerns and recommending improvements to ensure that the WG ESA effectively protects the region's important ecosystems, while accounting for any impacts on local communities and the country at large.

[2] Goa Foundation and Peaceful Society v. Union of India and Others, OA No. 26 of 2012, (NGT Principal Bench)

2. CLAUSE-WISE COMMENTS & SUGGESTIONS

2.1 Comments on Clause 3(1): Prohibited Activities

"(1) The following categories of projects and activities shall be prohibited in Western Ghats Eco-sensitive Area except those proposals that have been received by Expert Appraisal Committees or the Ministry of Environment, Forest and Climate Change or State Level Expert Appraisal Committees or the State Level Environment Impact Assessment Authorities before the 17th April, 2013 the date on which the High-Level Working Group report was uploaded on the website of the Ministry and are pending consideration and such proposals shall be dealt in accordance with the guidelines and rules in existence at that time.

(*a*) ***Mining***.- *There shall be a complete ban on mining, quarrying and sand mining in Ecologically Sensitive Area and all existing mines shall be phased out within five years from the date of issue of the final notification or on the expiry of the existing mining lease, and whichever is earlier.*

(b) ***Thermal power plants***.- *No new thermal power projects and expansion of existing plants shall be allowed in the Ecologically Sensitive Area.*

(c) ***Industry***.- *All new 'Red' category of industries as specified by the Central Pollution Control Board or State Pollution Control Board and the expansion of such existing industries shall be banned and the list of 'Red' category of industries shall be as specified by the Central Pollution Control Board;*

Provided that all existing 'Red' category of industries including health care establishments, shall continue in Ecologically Sensitive Area under the applicable rules and regulations.

(d) ***Building, construction, township and area development projects***.- *All new and expansion projects of building and construction with built up area of 20,000 square metres and above and all new and expansion townships and area development projects with an area of 50 hectares and above or with built up area of 1,50,000 square metres and above shall be prohibited and there shall be no restriction on repair or extension or renovation of existing residential houses in the Eco-sensitive Area as per prevailing laws and regulations.*

Note*: (1) All existing healthcare establishments can continue in Eco-sensitive Areas, and proposed Primary Health Centres can be established as per laws and regulations.*

(2) No restriction on change in ownership of property."

2.1.1 Phase Out Existing Thermal Power Plants and Highly Polluting Industries

The current list of prohibited activities is consistent with recommendations of the HLWG, except for the divergence regarding the treatment of existing thermal power plants ("**TPP**") and other 'red' category industries ("**RCI**"). The HLWG recommended that all RCI should be strictly banned and that no TPP should be allowed in the ESA. While prohibiting new and expansion projects, the Draft Notification does not require the closure or phasing out of existing TPP and RCI (as in the case of mines).

This is important since such projects are a likely source of continuing emission or discharge of pollutants. Continuous long-term exposure to toxic pollutants, even in low concentrations, can lead to discernible changes in air, soil and water, in addition to having negative impacts for biodiversity (Rhind, 2009; Hariram *et al.*, 2017). Therefore, it is advisable to prescribe phasing out requirements for TPP and RCI.

Recommendations:

1. In clause 1, the words

> "*…and any additional conditions under Clause 3(2) of this Notification.*"
>
> shall be added after the words
>
> "*in accordance with the guidelines and rules in existence at that time".*

Comment: This is to ensure compliance with the additional conditions under sub-clause (b), (c), (d), (e) of clause 3(2) below.

2. In sub-clause (a), the word "*and*" appearing before "*whichever is earlier*" shall be deleted.

3. Sub-clause (b) shall be replaced with:

> "*No new thermal power projects and expansion of the production capacity of the existing plants (whether or not involving an increase in pollution load) shall be allowed in the Ecologically Sensitive Area. All existing thermal power projects shall be phased out within such a period as the Central Government may prescribe.*

Comment: This is to (i) remove the exemption under clause 7(2)(b) of the Environment Impact Assessment Notification, published vide number S.O. 1533 (E), dated the 14th September, 2006 ("**EIA Notification**") from the requirement of Environmental Clearance for the expansion of existing industries (for which prior Environment Clearance has been granted) without an increase in pollution load and (ii) include phasing-out requirements for existing thermal power projects.

4. Sub-clause (c) shall be replaced with:

> *All new 'Red' category of industries as specified by the Central Pollution Control Board or State Pollution Control Board and the expansion of the production capacity (whether or not involving an increase in pollution load) or land area of such existing industries shall be banned. All existing 'Red' category industries (excluding healthcare establishments) shall be phased out within such a period as the Central Government may prescribe.*

Comment: This is to (i) remove the exemption under clause 7(2)(b) of the EIA Notification from the requirement of Environmental Clearance for the expansion of existing industries (for which prior Environment Clearance has been granted) without an increase in pollution load, (ii) avoid any ambiguity in the clause with respect to the list of 'Red' category industries (which shall be as prescribed by the CPCB or SPCB), and (iii) include phasing-out requirements for existing 'Red' category industries.

5. Note (1) shall be modified to read as follows:

> *(1) Notwithstanding anything to the contrary in Clause 3(1)(c) above, all existing healthcare establishments can continue in Eco-sensitive Areas, and new Primary Health Centres can be established as per laws and regulations.*

Comment: This is to ensure that new and proposed PHCs are allowed in the ESA.

2.1.2 Prohibit Certain High Impact Projects and Activities

Large hydropower projects including pumped storage and run-of-the-river projects appear under the regulated category in the Draft Notification. Similarly, there are no incremental conditions prescribed with respect to linear infrastructure projects in the Draft Notification.

Dams and barrages, collectively referred as grey water infrastructure, and linear infrastructure projects, such as highways, tunnels, railways, canals, pipelines and transmission lines, impose significant and often irreversible adverse impacts on soil morphology, hydrology, local biodiversity and ecosystems (Priemus, 2007; Pandit & Grumbine, 2012; Van Der Ree *et al*., 2015; Richardson *et al*., 2017; da Silva *et al.*, 2020; Schmitt & Rosa, 2024). They contribute to lowering the overall resilience of the landscape (Schmutz & Moog, 2018; da Silva *et al*., 2020), even when carried out ostensibly with 'safeguards' in place and/or undertaking mitigative/biodiversity offset strategies. These costs to the local ecology typically manifest as fragmentation of previously intact landscapes and lead to degradation of habitat, loss of habitat/genetic connectivity (thereby isolating animal populations), and direct/indirect mortalities (Laurance *et al*., 2015). The construction and operation of large dams and hydropower projects alter natural river flow regimes, disrupting sediment transport and nutrient cycling, which are critical for maintaining downstream ecosystems (Poff *et al*., 1997).

Additionally, the creation of reservoirs leads to the submergence of vast tracts of forests and agricultural land, displacing local communities and affecting their livelihoods (WCD, 2000). The alteration of hydrological processes can also exacerbate the impacts of climate change, increasing the vulnerability of both upstream and downstream areas to extreme weather events such as floods and droughts (Nilsson & Berggren, 2000). Such projects also invariably increase the human-animal interface and the potential for human-animal conflict or negative interactions. Public support for new large dams has declined as awareness grows of their high socioeconomic costs, greenhouse gas emissions, and negative impacts on vital ecosystem services, including water availability, quality, biodiversity, and fisheries (Ansar *et al*., 2014; Kahn *et al*., 2014; Couto & Olden, 2018).

We propose that grey water infrastructure and linear infrastructure projects, subject to an appropriate impact threshold, must be 'prohibited'. Additionally, for lower impact linear infrastructure projects, such as village roads, that are permitted, it must be mandatory to ensure requirements on their design that will ensure safe movement of wildlife. These can be similar to the Eco-friendly Measures to Mitigate Impacts of Linear Infrastructure on Wildlife required by the MoEFCC in the case of protected areas and ESZs (PIB, 2023).

RECOMMENDATIONS

1. Addition of sub-clauses (e) and (f):

> *"(e)* ***Large River-valley and Hydropower Projects****: There shall be no new river-valley projects including hydropower, irrigation, barrages, and pumped-storage projects, that are classified as requiring prior Environmental Clearance under Environment Impact Assessment notification, published vide number S.O. 1533 (E), dated the 14th September, 2006.*
>
> *(f)* ***Linear Infrastructure Projects****: No new or expansion of highways, railways and high-voltage transmission lines are permitted in the Eco-Sensitive Area.*
>
> *Provided that (I) all-weather roads connecting hitherto poorly connected existing settlements, schools and PHCs to the nearest highways or district roads, and (II) maintenance and modernisation of existing linear infrastructure, without any expansion of right of way, are allowed, subject to prevailing laws and any additional mitigation and compensating measures as prescribed by the Central Government."*

2.2 Comments on Clause 3(2): Regulated Activities

> *"(2) The following categories of projects and activities shall be regulated as given below:*
>
> *(a) Hydropower projects- New Hydropower projects shall be allowed as per the Environment Impact Assessment notification, published vide number S.O. 1533 (E), dated the 14th September, 2006, subject to the following conditions, namely:*

(i) uninterrupted ecological flow of at least thirty percent of the rivers flow in lean season, till a comprehensive study establishes individual baselines for each project;

(ii) a cumulative study which assesses the impact of each project on the flow pattern of the rivers and forest and biodiversity loss; and

(iii) the minimum distance between one project and the other is maintained at three kilometres and not more than fifty percent of the river basin is affected at any time

(b) The "Orange/White" category of Industries as specified by the Central Pollution Control Board or State Pollution Control Board shall be allowed with strict compliance of environmental regulations, but all efforts shall be made to promote industries with low environmental impacts.

(c) In the case of activities that are covered in the schedule to the Environment Impact Assessment notification number S.O. 1533 (E), dated 14th September 2006, published by the erstwhile Ministry of Environment and Forests and are falling in the Eco-sensitive Area, except the projects and activities which are specifically prohibited under sub-para (1) shall be scrutinised and assessed for cumulative impacts and development needs before considering for prior environmental clearance by the Ministry under the provisions of the said notification.

d) In particular and without prejudice to the provisions of the relevant Acts, in cases of diversion of forest land for non-forestry purposes in the Eco-sensitive Area, all information on the project, from the application stage to approval, shall be placed in the public domain on the website of the Ministry of Environment, Forest and Climate Change and of the Forest Department of the respective States.

(e) The requirements of prior informed consent under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) shall be complied with and the consent of Gram Sabha for undertaking projects and activities shall be mandatory."

2.2.1 Strengthen the Environmental Impact Assessment Process

Given the sensitivity of the WG ESA and its vulnerability to the adverse effects of climate change, it is imperative to improve and increase the protective mechanisms under the environmental impact assessment ("**EIA**") rules and process, including, baseline studies, public consultation and the assessment of cumulative impacts.

A. Inclusion Of Sectors

Renewable energy projects located in areas that are critical for local natural resource-based livelihoods as well as for biodiversity outcomes, compete with these multiple uses of natural resources, often leading to unintended consequences (Lakhanpal & Chhatre, 2018). The transition to renewable energy is crucial for mitigating climate change, but it poses significant risks to

biodiversity and ecosystems (IPCC, 2019). Wind energy infrastructure can lead to avian fatalities (Drewitt & Langston, 2006) and habitat disruption (Kuvlesky Jr. *et al*., 2007), while solar farms raise concerns including habitat destruction and fragmentation (Jager *et al*., 2021) and heat island effects. In India, renewable energy development must balance with biodiversity conservation, particularly in sensitive ecosystems (Kiesecker, 2019). Effective regulation can mitigate impacts (Dai *et al*., 2015) through strategic siting and planning, species-specific monitoring and mitigation, and technological innovation incentives. To minimise harm, it is essential to integrate biodiversity concerns into renewable energy policies, and to ensure environmentally compatible and socially equitable development. By adopting a comprehensive approach, India can harness renewable energy while protecting its rich biodiversity heritage. Hence, it is necessary to assess the environmental and social impacts of such projects. We endorse the HLWG's recommendation of wind energy projects being included in the EIA Notification.

B. Baseline studies

Several examples of poor-quality EIA reports rely on inadequate and scientifically weak field study designs and data collection protocols (Rathi, 2017). Since ESAs are, by nature, particularly vulnerable to external disturbances and perturbations, inadequately compiled EIA reports tend to conceal sensitive information and misdirect decision-makers and statutory authorities, leading to poor project appraisals.

A biodiversity baseline study is the collection and interpretation of information on the biodiversity values at a site; this includes the species, habitats and ecological systems present, their current condition and trends before a project commences (Gullison *et al*., 2015). The purpose of such a characterisation is to develop a description of the important ecosystem components, processes and resources in areas identified for project location and their functional relationships. A baseline primary data collection for flora and fauna inventories and other relevant ecosystem/habitat parameters is critical towards presenting a holistic picture of impacts. Even for other environmental parameters, impact assessment on the basis of baseline data generated in one season can never be realistic (Rathi, 2017). Therefore, we propose that 12-month (all seasons) baseline studies must be included in any Terms of Reference ("**TOR**") issued under the EIA Notification. Further, it would be advisable for the government to identify suitably qualified and experienced academic and research institutions, with special expertise in the WG landscape, to prepare various specialised aspects of such EIA reports to ensure rigour and objectivity.

C. Public consultation

Under the EIA Notification various categories of projects/activities (or their expansion) have been excluded from the need for public consultation. Additionally, the regulatory authority has also been granted the power to omit public hearings in certain exceptional circumstances. Considering the sensitivity and vulnerability of the WG ESA and the identified need in the Draft Notification for greater and more meaningful engagement of local communities and other stakeholders in decision-making there is a need to strengthen the process of public consultation in the EIA Notification. This must include the removal/rationalisation of the exemptions to public hearing, locating public hearings within the local area and improving information transparency.

D. Pre-Scoping Public Consultation

By involving the local government institutions, local communities and affected stakeholders early in the process, it is possible to bring to light prior instances of non-compliance, more effective approaches that will better ensure compliance, and otherwise help to reduce the likelihood of future violations (UNEP, 2019). Engaging the public and local bodies later in the process reduces the opportunity to change the project design and sometimes may lead to *fait accompli* of environmentally unsustainable projects. If the public is invited to participate only after the potential alternatives have been considered and narrowed, then the public is notified instead of engaged.

In furtherance of this, we propose the pre-scoping public consultation practice with the participation of local stakeholders to ascertain the bona fides of the proposed project and ensure wider public awareness and participation before the start of the EIA process itself. Local government bodies must be consulted before the Scoping stage under EIA Notification, by requiring public consultation on the Form 1 and pre-feasibility report by Gram Sabhas, Panchayats, and Urban Local Bodies, as applicable. We propose that all regulated projects/activities in the ESA should undergo pre-Scoping public consultation.

E. Cumulative Impact Assessment and Strategic Environmental Assessment

Cumulative impact assessment ("**CIA**") is a process that evaluates the potential impacts and risks of proposed developments by considering not only the project, but also the combined effects of other human activities, natural environmental changes, and social drivers on valued environmental and social components ("**VESC**s") over time. It involves analysing how the impacts of a specific development might interact with past, existing and foreseeable stressors, such as climate change or extreme weather events, and enables the consideration of measures to avoid, reduce, or mitigate these cumulative impacts (Hodgson & Halpern, 2019). VESCs include habitats, wildlife, ecosystem services, and social or cultural conditions, and are critical to understand the broader environmental and social risks associated with development projects. By focusing on these components, CIAs help manage complex and evolving risks in an ever-changing environment (World Bank Group, 2013). The obligation to conduct a cumulative impact assessment is reflected in various Supreme Court judgments such as Alaknanda Hydro Power Company Ltd. v. Anuj Joshi and Ors.,[3] and K. Guruprasad Rao v. State of Karnataka and Ors.[4]

CIA studies should form a part of broader Strategic Impact Assessments, or Strategic Environmental Assessments ("**SEA**s") which is process that is designed to assess the wider environmental, social, and economic impacts of policies, plans, and programs at the decision-making stage (Treweek *et al*., 2005; Mörtberg *et al*., 2007; Whitehead *et al*., 2017). In general, SEA is a comprehensive, participatory, and systematic process designed to ensure that environmental and sustainability considerations are integrated into high-level decision-making - specifically in preparing policies, plans, and programs (PPPs). SEA goes beyond the traditional

[3] (2014) 1 SCC 769.
[4] (2013) 8 SCC 418.

project-level EIA by incorporating environmental assessments at earlier decision-making stages before individual projects are designed. It aims to prevent environmental damage by influencing policy formulation and guiding sustainable development (UNEP, 2004).

Environmental decision-making in the ESA must require the CIA and SEA. Since the EIA Notification does not prescribe (or define the terms) 'cumulative impact assessment' or 'strategic environmental assessments', the requirements and processes for such studies must be included in the Draft Notification. This would include defining the process of SEA/CIA, outlining their methodology and framework (Canter, 2015), specifying reporting criteria and format, and ensuring the consideration of SEA/CIA findings in decision-making processes (Geneletti, 2017). This will enable the effective assessment and management of cumulative impacts (Blakley & Franks, 2021; Blakley & Russell, 2022). SEA studies, as it has a wider scope of programs, plans and policies (rather than individual projects), must be the responsibility of the government, which could be done by the Decision Support and Monitoring Centre proposed in the Draft Notification.

RECOMMENDATIONS

1. Sub-clause (a) shall be modified to read as follows:

> *"(a)* ***Small river-valley and hydropower projects****- Any new river-valley and hydropower project (including, small hydropower project) and irrigation project that is not prohibited under Clause 3(1) shall be treated as Category A projects under the Environment Impact Assessment Notification, 2006 and require an Environmental Clearance, subject to the following conditions, namely:*
>
> *(i) uninterrupted ecological flow of at least thirty percent of the rivers flow in lean season, till a comprehensive study establishes individual baselines for each project;*
>
> *(ii) a cumulative study which assesses the impact of each project on the flow pattern of the rivers and forest and biodiversity loss; and*
>
> *(iii) the minimum distance between one project and the other is maintained at three kilometres and not more than fifty percent of the river basin is affected at any time."*

Comment: Consequent to our earlier proposal to include large river-valley and hydropower projects in the prohibited category, this clause has been suggested to apply to other (small) projects subject to compliance with prescribed conditions. It is further recommended that advance-SEAs may be undertaken at the river-basin scale to establish the various parameters and adaptive/mitigative measures before individual projects are permitted. This can provide further refinement to conditions such as the individual baselines for each project, specific TORs for CIAs, the minimum distance between projects and cumulative impact to river basin thresholds (which should ideally be revised downwards from the currently proposed limit).

2. Sub-clause (b) shall be modified to include the words: "*and livelihoods*" between the words "*all efforts shall be made to promote industries*" and "*with low environmental impacts*".

Comment: Alternative, low-impact and green livelihoods must be considered and suitably promoted in the ESA in addition to lower impact, sustainable industrial activity.

3. After clause 3(2)(c), the following shall be added:

"*(i) Notwithstanding anything to the contrary in the EIA Notification, all wind power projects within the Eco-Sensitive Area shall be treated as a Category A project and be required to obtain prior Environmental Clearance.*

(ii) In accordance with Appendix VI of the EIA Notification, a person with special expertise and experience of Western Ghats ecology, biodiversity and/or environmental quality shall be co-opted as an expert for each EAC or SEAC meeting that considers any project or activity within the ESA;

Provided that the same expert shall be retained for all meetings related to a particular project or activity, except in case of their withdrawal or ineligibility under applicable laws;

Provided further that the expert shall neither be currently engaged nor have been engaged, in any capacity, including as an employee, officer, consultant, or contractor with the Central Government, the relevant State Government, or the project proponent during the past five years.

(iii) The following additional conditions shall apply to the conduct of public consultation and public hearings for any projects/activities within the ESA:

a) *exclusions to public consultation under the EIA Notification, 2006 shall not be applicable for any project or activity that is proposed within the ESA.*
b) *The site of the public hearing shall be located within the village(s) where the project/activity is proposed to be undertaken, or in the closest village(s) in case the project site is outside village boundary.*
c) *It shall be mandatory for the State Pollution Control Board or the Union Territory Pollution Control Board to ensure that the draft EIA report and a summary of the EIA report (in the relevant local language(s)) have been shared with the relevant Gram Panchayat(s) and/or Gram Sabha(s) at least forty-five days prior to the date of the public hearing.*
d) *The power of the regulatory authority to decide that the public consultation in certain cases need not include the public hearing under clause 7(i)(III)(v) of the EIA Notification, 2006 shall be exercised only after the written concurrence of the District Collector/District Magistrate regarding the existence of exceptional circumstances contemplated in the said clause.*

(iv) All projects/activities must carry out the pre-Scoping public consultation process before being issued the Terms of Reference under EIA Notification, 2006. The Form-1 application alongwith Pre-Feasibility Report and other documents to the submitted to the regulatory authority must be shared proactively with the following:

a) *Gram Sabhas and Gram Panchayats in rural areas;*

b) *Urban Local Bodies, including Nagar Palikas, Municipal Councils, Municipalities in urban areas;*
c) *Zila Parishads for district-level oversight and coordination;*
d) *Gram Sabhas under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and The Panchayats Extension to Scheduled Areas Act, 1996, Tribal Councils or Autonomous District Councils in areas inhabited by Scheduled Tribes and other traditional forest dwellers; and*
e) *Biodiversity Management Committees under the Biological Diversity Act, 2002.*

It shall be mandatory for the project proponent to conduct public hearing(s) of the Gram Sabhas and Urban Local Bodies, and the concerned Pollution Control Board shall approve the date(s) and location(s). The relevant documents shall be shared with the above-mentioned parties at least forty-five days prior to the public hearing.

All comments obtained through the pre-Scoping public consultation and public hearing shall be considered by the project proponent and submitted to the regulatory authority alongside the Form-1.

Explanation: *Cumulative Impact Assessment (CIA) studies: CIA studies shall assess the collective and combined environmental and socio-cultural impacts of all projects and activities within a specified area over time by ensuring the following aspects:*

a) *CIA studies must ensure comprehensive baseline biodiversity (including flora, fauna, and other related ecosystem processes), socio-economic assessments and other required parameters' primary data collection spanning a minimum 12 months to incorporate seasonal biodiversity occurrence and movement, demographic effects, and environmental and ecological changes.*
b) *The Terms of Reference for such CIA shall, in addition to (I) the area in which effects of the proposed project/activity will be felt and (II) the impacts that are expected in that area from the proposed project/activity, also require the assessment of (III) other actions (both natural and human), past, proposed, and reasonably foreseeable, that have had or are expected to have impacts in the same area; (IV) the impacts or expected impacts from these other actions; and, (V) the overall impact that can be expected if the individual impacts are allowed to accumulate. The Central Government may issue necessary guidelines and clarifications in this regard.*
c) *CIA studies shall be undertaken by such agencies and institutions that meet necessary requirements to be prescribed by the Central Government.*

4. Sub-clause (e) shall be replaced with the following:

"(e) Free, prior and informed consent of each Gram Sabha under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Panchayats Extension to Scheduled Areas Act, 1996 having jurisdiction over the whole or part of the land indicated in the proposal for the diversion of forest land or on which the proposed project or activity shall be located shall be mandatory for the grant of Forest

Clearance or Environment Clearance, as may be the case, for any project or activity proposed in the ESA. The regulatory authority empowered to grant the Environment Clearance and/or Forest Clearance shall require and verify the resolution of the Gram Sabha(s) granting such consent prior to the grant of the applicable clearance."

Comment: This sub-clause has been modified to (i) safeguard the powers of the Gram Sabha under the Panchayats Extension to Scheduled Areas Act, 1996 and (ii) ensure that the decision of the Gram Sabha granting or withholding consent to the project/activity is considered by the government/regulatory authority prior to the issuance of applicable clearances (and not as a condition subsequent).

5. A new sub-clause (f) shall be added:

"(f) The concerned expert appraisal committee and the regulatory authority shall apply the principle of mitigation hierarchy while considering the permissibility of regulated activities in the ESA, which comprises four broad action steps that are designed to be implemented sequentially: (1) avoid, (2) minimise, (3) remediate, and (4) offset."

2.3 CLAUSE 4: Implementation and Monitoring mechanism.

"(1) The responsibility for monitoring and enforcement of provisions of this notification shall be with the concerned State Governments of Western Ghats region and the State Governments shall ensure placing of required mechanisms for effective monitoring and enforcement of restrictions in the Eco-sensitive Area and while placing such mechanisms, the State Governments shall inter alia ensure strengthening of existing regulatory institutions and processes, and participation and involvement of local communities in decision making and the details of such mechanisms shall be shared by the concerned State Governments with the Ministry of Environment, Forest and Climate Change.

(2) A Decision Support and Monitoring Centre for Western Ghats shall be established by the Ministry of Environment, Forest and Climate Change in collaboration with the six State Governments of the Western Ghats region which shall assess and report on the status of ecology of Western Ghats on regular basis and provide decision support facility in the implementation of the provisions of this notification and shall also facilitate mechanisms for scientific decision making and strengthening enforcement.

(3) The post clearance monitoring of projects and activities allowed in the Ecologically Sensitive Area shall be carried out by the concerned State Government, State Pollution Control Board and the Regional Office of the Ministry and all projects in the Eco-sensitive Area which have been given Environmental Clearance or Forest Clearance shall be monitored at least once a year by the concerned Regional Office of the Ministry of Environment, Forest and Climate Change.

(4) All projects in the Eco-sensitive Area which have been given consent to establish or Consent to Operate under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) or the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) shall be monitored at least once a year by the concerned State Pollution Control Board and the concerned State Governments shall prepare 'State of Health Report' in respect of Western Ghats region falling within their jurisdiction on an annual basis giving inter-alia the details of steps taken in monitoring and enforcement of provisions of this notification and make the same available in public domain."

i. Ensure effectiveness of implementation

Effective implementation and monitoring mechanisms are crucial for the WG ESA. The Draft Notification provides that the responsibilities for enforcing and establishing effective mechanisms for monitoring activities in the ESA will be with the respective state governments. Although it provides that such a mechanism shall include the local communities in the decision-making process, the details are limited.

Monitoring of natural resources by local users contributes to better outcomes (Ostrom, 2012). Such enforcement and monitoring mechanisms should ensure the role of local communities, local government institutions, civil society members and subject-matter experts, in addition to the government and statutory regulators. This will ensure inclusive decision-making and foster local ownership (Pimbert & Pretty, 2013). This also aligns with the principle of decentralisation as envisioned by the 73rd and 74th Constitutional Amendments, Panchayats Extension to Scheduled Areas Act, 1996 ("**PESA**"), the Biological Diversity Act, 2002 ("**BDA**") and The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 ("**FRA**"). It is crucial to emphasise the role of local government bodies (both rural and urban) and ensure their genuine involvement in ongoing and post-clearance monitoring and enforcement processes.

Principle 10 of the Rio Declaration emphasises that environmental issues are best addressed with the participation of all citizens. At the national level, individuals should have access to environmental information held by public authorities, including details on hazardous materials and activities in their communities, and the opportunity to participate in decision-making. States are encouraged to promote public awareness and ensure broad access to information, while also providing effective access to judicial and administrative processes for redress and remedy (Rio Declaration, 1992). Article 15 of the Convention on Biological Diversity ("**CBD**") and the Nagoya Protocol on Access and Benefit-Sharing emphasises the fair and equitable sharing of benefits arising from the utilisation of genetic resources with the local committees. Under the BDA, Biodiversity Management Committees ("**BMC**") must be consulted while taking any decision relating to the use of biological resources or traditional knowledge associated thereto occurring within their territorial jurisdiction.

Therefore, we propose wider representation of stakeholders in the proposed monitoring and enforcement provisions, additional requirements relating to knowledge generation, reporting and transparency, and the inclusion of a complaints and grievance redressal mechanism.

Recommendations:

1. Sub-clause (1) shall be modified to read as follows:

> *"The responsibility for monitoring and enforcement of the provisions of this notification shall be with the respective State Governments. The Central Government and State Governments shall enable and empower local government institutions for their participation in decision-making, monitoring and assisting in the enforcement of the provisions of this notification. The Central Government may issue guidelines and circulars to State Governments and regulatory authorities in this regard from time to time. The Central Government shall provide necessary resources towards their effective and regular capacity-building."*

2. Sub-clause 4(2) shall be modified to read as follows:

> *"No later than three months from this notification being effective, a Decision Support and Monitoring Centre ("DSMC") for Western Ghats shall be established by the Ministry of Environment, Forest and Climate Change in collaboration with the six State Governments of the Western Ghats region, with a representative office in each State. Not less than fifty percent of the membership of the governing body of the DSMC shall be composed of representatives from local government institutions, non-governmental and community organisations, and natural and social scientists, and its executive head shall be an eminent natural or social scientist with specific expertise and experience regarding the Western Ghats. The DSMC shall assess and report on the status of ecology of Western Ghats on a regular basis and provide decision support facility in the implementation of the provisions of this notification and shall also facilitate mechanisms for scientific decision making and strengthening enforcement, as further prescribed below:*
> *(a) Conduct periodic baseline study(ies) every 5 years to measure the status of the biological diversity and other environmental parameters to inform the regulatory decisions and developmental planning.*
> *(b) Undertake, in coordination with the Union and State Government, detailed environmental assessment of policies, plans and programs of the Government to assess and make recommendations regarding their anticipated environmental, social, and economic impacts within a region or sector, which may include carrying capacity studies.*
> *(c) Conduct yearly assessments of the biodiversity, air, water, soil health, land use change, forest cover, pollution levels, precipitation, environmental degradation and restoration/regeneration, human safety and other relevant parameters within the Eco-sensitive Area. The report of these assessments shall be publicly available via the website of the DSMC, respective State Forest Departments and MoEFCC.*
> *(d) Establish and maintain a system for ongoing monitoring of key environmental parameters, including air and water quality, geology, hydrology, meteorology, biodiversity, land use, precipitation, disaster risks, which shall utilise real-time monitoring technologies, wherever appropriate, and be publicly accessible via the internet. Such information shall be*

shared with the relevant authorities under the Disaster Management Act, 2005 or otherwise for the implementation and improvement of Early Warning Systems in the ESA for the prediction and mitigation of natural disasters.

(f) Establish a public grievance redressal mechanism under the DSMC, allowing individuals, communities, and stakeholders to report incidents of non-compliance with the provisions of this notification and any adverse environmental impact or risk within the ESA. The DSMC shall act as an interface between the complainant and the relevant authority(ies) throughout the lifecycle of the complaint, until its resolution. The DSMC shall forward the complaint to the relevant state or central government authority(ies) within fifteen (15) days of receiving such a complaint, along with information and assessments relevant to the complaint that are available with the DSMC and their recommendations, if any. The relevant authority shall take appropriate action within sixty (60) days of receiving the complaint or such shorter period as may be required by applicable laws. Throughout this process, the DSMC shall notify the complainant of the status of the complaint through means such as SMS, email, or an online dashboard for tracking complaints. If no resolution is achieved within the specified time, the matter shall be escalated to the prescribed officer of the Ministry of Environment, Forest, and Climate Change. This mechanism shall be without prejudice to any other redress or remedy available to any person under applicable law.

(g) The DSMC shall publish annual compliance reports detailing public grievances and complaints, instances of violations, enforcement actions, and other relevant activities which shall be submitted to the Union and State Governments, and be publicly accessible via the website of the DSMC."

3. Sub-clause (3) shall be modified to read as follows:

"*The post clearance monitoring of projects and activities allowed in the Ecologically Sensitive Area shall be carried out by the concerned State Government, State Pollution Control Board and the Regional Office of the Ministry and all projects in the Eco-sensitive Area which have been given Environmental, Forest, Wild Life or Coastal Regulatory Zone clearances shall be monitored at least once a year by the concerned Regional Office of the Ministry of Environment, Forest and Climate Change. All compliance reports of projects/activities in the ESA submitted to the regulatory authorities shall be made publicly available on the website of the DSMC, MoEFCC and concerned State Environment/Forest Departments. The bodies identified in clause 3(2)(c)(iv) shall have the power to demand any information or document related to the compliance of such clearances from any project proponent or regulatory authority, which shall be duly submitted within fifteen (15) days.*

To the extent feasible, the Union and State Government shall enable and empower community-based monitoring systems and citizen-science tools that allows the monitoring and reporting of environmental impacts of projects/activities."

2.4 OTHER SUGGESTIONS

A. Encourage Sustainable Development in A Socially Just Manner

India has historically given alternative visions of sustainable development and the green economy, such as the 'economy of permanence' where people cooperate more satisfactorily with the natural order and contribute to greater happiness (Kumarappa, 1945). The WG ESA should catalyse people and the government to prioritise sustainable development in a socially just manner with ecological safeguards.

For this purpose, the government must expand and accelerate the implementation of laws, policies and programs that promote economic opportunities with lesser environmental impacts, such as low footprint ecotourism (e.g., National Strategy and Roadmap for Development of Rural Tourism), ecological restoration projects involving native flora (e.g., Green Credits Program), sustainable agricultural practices (e.g., National Mission on Organic Farming), forest-based livelihoods (e.g., Van Dhan Yojana), handlooms and handicrafts (e.g., National Handicrafts Development Programme) and other traditional and cultural practices (e.g., Kala Sanskriti Vikas Yojana) in the WG ESA.

B. Promote Decentralised, Bottom-Up Planning

Village and regional development plans can help to integrate local development imperatives with environmental protection (WCED, 1987). Local government bodies such as gram sabhas, village panchayats and urban local bodies should be empowered and charged with proposing and evaluating development proposals for their local areas, thereby fostering a cohesive approach to low-impact, biodiversity-friendly, and inclusive development strategies (Lukas, 2015). This can help to ensure that developmental activities align with the overarching objective of protecting local and regional ecologies, living environments, lives, and livelihoods (Ostrom, 1990).

The implementation of the ESA Notification must leverage as well as strengthen the existing decentralised governance mechanisms in the region through synergies with the Guidelines for Preparation of Gram Panchayat Development Plans, 2018, Rural Area Development Plan Formulation and Implementation (RADPFI) Guidelines, 2021 and SVAMITVA Yojana (Survey of Villages and Mapping with Improvised Technology in Village Areas).

C. Ensure That Tourism Activities Are Sustainable and Sensitive

Under ideal circumstances, nature-based tourism development can achieve a balance between economic profit and ecosystem conservation, but exceeding the ecological carrying capacity leads to conflicts between tourism growth and ecological protection (Yuxi & Linsheng, 2020). The task of identifying appropriate activities is both technically complex, and requires negotiation of values (Ritchie, 1998). Technical challenges call for more in-depth studies on the sectoral/regional impacts of tourism activities that can inform decision-making and development planning, as appropriate. At the same time, the ecological and cultural suitability of activities, and local economic benefits, must be ensured through inclusive and participatory processes.

Unplanned tourism infrastructure development poses environmental challenges such as pollution (including light and noise), land use changes, and increased probability of zoonotic disease risks

due to municipal waste generation. Therefore, increased scrutiny of environmental impacts for all high-impact tourism infrastructure and activities (including resorts, hotels, safaris, parks, safaris and zoos) in the WG ESA is recommended through SEAs and CIAs. In this context, we also call for a re-examination of the exemption granted to eco-tourism activities from Forest Clearance under the *Van Sanrakshan Evam Samvardhan Adhiniyam* (formerly, Forest Conservation Act, 1980). This would promote sustainable tourism aligned with the Central Government's initiatives such as 'Goa Roadmap for Tourism' adopted at the G20 Leaders' Summit in 2023 and 'Travel for LiFE' program under Mission LiFE (Lifestyle for Environment) (PIB, 2023b).

3. SUMMARY OF SUGGESTIONS

Clause	Original Text in the Draft Notification	Suggestions for Re-drafting
3(1): Prohibited Activities	*(1) The following categories of projects and activities shall be prohibited in Western Ghats Eco-sensitive Area except those proposals that have been received by Expert Appraisal Committees or the Ministry of Environment, Forest and Climate Change or State Level Expert Appraisal Committees or the State Level Environment Impact Assessment Authorities before the 17th April, 2013 the date on which the High-Level Working Group report was uploaded on the website of the Ministry and are pending consideration and such proposals shall be dealt in accordance with the guidelines and rules in existence at that time.*	The words "*…and any additional conditions under Clause 3(2) of this Notification.*" shall be added after the words "*in accordance with the guidelines and rules in existence at that time".*
3(1)(a)	(*a) **Mining**.- There shall be a complete ban on mining, quarrying and sand mining in Ecologically Sensitive Area and all existing mines shall be phased out within five years from the date of issue of the final notification or on the expiry of the existing mining lease, and whichever is earlier.*	The word "*and*" appearing before "*whichever is earlier*" shall be deleted.
3(1)(b)	*(b) **Thermal power plants**.- No new thermal power projects and expansion of existing plants shall be allowed in the*	Shall be replaced with: *"(b) **Thermal power plants.-** No new thermal power projects and expansion of the production*

	Ecologically Sensitive Area.	*capacity of the existing plants (whether or not involving an increase in pollution load) shall be allowed in the Ecologically Sensitive Area. All existing thermal power projects shall be phased out within such a period as the Central Government may prescribe.*
3(1)(c)	*(c)* ***Industry****.- All new 'Red' category of industries as specified by the Central Pollution Control Board or State Pollution Control Board and the expansion of such existing industries shall be banned and the list of 'Red' category of industries shall be as specified by the Central Pollution Control Board;* *Provided that all existing 'Red' category of industries including health care establishments, shall continue in Ecologically Sensitive Area under the applicable rules and regulations.*	Shall be replaced with: "***(c) Industry.-*** *All new 'Red' category of industries as specified by the Central Pollution Control Board or State Pollution Control Board and the expansion of the production capacity (whether or not involving an increase in pollution load) or land area of such existing industries shall be banned. All existing 'Red' category industries (excluding healthcare establishments) shall be phased out within such a period as the Central Government may prescribe.*
3(1)	***Note****: (1) All existing healthcare establishments can continue in Eco-sensitive Areas, and proposed Primary Health Centres can be established as per laws and regulations.*	Shall be replaced with: "***Note:*** *(1) Notwithstanding anything to the contrary in Clause 3(1)(c) above, all existing healthcare establishments can continue in Eco-sensitive Areas, and new Primary Health Centres can be established as per laws and regulations."*
New		Addition of new sub-clauses: *(e)* ***Large River-valley and Hydropower Projects****: There shall be no new river-valley projects including hydropower, irrigation, barrages, and pumped-storage projects, that are classified as requiring prior Environmental Clearance under Environment Impact*

		Assessment notification, published vide number S.O. 1533 (E), dated the 14th September, 2006. *(f)* ***Linear Infrastructure Projects:*** *No new or expansion of highways, railways and high-voltage transmission lines are permitted in the Eco-Sensitive Area.* *Provided that (I) all-weather roads connecting hitherto poorly connected existing settlements, schools and PHCs to the nearest highways or district roads, and (II) maintenance and modernisation of existing linear infrastructure, without any expansion of right of way, are allowed, subject to prevailing laws and any additional mitigation and compensating measures as prescribed by the Central Government."*
3(2)(a): Regulated Activities	*2) The following categories of projects and activities shall be regulated as given below:* *(a) Hydropower projects- New Hydropower projects shall be allowed as per the Environment Impact Assessment notification, published vide number S.O. 1533 (E), dated the 14th September, 2006, subject to the following conditions, namely:* *(i) uninterrupted ecological flow of at least thirty percent of the rivers flow in lean season, till a comprehensive study establishes individual baselines for each project;* *(ii) a cumulative study which assesses the impact of each project on the flow pattern of the rivers and forest and biodiversity loss; and*	Sub-clause (a) shall be modified to read as follows: *"(a)* ***Small river-valley and hydropower projects****- Any new river-valley and hydropower project (including, small hydropower project) and irrigation project that is not prohibited under Clause 3(1) shall be treated as Category A projects under the Environment Impact Assessment Notification, 2006 and require an Environmental Clearance, subject to the following conditions, namely:* *(i) uninterrupted ecological flow of at least thirty percent of the rivers flow in lean season, till a comprehensive study establishes individual baselines for each project;* *(ii) a cumulative study which assesses the impact of each project on the flow pattern of the rivers and forest and biodiversity loss; and* *(iii) the minimum distance between one project*

	(iii) the minimum distance between one project and the other is maintained at three kilometres and not more than fifty percent of the river basin is affected at any time."	*and the other is maintained at three kilometres and not more than fifty percent of the river basin is affected at any time."*
3(2)(b)	*(b) The "Orange/White" category of Industries as specified by the Central Pollution Control Board or State Pollution Control Board shall be allowed with strict compliance of environmental regulations, but all efforts shall be made to promote industries with low environmental impacts.*	**S**hall be modified to include the words: "*and livelihoods*" between the words "*all efforts shall be made to promote industries*" and "*with low environmental impacts*".
3(2)(c)	*(c) In the case of activities that are covered in the schedule to the Environment Impact Assessment notification number S.O. 1533 (E), dated 14th September 2006, published by the erstwhile Ministry of Environment and Forests and are falling in the Eco-sensitive Area, except the projects and activities which are specifically prohibited under sub-para (1) shall be scrutinised and assessed for cumulative impacts and development needs before considering for prior environmental clearance by the Ministry under the provisions of the said notification.*	After clause 3(2)(c), the following shall be added: *(i) Notwithstanding anything to the contrary in the EIA Notification, all wind power projects within the Eco-Sensitive Area shall be treated as a Category A project and be required to obtain prior Environmental Clearance.* *(ii) In accordance with Appendix VI of the EIA Notification, a person with special expertise and experience of Western Ghats ecology, biodiversity and/or environmental quality shall be co-opted as an expert for each EAC or SEAC meeting that considers any project or activity within the ESA;* *Provided that the same expert shall be retained for all meetings related to a particular project or activity, except in case of their withdrawal or ineligibility under applicable laws;* *Provided further that the expert shall neither be currently engaged nor have been engaged, in any capacity, including as an employee, officer, consultant, or contractor with the Central Government, the relevant State Government, or the project proponent during the past five years.* *(iii) The following additional conditions shall*

		apply to the conduct of public consultation and public hearings for any projects/activities within the ESA: a. *exclusions to public consultation under the EIA Notification, 2006 shall not be applicable for any project or activity that is proposed within the ESA.* b. *The site of the public hearing shall be located within the village(s) where the project/activity is proposed to be undertaken, or in the closest village(s) in case the project site is outside village boundary.* c. *It shall be mandatory for the State Pollution Control Board or the Union Territory Pollution Control Board to ensure that the draft EIA report and a summary of the EIA report (in the relevant local language(s)) have been shared with the relevant Gram Panchayat(s) and/or Gram Sabha(s) at least forty-five days prior to the date of the public hearing.* d. *The power of the regulatory authority to decide that the public consultation in certain cases need not include the public hearing under clause 7(i)(III)(v) of the EIA Notification, 2006 shall be exercised only after the written concurrence of the District Collector/District Magistrate regarding the existence of exceptional circumstances contemplated in the said clause.* *(iv) All projects/activities must carry out the pre-Scoping public consultation process before being issued the Terms of Reference under EIA Notification, 2006. The Form-1 application alongwith Pre-Feasibility Report and other documents to the submitted to the regulatory authority must be shared proactively with the*

		following: a) *Gram Sabhas and Gram Panchayats in rural areas;* b) *Urban Local Bodies, including Nagar Palikas, Municipal Councils, Municipalities in urban areas;* c) *Zila Parishads for district-level oversight and coordination;* d) *Gram Sabhas under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and The Panchayats Extension to Scheduled Areas Act, 1996, Tribal Councils or Autonomous District Councils in areas inhabited by Scheduled Tribes and other traditional forest dwellers; and* e) *Biodiversity Management Committees under the Biological Diversity Act, 2002.* *It shall be mandatory for the project proponent to conduct public hearing(s) of the Gram Sabhas and Urban Local Bodies, and the concerned Pollution Control Board shall approve the date(s) and location(s). The relevant documents shall be shared with the above-mentioned parties at least forty-five days prior to the public hearing.* *All comments obtained through the pre-Scoping public consultation and public hearing shall be considered by the project proponent and submitted to the regulatory authority alongside the Form-1.* **Explanation**: *Cumulative Impact Assessment (CIA) studies: CIA studies shall assess the collective and combined environmental and socio-cultural impacts of all projects and activities within a specified area over time by ensuring the following aspects:*

		a) *CIA studies must ensure comprehensive baseline biodiversity (including flora, fauna, and other related ecosystem processes), socio-economic assessments and other required parameters' primary data collection spanning a minimum 12 months to incorporate seasonal biodiversity occurrence and movement, demographic effects, and environmental and ecological changes.* b) *The Terms of Reference for such CIA shall, in addition to (I) the area in which effects of the proposed project/activity will be felt and (II) the impacts that are expected in that area from the proposed project/activity, also require the assessment of (III) other actions (both natural and human), past, proposed, and reasonably foreseeable, that have had or are expected to have impacts in the same area; (IV) the impacts or expected impacts from these other actions; and, (V) the overall impact that can be expected if the individual impacts are allowed to accumulate. The Central Government may issue necessary guidelines and clarifications in this regard.* c) *CIA studies shall be undertaken by such agencies and institutions that meet necessary requirements to be prescribed by the Central Government."*
3(2)(e)	*(e) The requirements of prior informed consent under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) shall be complied with and the consent of Gram Sabha for undertaking projects and activities*	Shall be replaced with the following: *"(e) Free, prior and informed consent of each Gram Sabha under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Panchayats Extension to Scheduled Areas Act, 1996 having*

	shall be mandatory."	*jurisdiction over the whole or part of the land indicated in the proposal for the diversion of forest land or on which the proposed project or activity shall be located shall be mandatory for the grant of Forest Clearance or Environment Clearance, as may be the case, for any project or activity proposed in the ESA. The regulatory authority empowered to grant the Environment Clearance and/or Forest Clearance shall require and verify the resolution of the Gram Sabha(s) granting such consent prior to the grant of the applicable clearance."*
New		A new sub-clause shall be added: *"(f) The concerned expert appraisal committee and the regulatory authority shall apply the principle of mitigation hierarchy while considering the permissibility of regulated activities in the ESA, which comprises four broad action steps that are designed to be implemented sequentially: (1) avoid, (2) minimise, (3) remediate, and (4) offset."*
4(1): Implementation and Monitoring mechanism	*(1) The responsibility for monitoring and enforcement of provisions of this notification shall be with the concerned State Governments of Western Ghats region and the State Governments shall ensure placing of required mechanisms for effective monitoring and enforcement of restrictions in the Eco-sensitive Area and while placing such mechanisms, the State Governments shall inter alia ensure strengthening of existing regulatory institutions and processes, and participation and involvement of local communities in decision making and the details of such mechanisms shall be shared by the concerned State Governments with the Ministry of Environment, Forest and*	Shall be modified to read as follows: "*(1) The responsibility for monitoring and enforcement of the provisions of this notification shall be with the respective State Governments. The Central Government and State Governments shall enable and empower local government institutions for their participation in decision-making, monitoring and assisting in the enforcement of the provisions of this notification. The Central Government may issue guidelines and circulars to State Governments and regulatory authorities in this regard from time to time. The Central Government shall provide necessary resources towards their effective and regular capacity-building."*

	Climate Change.	
4(2)	*(2) A Decision Support and Monitoring Centre for Western Ghats shall be established by the Ministry of Environment, Forest and Climate Change in collaboration with the six State Governments of the Western Ghats region which shall assess and report on the status of ecology of Western Ghats on regular basis and provide decision support facility in the implementation of the provisions of this notification and shall also facilitate mechanisms for scientific decision making and strengthening enforcement.*	Shall be modified to read as follows: "*(2) No later than three months from this notification being effective, a Decision Support and Monitoring Centre ("DSMC") for Western Ghats shall be established by the Ministry of Environment, Forest and Climate Change in collaboration with the six State Governments of the Western Ghats region, with a representative office in each State. Not less than fifty percent of the membership of the governing body of the DSMC shall be composed of representatives from local government institutions, non-governmental and community organisations, and natural and social scientists, and its executive head shall be an eminent natural or social scientist with specific expertise and experience regarding the Western Ghats. The DSMC shall assess and report on the status of ecology of Western Ghats on a regular basis and provide decision support facility in the implementation of the provisions of this notification and shall also facilitate mechanisms for scientific decision making and strengthening enforcement, as further prescribed below:* *(a) Conduct periodic baseline study(ies) every 5 years to measure the status of the biological diversity and other environmental parameters to inform the regulatory decisions and developmental planning.* *(b) Undertake, in coordination with the Union and State Government, detailed environmental assessment of policies, plans and programs of the Government to assess and make recommendations regarding their anticipated environmental, social, and economic impacts within a region or sector, which may include carrying capacity studies.*

		(c) Conduct yearly assessments of the biodiversity, air, water, soil health, land use change, forest cover, pollution levels, precipitation, environmental degradation and restoration/regeneration, human safety and other relevant parameters within the Eco-sensitive Area. The report of these assessments shall be publicly available via the website of the DSMC, respective State Forest Departments and MoEFCC. *(d) Establish and maintain a system for ongoing monitoring of key environmental parameters, including air and water quality, geology, hydrology, meteorology, biodiversity, land use, precipitation, disaster risks, which shall utilise real-time monitoring technologies, wherever appropriate, and be publicly accessible via the internet. Such information shall be shared with the relevant authorities under the Disaster Management Act, 2005 or otherwise for the implementation and improvement of Early Warning Systems in the ESA for the prediction and mitigation of natural disasters.* *(e) Establish a public grievance redressal mechanism under the DSMC, allowing individuals, communities, and stakeholders to report incidents of non-compliance with the provisions of this notification and any adverse environmental impact or risk within the ESA. The DSMC shall act as an interface between the complainant and the relevant authority(ies) throughout the lifecycle of the complaint, until its resolution. The DSMC shall forward the complaint to the relevant state or central government authority(ies) within fifteen (15) days of receiving such a complaint, along with information and assessments relevant to the complaint that are available with the DSMC and their recommendations, if any. The relevant authority shall take appropriate action within sixty (60) days of receiving the complaint or such shorter period as may be required by applicable*

		laws. Throughout this process, the DSMC shall notify the complainant of the status of the complaint through means such as SMS, email, or an online dashboard for tracking complaints. If no resolution is achieved within the specified time, the matter shall be escalated to the prescribed officer of the Ministry of Environment, Forest, and Climate Change. This mechanism shall be without prejudice to any other redress or remedy available to any person under applicable law. *(f) The DSMC shall publish annual compliance reports detailing public grievances and complaints, instances of violations, enforcement actions, and other relevant activities which shall be submitted to the Union and State Governments, and be publicly accessible via the website of the DSMC."*
4(3)	*(3) The post clearance monitoring of projects and activities allowed in the Ecologically Sensitive Area shall be carried out by the concerned State Government, State Pollution Control Board and the Regional Office of the Ministry and all projects in the Eco-sensitive Area which have been given Environmental Clearance or Forest Clearance shall be monitored at least once a year by the concerned Regional Office of the Ministry of Environment, Forest and Climate Change.*	Shall be modified to read as follows: "*The post clearance monitoring of projects and activities allowed in the Ecologically Sensitive Area shall be carried out by the concerned State Government, State Pollution Control Board and the Regional Office of the Ministry and all projects in the Eco-sensitive Area which have been given Environmental, Forest, Wild Life or Coastal Regulatory Zone clearances shall be monitored at least once a year by the concerned Regional Office of the Ministry of Environment, Forest and Climate Change. All compliance reports of projects/activities in the ESA submitted to the regulatory authorities shall be made publicly available on the website of the DSMC, MoEFCC and concerned State Environment/Forest Departments. The bodies identified in clause 3(2)(c)(iv) shall have the power to demand any information or document related to the compliance of such clearances from any project proponent or regulatory*

		authority, which shall be duly submitted within fifteen (15) days. *To the extent feasible, the Union and State Government shall enable and empower community-based monitoring systems and citizen-science tools that allows the monitoring and reporting of environmental impacts of projects/activities."*

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