

Minutes of the 80th Meeting of the Maharashtra Coastal Zone Management Authority held on 11th February, 2013

Minutes of the 80th meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held under the Chairmanship of Secretary (Environment) on 11th February, 2013 at Mantralaya, Mumbai.

List of members present in the meeting is enclosed as Annexure-I
Municipal Commissioner, Municipal Corporation of Greater Mumbai, Mumbai; The Additional Chief Secretary, Revenue Department, Mantralaya, Mumbai; Principal Secretary Industries Department, Mantralaya, Mumbai; Principal Secretary, Urban Development Department, Commissioner Fisheries; Dr. Baba, Expert Member; Dr. Mahesh Shindikar, Expert Member could not attend the meeting. The meeting was adjourned for 30 minutes for want of quorum

Item No. A: Confirmation of minutes of the 79th meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held on 5th January 2013

The draft minutes of the 79th Meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 5.1.2013 were circulated to all members of MCZMA through email for confirmation. The members were requested to provide suggestions/ objections, if any, on the draft minutes. Accordingly, the minutes were confirmed with following changes-

1. On page 19, item No. 5, the line "Project proponent ensured that the latest amended proposal involves construction of Residential building comprises of basement + stilt + Podium for parking + 1st to 11th upper floors" is replaced with - "Project proponent ensured that the latest amended proposal involves construction of Residential building comprises of basement + stilt + podium + 1st to 9th upper floors.
2. The Specific condition "The concerned Planning Authority should ensure that the proposed commercial use involved in the proposal should be in conformity with the town and country planning regulations existing as on 19.2.1991" is deleted from the item nos. 18, 19, 20, 21, 22 & 23.
3. On page 25, item No. 11, the line "Survey No. 173/2, Murud, Tal. Murud, Dist. Raigad" is replaced with - "Bhivandi creek parallel to the existing bridge Durgadipul in Kalyan"
4. On page 38, item No. 23, the line "plot bearing survey no. 93/1, 96/8, C.S.No. 1752, 1755 at village Murud, Tal. Murud, Dist. Raigad" is replaced with - "Plot bearing S. No.(1)76, Hissa No. 13B/1A1 and 12A1 C.T.S. No. 2326, 2327 at Murud, Tal.- Murud, Dist.- Raigad"
5. On page 52, item No. 32, the area for Ground floor (existing) = 162.735sqmt is replaced with 130.720 sqmt and for Proposed 1st floor = 130.720sqmt is replaced with 162.240 sqmt.
6. On page 60, item No. 36, the line "The Authority decided to recommend the proposals except at Sr No. 1 & 2 from the CRZ point of view subject to strict compliance of the following conditions" is replaced with "The Authority decided to recommend the proposals except at Sr No. 1, 2 & 6 from the CRZ point of view subject to strict compliance of the following conditions"

Item No. B: Redevelopment of property bearing CS No. 280 of Malabar Hill Division - M/s Earth Builders. (M/s Earth Builders)

The Authority noted the detailed background of the matter which is as follows-

The matter was considered in 62nd, 65th, 74th and 75th meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held on 20.5.2010, 9.11.2010, 23.4.2012 and 15.5.2012 respectively.

Minutes of the 80th Meeting of the Maharashtra Coastal Zone Management Authority held on 11th February, 2013

Based on the decision of the Authority in the 65th meeting of MCZMA, the matter was recommended to Ministry of Environment and Forest (MoEF), New Delhi. However, the recommendation was suspended, due to subsequent complaints.

Meanwhile, the new CRZ Notification, 2011 was published by the MoEF and the proposal was sent back to MCZMA, for further decision in light of new CRZ Notification, 2011.

The M/s Earth Builder has filed a petition WP No. 2553 of 2011 in the Mumbai High Court. The High court has disposed of the petition on 1.2.2012 with following directions:-

“Having heard learned counsel for the parties we dispose of this petition with a direction that respondent No.4-Maharashtra Coastal Zone Management Authority shall consider the petitioners' proposal which was considered at the meeting held on 9 September 2010 in accordance with law including the CRZ Notification of 2011, if applicable.”

The matter was considered in the 75th meeting of MCZMA held on 23.4.2012. As per the decision taken in the said meeting, the MCZMA vide letter dated 2.10.2012 recommended the proposal from CRZ point of view to the concerned planning Authority i.e. MCGM.

M/s Earth Builder addressed a letter dated 20th November, 2012. It seems from the letter that M/s Earth Builder is requesting the benefit of staircase, lift, lift lobby and passages etc. for the proposal which got the CRZ clearance dated 2.10.2012 from the MCZMA under the provisions of DCR 1967.

The MCGM vide letter dated 27.11.2012 requested a clarification on MCZMA's clearance letter dated 2.10.2012.

As per the said letter, there are contradictions in conditions stipulated in MCZMA's clearance letter. As per the said letter of MCGM, specific conditions No. 6 to 9 and Generation conditions No. 1 area contradicting.

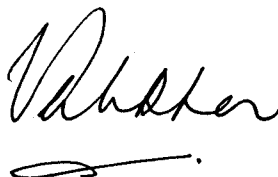
The MCGM requested vide letter dated 27.11.2012 to clarify to whether the DCR 1967 as amended upto 19.2.1991 or the DCR 1991 amended upto 6.1.2011 shall be made applicable in this particular case.

Taking into account the request of the MCGM and letter of project proponent, the Authority once again discussed the proposal at length.

The Authority noted that the MCZMA issued the CRZ recommendation dated 2.10.2012 as per the provisions of DCR 1967, since the original application as directed by Hon. High court, was taken into consideration, which was submitted under the provisions of DCR 1967.

Hence, the request of the project proponent to render the benefit of staircase, lift, lift lobby and passages as free of FSI, for the proposal to which, the MCZMA granted CRZ recommendation dated 2.10.2012 was rejected. DCR 1967 doesn't allow the benefit of staircase, lift, lift lobby and passages as free of FSI in the Mumbai city area.

The project proponent submitted the public consultation report as mentioned in para 8.V. (b) of CRZ Notification, 2011. The Authority took on record the said report. The Authority shall examine and decided the proposal in accordance with para 8.V (C) of CRZ Notification, 2011 in forthcoming meeting of MCZMA.



Minutes of the 80th Meeting of the Maharashtra Coastal Zone Management Authority held on 11th February, 2013

Further, the Authority decided to seek a clarification from the MCGM on whether there was provision of allowing Staircase, lift, lift well and passages was free of FSI, under DCR 1967, for redevelopment of Cess building..

Item No. 1: Proposed Chhatrapati Shivaji Maharaj Statue and Memorial in the Arabian Sea at Mumbai

The Public Works Department (PWD) vide letter dated 11.2.2013 submitted a concept proposal / plan to the MCZMA with a request to advise which are the additional studies required in the proposal. The Authority noted the concept proposal –

Selection of Site:-

Extensive Survey was done to identify the site for erection of Statue of Chatrapati Shivaji similar to world famous statue of Liberty in Back Bay Area of Arabian Sea near Mumbai under the leadership of Hon, Guardian Minister of Mumbai Shri Jayant Patil in the month of January 2013. Initially three sites viz. 1. Site, 500 meters away from Girgaon Beach, in the intertidal zone, 2. Site 2 Km south west of H2O just beyond LTL and 3. Site, with rocky out crop, 3.6 Km towards the sea from H2O Jetty at Girgaon.

The first site was rejected due proximity to the land and was in the intertidal zone where reclamation was envisioned. Second site was in CRZ IV from where internet and telecommunication cables were passing through and substantial reclamation was also required and hence rejected.

Third site selected is an elliptical / egg shaped basalt rocky out crop of approximate size of 650m x 325m at lowest tide level measuring 15.96 hectares and is supported by 17.67 hectares of shallow rocky bank all around (Submarine rock). This rocky out crop is situated about 1.2 km South-South West of Rajbhavan, 3.6 km in South West direction from H2O Jetty at Girgaon and 2.6 km from West of Nariman point. No major reclamation would be required on this site and it is near to international navigational route on the South-South West. It is accessible from H2O Jetty at Girgaon, Gateway of India, Mahim Bay, Juhu and Gorai through existing water routes.

During High Tide site under reference is usually submerged with around 1 to 4 meters of water column and during Low tide main rocky portion measuring 15.96 hectares remains visible. However, rocky bank around the site is always submerged with minimum of 0.5 meter water column.

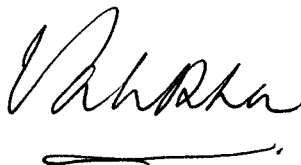
The latitude of site is 18° 55'33.8" and longitude of site is 72° 47'25.0"E at the Centre point of the site. Marine drive Back Bay area chart no. 1408/ 2013 prepared by Maritime Board indicating Geographical Position of all corners of the site is discussed.

Navigational Map indicating exact location and contours of the area AND Google image indicating geographical location with respect to surrounding area of the site are discussed.

Proposal detail and tentative plan:

Proposed plan comprises erection of World Class monument of Chatrapati Shivaji Maharaj of the height of 312 feet. An equestrian Statue of Shivaji Maharaj is proposed at par with Statue of Liberty on the 15.96 Ha main rocky areas. Proposed construction consists of RCC sea wall / curtain wall, etc., and RCC platform is proposed to be created for formation of monument. It is expected that around 3000 persons per day will visit the site.

Proposal comprises of:-



Minutes of the 80th Meeting of the Maharashtra Coastal Zone Management Authority held on 11th February, 2013

1. Art museum exhibiting artifacts used by Chatrapati Shivaji Maharaj and extracts of his inspirational writings, maps and relevant land records prepared by Shivaji Maharaj
2. An amphi-theatre and auditoria of various sizes as per requirement with back stage facilities.
3. exhibition gallery displaying life panorama of Chatrapati Shivaji Maharaj with artistic murals
4. Marine aquarium, water adventure sports and sound/ light shows.
5. Coastal and Marine resources interpretation and sensitization Centre.
6. The contiguous adjoining area will have beautifully landscaped gardens and open spaces to accommodate floating population.
7. Adequate no of jetties with adequate passenger facilities to smooth transport from marine drive, Gateway of India, and other points if required etc.
8. Common facilities such as Reception, Cafeteria, Lavatories, Book stalls etc. for the visitors and Office facilities for supports staff.
9. Adequate security installations with latest technology, Coastal Police Station with disaster warning facilities.

Proposed Environmental safeguard measures and plans:

1. Waste water generated from the monument will be treated with the latest waste water treatment technology comprising reverse osmosis followed by ultra-violate treatment to achieve the zero discharge and treated water will be recycled for domestic utilization and gardening. It is expected that around 3000 persons per day will visit the site and landscaping. There will be no treated or untreated waste water discharge in the sea water.
2. Municipal Solid waste will be treated on site with Mechanical Organic waste Converters/ Bio-Composters etc., Bio-methanation for energy recovery/ biogas, and gas generated from the same will be utilized for lightening and domestic purposes. Manure will be reused for gardening.
3. Renewable energy sources such as solar photovoltaic panels direct to grid supply on site and with inverters for standby use. Hybrid wind solar equipment to produce energy will also be installed on the site in addition to solar heater and solar street lights with LED provision. These environmental parameters will be taken in to account at the stage of proposal design.
4. Proposed monument will be plastic free zone and even pet bottles and plastic sachets will not be allowed within the project site.

Studies for the proposed Plan:

Following studies are proposed to be conducted before commencement of the work:

1. Coastal modeling, Tidal behavior study, Wind tunnel effect, Sedimentation studies, Oceanographic Surveys bathymetry, Geomorphological studies, under water current surveys and impacts on surrounding landforms.
2. Geo technical Investigation with respect to structural stability, erosion rate of rocks and structure etc. and measures thereupon.
3. EIA of the entire project comprising from entry points., Cost benefit analysis, Transport impact at entry points, impact of water transport system, floating population, environmental management plan. This includes the terrestrial, air and marine components. Terrestrial to include the land use pattern in the area with in 10km radius of the proposed developments and study the impacts of the project on the nearby land use pattern of coast, if any.



Minutes of the 80th Meeting of the Maharashtra Coastal Zone Management Authority held on 11th February, 2013

4. Socio economic impacts on the local fishermen of the area. Air environment and possible impacts on it due to the project both in construction and operational phases
5. Marine biodiversity surveys and anticipated impacts and mitigation measures. Marine part will include the baseline water quality, sediment quality, flora and fauna of the project site and around. The prediction of impacts due to the reclamation (Changes in hydrodynamics of the area and consequent erosion and accretion processes induced by the reclamation) and, construction & operational activities of the proposed project
6. Mapping of the area showing depth contours around the proposed site (submerged rock) incorporating the area delineated for the project and the present status of the area defining the CRZ category as per CRZ Notification of 2011.
7. Additional studies for stability of the reclaimed area and the statue will be undertaken by seismic studies to delineate the extent and integrity of the submerged rock. Side scan sonar studies for any other smaller rocks in case of navigational routs proposed to the captive jetty catering for the tourist traffic.
8. Baseline Assessment of the study area, Prediction of impact on marine as well on onshore activities due to the project on all attributes of environment such as air, water, soil/sediment, biodiversity, etc.
9. Analysis of Alternatives, Evaluation of Impacts and provide mitigation plan
10. Disaster Management Plan and Risk Assessment

CRZ Applicability:

Proposed site is in CRZ IV area as per the CRZ notification of 2011. Copy of the CZMP indicating CRZ Status is at Exhibit D.

As per the provision 8 (IV) prior permission of the MoEF is mandatory with a recommendation from MCZMA. The provision is reproduced as follows:

(IV) In CRZ-IV areas,-

The activities impugning on the sea and tidal influenced water bodies will be regulated except for traditional fishing and related activities undertaken by local communities as follows:-

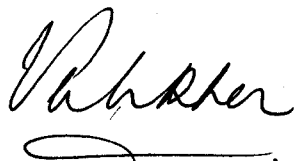
(a) No untreated sewage, effluents, ballast water, ship washes, fly ash or solid waste from all activities including from aquaculture operations shall be let off or dumped. A Comprehensive plan for treatment of sewage generating from the coastal towns and Cities shall be formulated within a period of one year in consultation with stakeholders including traditional coastal communities, traditional fisher folk and implemented;

(b) Pollution from oil and gas exploration and drilling, mining, boat house and shipping;

(c) There shall be no restriction on the traditional fishing and allied activities undertaken by local communities.

The Authority deliberated the conceptual proposal at length and decided to suggest following additional studies / suggestions-

1. Studies pertaining to ecological / Biodiversity loss due to proposed activity. And Mitigation measures for the same.



Minutes of the 80th Meeting of the Maharashtra Coastal Zone Management Authority held on 11th February, 2013

2. Impact of proposed activity on surrounding fisherman and allied activities. NoC from the Dept of fisheries would be mandatory.
3. As frequency of boats per day would increase manifold due to proposed activity, boats powered by Gas instead of diesel / petrol should be used, to mitigate the coastal water pollution.
4. The PWD should constitute a multidisciplinary technical team comprising members from NIO, CWPRS, fisheries etc, as a coordination committee who will monitor the work entrusted to expert agencies doing the concerned / relevant studies.

The Authority after detailed discussion and deliberation decided to send the concept proposal / plan to MoEF, New Delhi for further guidance and suggesting studies, if any, need to be done for the proposal.

Item No. 2: Review of District Coastal Zone Monitoring Committee- Mumbai Suburban

The Authority noted that in exercise of powers conferred under the provision 6 (C) of CRZ Notification, 2011; the Environment Dept, Govt. of Maharashtra had constituted the District Coastal Zone Monitoring Committee (DCZMC) vide order dated 23.3.2011. The Collector of the concerned district is the airperson of the Committee.

The Functions of the committee includes the protection and conservation of coastal stretches of the district, identification of violation of CRZ Notification, taking action against the violations, identifying the ecological sensitive areas and formulating plans for its conservation.

The representative of DCZMC, suburban attended the meeting, who apprised the Authority about the constitution and functioning of the DCZMC. Two meetings have been conducted since the constitution of DCZMC.

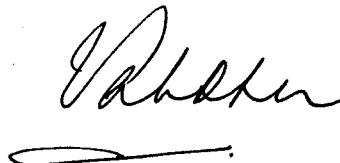
On hearing representative of DCZMC, the Authority decided to issue the following directions to the DCZMC, Mumbai Suburban-

1. Meeting should be conducted every month and send the minutes of the meeting to the Authority.
2. Start immediate action on violations of the CRZ Notification, 1991 as well as 2011. The apparent violations such as construction in CRZ I area/ mangroves area should be acted upon immediately by booking the violators. Construction undertaken without CRZ permission in CRZ II and III area should also be listed and action taken on the same should be submitted. The dwelling units of traditional coastal communities including fisherfolks, tribals as were permissible under the provision of the CRZ Notification, 1991, but which have not obtained formal approval from concerned authorities under the CRZ Notification, 1991 should be exempted from such action as per Para 6(d) of CRZ Notification, 2011.
3. Provide the concrete information on identification of CRZ violations and action taken on them to the Authority within 2 months.

The Authority decided to take the review of the DCZMC, Mumbai Suburban within 2 months, in the light of the information submitted by the DCZMC.

Item No. 3: Construction of Hotel at Plot bearing F.P.No. 1211 on TPS IV, Mahim Division, Prabhadevi Mumbai by M/s Chaitra Realty Ltd

The Authority noted that the subject proposal was considered in the 52nd meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held on 14th May, 2009, wherein it was noted that the plot



Minutes of the 80th Meeting of the Maharashtra Coastal Zone Management Authority held on 11th February, 2013

under reference is in CRZ II and is situated on landward side of the authorized structure existing prior to 19.2.1991. As per the DP remarks and town planning, the plot is reserved for special Industrial Zone and partly reserved for recreational ground. The Authority noted that as per DC regulation 1967 which was in existence on 19.2.1991 change in land use / zoning was not allowed and Hotel activity is allowed only in residential zone, Further as per the CRZ Notification, land use change is not permissible. With these observations, the Authority recommended the proposal to MoEF for further necessary action.

The Authority further noted that the proposal was considered in the 18th meeting of the National Coastal Zone Management Authority (NCZMA) held on 15th September, 2009. The NCZMA did not take up the proposal, since it was not a case of reclassification, but only change of land use.

The Expert Appraisal Committee in its meeting dated 21st- 23rd July, 2010 recommended the proposal for grant of Environment and CRZ subject to condition that – “the development shall conform to the local regulation of land use”.

The Ministry of Environment and Forest (MoEF), New Delhi accorded the Environment and CRZ clearance vide letter dated 29th September, 2012 subject to strict compliance of the specific condition as stipulated above.

The existing land use in the instant matter is special industrial zone and partly recreational ground wherein the construction of five star Hotel was not allowed as per the DCR 1967 which is applicable in CRZ II areas of Mumbai.

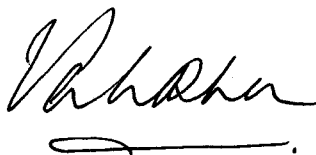
The Authority noted that the matter was considered in the 79th Meeting of MCZMA held on 5th January 2013. It was decided to request the Urban Development Department (UDD) and Municipal Corporation of Greater Mumbai (MCGM) to provide the status of the project and confirm the above at the earliest and to inform the same to the MOEF. Accordingly, the MCGM was requested to confirm whether condition stipulated by the MoEF, New Delhi while according the Environment and CRZ clearance to the project under consideration, has been complied or not.

Accordingly, the MCGM vide its letter dated 8th January 2013. forwarded the reply to the Authority. As per the said letter, the approval of additional FSI allotted to proposed star category hotel on land under reference granted vide letter dated 1st September 2009 is revoked and the process to refund the deposited payment made by the developer towards additional FSI to be initiated. Further it was informed that the MCGM has not issued any approval regarding subject matter till date.

The Authority took on record the said reply of the MCGM and decided to send the same to MoEF, New Delhi for information and further appropriate action in the matter.

Item No. 4: Reji Abraham Vs State of Maharashtra (WP No. 9/2011) (Mouje Charkop, Tal. Borival, Saibaba Society. Plot. No. 296, Charkop, Kandivali (W), Mumbai)

The Authority noted that the matter was considered in the 74th Meeting of the MCZMA held on 23rd April 2012. The Authority decided to direct the District Collector to take action as per section 5 of Environment (Protection) Act, 1986 after due verification of the contents reported by Tehsildar, Borivali within a period of 30 days and revert. It was also decided to direct the Municipal Corporation of Greater Mumbai (MCGM) to take action against the said society within 30 days, after due verification of the facts in the matter, under M.R. & T.P. Act.



Minutes of the 80th Meeting of the Maharashtra Coastal Zone Management Authority held on 11th February, 2013

It was noted that the District Collector, Mumbai Suburban as well as the MCGM forwarded their replies to the Authority vide their letters dated 31st January 2013 and 7th December, 2012 respectively.

As per the said letter of the Collector, the mangroves are present outside the compound wall of the Saibaba C.H.S. It is seen that mangroves are not getting affected, due to existence of compound wall between mangrove and Saibaba C.H.S.

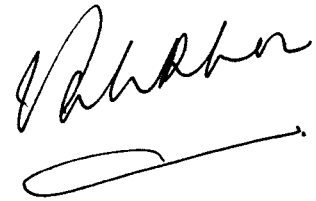
The replies of Collector and MCGM mentions about dismissal of the PIL No. 21/2011 (Edwin Britto Vs Union of India & ors) and the PIL No. 9/2011 (Regi Abraham Vs State of Maharashtra & Ors) in Hon. High court of Mumbai pertaining to matter. As mentioned in the MCGM's reply, Hon. High court of Mumbai has dismissed the PIL No. 21/ 2011 and PIL 9/2011 vide its order dated April 20, 2012 regarding the Saibaba CHS. The Hon. High court noted that Intimation of Disapproval (IOD) as well as Commencement Certificate (CC) was granted for the said building on 28th February, 2008 and 21st July, 2009 respectively by the MCGM. When the said PIL came to be filed, considerable construction has already been taken place. The Hon. High dismissed the PIL with directions to the Saibaba CHS not to destroy any mangroves near the building and to take necessary steps for preservation and protection of the mangroves near the building. For this purpose, the Saibaba CHS shall construct a compound wall between the mangroves and the building of the society. Accordingly, there is compound wall with barbed fencing between mangroves and the society.

The Authority took on record both replies of the District Collector, Mumbai Suburban and the MCGM as well as the court order dated April 20, 2012 of Hon. High court of Mumbai in the matter.

After detailed discussion and deliberations on the replies of the MCGM and the District Collector, Mumbai Suburban as well as Hon. Court order dated April 20, 2012 in PIL 9/2011 & 21/2011 in the subject matter; the Authority decided to withdraw the Directions dated 30th June, 2012 under section 5 of the Environment (Protection) Act, 1986 issued to the District Collector, Mumbai Suburban and the Commissioner, MCGM.

-----Meeting ended with vote of thanks-----

Annexure-I



1. Mr. S.N.Bagul, Member Secretary, MCZMA
2. Dr. Baban Ingole, Sr Scientist, NIO, Goa and Expert Member, MCZMA
3. Dr. M. C. Deo, Director, Veermata Jijabai Technological Institute (VJTI), Matunga, Mumbai
4. Dr. Geetanjali Deshmukhe, Sr. Scientist, Central Institute of Fisheries Education.