

## 14.1 Legal Framework

**14.1.1** The legal framework for controlling development in the Region is primarily provided by the Maharashtra Regional and Town Planning (MR&TP) Act, 1966. In this Act the “Development” is defined as the carrying out of buildings, engineering, mining or other operations in, or over, or under land or the making of any material change, in any building or land in the use of any building or land and includes demolition of any existing building, structure or erection or part of such building, structure or erection, reclamation, redevelopment and layout and sub-division of any land.

The key elements of this legal framework for controlling development are :

1. Government's sanction to the Regional Plan or Development Plan;
2. Requirement of obtaining Development Permission; and
3. Enforcement and penal provisions against carrying out development in contravention of Draft or Sanctioned Plans.

**14.1.2** In order to ensure that the new development takes place in conformity with the Draft or Sanctioned Regional Plan, Section 18(1) of the MR&TP Act requires that every person who intends to carry out development in the Region obtains a permission of the Municipal Authority in whose jurisdiction such development is proposed. Where the land is situated outside the jurisdiction of any Municipal area, the permission of the Collector is required before carrying out the development.

**14.1.3** In the Municipal areas or in the areas falling within the jurisdiction of Special Planning Authority and New Town Development Authority, the developments are also regulated in accordance with the provisions of Chapter-IV of the MR&TP Act. Section 43 makes it mandatory to obtain Development Permission before carrying out any development. No such permission is required for certain types of developments such as :

1. Internal additions and alteration of a building.
2. Works carried out in compliance with any order or direction made by any Authority under any law.
3. Works to be carried out by the Central or State Government or any Local Authority which are required for maintenance or improvement of roads, drains, sewers, pipelines and such other services.
4. Excavation including wells in the ordinary course of agricultural operation and construction of road for giving access to land for agricultural purpose.

The permission can be granted under Section 45 of the Act provided the development proposed is in accordance with the provisions of the Development Plan. Sections 52 to 56 of the Act prescribe penalty for carrying out development which is not in conformity with the Development Plan and provides for removal of unauthorised developments.

**14.1.4** In addition to these provisions, the Mumbai Metropolitan Region Development (MMRDA) Act, 1974, provides for overriding control of the specific types of developments which

are likely to affect adversely the overall development of the Region. Under Section 13 of the MMRDA Act, the MMRDA can notify specific types of developments which cannot be permitted without obtaining its prior permission.

## 14.2 Instruments of Control

### 14.2.1 Land Use Plan

The Regional Plan - 1973, defines land use zones very broadly and divides the region into 5 principal land use zones, namely:

1. Urbanisable Zone                      U Zone
2. Industrial Zone                        I Zone
3. Recreational Zone                    R Zone
4. Forest Zone                            F Zone
5. Green Zone                            G Zone

The 'U' Zone covers existing towns, and areas marked for their planned expansion, proposed new towns and other new township areas. In this zone, the development control is to be exercised in accordance with the development plans and detailed Development Control Regulations of the respective towns. Large industrial areas outside the existing towns are designated as 'I' Zone. They are developed and controlled largely by the MIDC. Developments in 'F' and 'G' zone, which are essentially conservation areas, are controlled by the D.C. Rules of the Regional Plan under Section 18 of the MR&TP Act.

Besides the broad regional land use plan, the Regional Plan recommended detailed land use and circulation plans, more commonly known as dormitory township plans, for a number of areas which were prone to rapid urbanisation, and, for which, no local authority or planning authority then existed. These areas included Kalyan-Ulhasnagar Complex, Thane Industrial Complex, and Industrial Complexes at Rasayani, Khopoli, Mira-Bhayander and Atale-Shahad area. Since these plans were published and sanctioned as parts of the Regional Plan, they acquired legal force and formed the basis of controlling development in these areas. The Regional Plan resorted to yet another type of land use designation, mostly in a verbal form, by which certain areas, namely, Vasai Road, Nallasopara, Virar and Neral were identified for future urbanisation. The preparation of detailed plans for these areas was left to the Director of Town Planning. Similarly, the plan suggested a few land use changes in certain areas, such as, reduction of 800 ha. of industrial zone in the Development Plan of Greater Mumbai.

Since its approval in 1973, the Land Use Plan for MMR has been amended several times. Some of the amendments were related to small individual holdings but others were of significant nature. They are:

1. Modification to Thane Industrial Complex Plan in 1980,
2. Modification to Mira-Bhayander layout plan in 1983,
3. Modification to plan of Vasai-Virar sub region in 1990,
4. Modification to the plan of Kalyan Complex in 1991.

Consequent upon the enlargement of MMR's boundary in the MMRDA Act, 1974, the Land Use Plan for the 398 sq.km. area of Alibag and Pen Tehsils was sanctioned in

1985. This plan, though continued the broad land use zoning system adopted in the original plan, introduced for the coastal area two new zones, namely, R1 - Recreational Zone, defined as a belt upto 500 meters from the coast, and R2 - Recreational Zone, defined as a belt between 500 and 1000 meters from the coast.

#### 14.2.2 **Development Control Rules**

The Regional Plan laid great stress on regulating future development in the Region to prevent urban sprawl. The DC Rules of the Regional Plan therefore mainly dealt with the developments outside urban areas, and focused on 'G' Zone, 'R' Zone 'F' Zone, and 'I' Zone.

While all future developments in the 'G' Zone were frozen, exceptions were made to permit -

1. natural growth of rural settlements (gaothans) and to accommodate
2. certain activities which were considered to be essential or conducive to development of rural areas or which had no deleterious impact on the countryside. Such exceptional developments included expansion of gaothans, housing for cooperative societies of the local villagers, individual bungalows, holiday homes, activities allied to agriculture, highway amenities, transfer godowns, communication routes, public utilities, hazardous industries, resource-based industries, and small-scale industries. All these developments were also permissible in the 'F' Zone with the concurrence of the Forest Department. The 'R' Zone was primarily meant for meeting the recreational needs. In the coastal belt between Rewas and Alibag the developments were severely restricted in order to preserve the coastal environment.

The Regional Plan had designated a two-mile green belt around Navi Mumbai in order to ensure greater control on the development in the vicinity of the newly developing city of Navi Mumbai. No special regulations were, however, formulated for this belt.

By a modification to the Regional Plan an attempt was made to prescribe detailed DC Rules for Vasai-Virar Area. This was to provide without any delay a framework for controlling development in the rapidly urbanising area which till then was outside the jurisdiction of any local authority or planning authority. On 10th November, 1992, the CIDCO, which is the Special Planning Authority for this area published Draft Interim Development Plan and DC Regulations for this area.

Where the operation of DC rules of the Regional Plan led to confusion or inadequate control, guidelines and clarifications were issued from time to time by the MMRDA. Some of these are as follows:

1. Guidelines for relocation of cattle shades in 'G' Zone (1977).
2. Clarification about the correct interpretation of the provisions relating to expansion of gaothans and housing for the cooperative societies of the villagers in the 'G' Zone (1988).
3. Guidelines for holiday homes and holiday resorts in 'G' Zone.(1990).

### 14.2.3 **MMRDA Notification**

With the setting up of MMRDA under the Mumbai Metropolitan Region Development Authority Act, 1974, new legal powers were available to regulate specific types of developments. In order to reinforce the efforts of restructuring the Mumbai's growth pattern, MMRDA issued a notification on 10th June, 1977 under Section 13 of the MMRDA Act, whereby any development of offices or wholesale establishments in the Island City of Mumbai and use of FSI more than 1.33 in the Island City required prior permission of MMRDA. As a policy, generally office or wholesale establishment or FSI beyond 1.33 in Island City were not permitted. This was an interim measure until the policy was translated into the Development Control Regulations as a part of revised Development Plan for Greater Mumbai. The notification was withdrawn on the 21st August, 1992.

### 14.2.4 **Industrial Location Policy**

Following the recommendations of the Regional Plan, on the 23rd March 1973, the Government introduced the Industrial Location Policy for MMR. It divided the region into 4 zones, namely, Zone I (island city of Mumbai), Zone II (suburbs of Mumbai, Thane and Mira-Bhayander area), Zone III (Navi Mumbai), and Zone IV (Rest of the MMR). The Policy, which underwent several modifications in the past two decades prohibited new medium and large scale industries or their expansion in Zone I, II and the Kalyan Complex area of Zone IV. It also placed severe restrictions on the growth of small scale industries in Zone I & II. Over the years the Policy, though not backed by a statute, became an effective instrument of regulating industrial development in the region. As stated in Chapter 6 on Industrial Growth Policy, the Industrial Location Policy (ILP) did contribute to some extent in restricting industrial growth in Mumbai and encouraging decentralisation process. The ILP also had a provision whereby expansion of any large industrial unit in Kalyan Complex (in Zone IV) was permitted subject to 50% of the additional labour being provided with housing. It is doubtful whether this attempt to make employers responsible for workers' housing succeeded even partially. The ILP was enforced outside the ambit of the MR&TP Act, by controlling allocation of power, SSI registration, etc. through administrative mechanism.

### 14.2.5 **Miscellaneous Controls**

In addition to the foregoing DC rules and policies, which were specific instruments of regulating development, there were other laws, rules, regulations and policies which aided the development control efforts. The important amongst them are as follows:

#### **Maharashtra Land Revenue Code, 1966**

It regulates the conversion of agriculture land to non-agriculture purpose. The Maharashtra Land Revenue (Conversion of use of land and non-agricultural Assessment) Rules, 1969, framed under the Act stipulate elementary regulations on the plot size, ground coverage, set-backs for roads etc. Since the introduction of standardised building bye laws and DC Rules for 'B' & 'C' Class municipal councils in the State in 1981, these have been used in the region for scrutinising applications for N.A. permissions. The authority for regulating NA conversion under the MLR Code,

1966 rests with the District Collector who is also empowered under Section 18(i) of the MR&TP Act, 1966 to regulate development outside the jurisdiction of any Planning Authority.

#### **Mumbai Highways Act, 1955**

It controls ribbon development along the State Highways.

#### **Indian Forest Act, 1927**

The main object of the Act is to protect forest and regulate exploitation of forest produce. The Act enables declaration of Reserved and protected forests and provides for prohibition of certain actions. It also prohibits certain development, such as, quarrying.

#### **Forest Conservation Act, 1980**

It prohibits diversion of forest land for non-forest purpose.

#### **Environment (Protection) Act, 1986**

Any development having significant impact on environment requires clearance under the Act. By a notification issued on 19th February, 1991, under the Environmental (Protection) Rules, 1986, areas within 500 meters from the coast have been designated as Coastal Regulation Zone (CRZ). The notification envisages preparation of a Coastal Zone Management Plan (CZMP) for the CRZ. The CZMP is expected to classify the CRZ into CRZ I, II, or III depending on the criteria stipulated. The notification specifies development control for each of these three zones.

By another notification issued on 27th January, 1994, submission of Environmental Impact Assessment (EIA) and obtaining Environmental Clearance has been made mandatory for 29 specified projects.

#### **Water (Prevention & Control) Pollution Act, 1974 and Air (Prevention & Control) Pollution Act, 1981**

These laws have been controlling air and water pollution caused by existing industries and other types of existing development, developments through the system of withhold or grant of consent letters for letting the emissions or effluents into the receiving media.

#### **Minor Mineral (Extraction) Act, 1955 and Explosives Act, 1984**

The rules made under these Acts have been controlling the quarrying activities through licenses or permits.

#### **The Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 and MMR Specified Commodities Markets (Regulation and Location) Act, 1983**

These acts have provision for specifying the location of the wholesale markets in agriculture commodities and other specified markets. They have been particularly useful in relocating wholesale markets from Mumbai.

### **14.3 Problems related to Development Controls**

- 14.3.1** Despite the statutory land use plan and the host of laws, rules, regulations and policies, the development control system in the Region has remained weak. It has not been able to prevent undesirable development. Even if the phenomenal growth of slums,

which is the single largest type of unauthorised construction activity, is not taken into account the unauthorised construction activity in the Region in the past two decades has been alarming. Some of the well-known examples can be seen in the industrial development at Mira-Bhayander, multi-storeyed residential development in Vasai-Virar, Mumbra and Dombivali, construction of shops, workshops and hutment along Thane-Belapur Road in Navi Mumbai, and development along highways in 'G' Zone. Some of these developments, particularly, in Mira-Bhayander and Dombivali, have been the subject of special inquiry by the Government. Apart from the unauthorised construction, there have been developments which, though legally authorised, are unplanned and disorderly, or contrary to the intentions of the Regional Plan. The reasons for this can be traced to a number of factors, such as, inadequacy of DC rules, absence of proper authority to enforce DC rules, lack of monitoring of the development, etc. These problems are discussed in detail in the following.

#### 14.3.2 **Inadequacy of Development Control Rules**

The Regional Plan provided a broad land use plan and a general set of development control rules to define broadly the type of development permissible in different land use zones. For the areas included in the jurisdiction of planning authority detailed plans along with related DC rules were to be applicable. However, for the rest of the region only general set of DC rules were applied. These DC rules were more like guidelines broadly defining only the type of activities permitted. They were silent on other parameters such as FSI, number of storeys, plot size, etc. Even use provisions were stated rather vaguely. For instance, for 'R' Zone it merely indicated that 'no other users other than those which are connected with recreation shall be permissible'. This hardly provided operational guidance for implementation of the rules. The only zone for which attempt was made to elaborate the use provision was 'G' Zone. The rules however lacked precision and, at times, operational feasibility. In the result, they led to misinterpretation, and the developments quite contrary to the intentions of the Regional Plan, were permitted.

#### 14.3.3 **Developments in the 'G' Zone**

The Regional Plan visualised this zone to be an area where normally no non-agriculture development would be permitted. The implied objectives were to contain the urban development within the urbanisable zone; to avoid urban sprawl and haphazard development; to protect the agriculture and other sectors of rural economy; to protect natural environment of the countryside; to preserve tourism potential of the region; and to accommodate such activities as are prohibited in the urban areas, such as, obnoxious and hazardous activities. Keeping these objectives in view, exception was made in respect of certain limited developments. The details of these provisions, the way they were interpreted, and the extent to which the original objectives were compromised are summarised below:

##### **Expansion of village settlements**

The 'G' Zone regulations of the Regional Plan provide for the natural expansion of village in the following ways:

1. Expansion of gaothan; and
2. Housing of co-operative societies of local villagers.

Both these developments were to be permitted within a distance of one furlong from the gaathan boundary but only along the existing roads. In the coastal belt of Vasai-Virar Sub-Region such developments were permitted upto 1 km. from the existing gaathan boundary or 1.5 km. from the nearest railway station.

Although the provisions were very specific and were defined by the access requirements, distance and the intended beneficiaries, in actual practice they were considerably diluted to permit residential development around existing village settlements. The solitary criterion that seems to have guided the permissions was the distance from the gaathan boundary. In many cases, the distance was not measured along the existing road, but radially, to permit developments anywhere within one furlong from the gaathan boundary. In other cases, the base line from which the distance was measured, kept shifting outwards to permit developments within much greater distance than originally permitted. In some places, these developments consisted of holiday resorts or second homes of the urban rich. In others, it assumed the form of regular housing activity. The most glaring example of the misinterpretation of these provisions can be seen in the Vasai-Virar area, where, in the past decade, many multi-storeyed residential complexes were constructed by private builders.

#### **Bungalows on one-acre plot**

The Regional Plan permitted in 'G' Zone construction of bungalows on a plot admeasuring minimum one acre. This was to enable construction of isolated bungalows in the countryside, which, it was believed, would cause no adverse impact on the general character of the 'G' Zone. But, what was increasingly sought to be developed was organised schemes of several bungalows at one location which was clearly unintended and which threatened to turn the 'G' Zone into low-density residential zone. Restrictions had to be imposed against such organised efforts. Apart from bungalows, the 'G' Zone has lately witnessed the emergence of a new form of housing in the guise of farmhouses. This type of development is taking place in the hinterland of many metropolitan cities in India. The initial popularity of this type of development lay in the provisions of the Maharashtra Land Revenue Code which treated farmhouses as buildings allied to agriculture and exempted them from obtaining any permission. With the result, a new breed of houses of brick and concrete, and totally misfit in the rural landscape came about. In August 1986, the Land Revenue Code, 1966, had to be amended to put restrictions on the size of these houses. The amendment made and it mandatory for the owners to obtain permission before constructing farm houses.

#### **Highway Amenities**

The 'G' Zone regulations permit petrol pumps, shops, restaurants, transfer godowns, parking space and other road- side amenities anywhere along the highways and other roads in the 'G' Zone. Although these developments were to be permitted in accordance with the detailed regulations in this regard, no such regulations, guidelines or restrictions were imposed after the Regional Plan came into operations. These developments have therefore come to be located indiscriminately along the major highways in the region and are posing a serious threat to the safety and efficiency of the highway traffic. Some of these activities, such as, transfer godowns were conceived basically as facilities for transport operators, but the developments that have taken place can hardly be justified on these grounds.

### Small-Scale Industries

Small-scale and resource-based industries in the villages located 8km. from major industrial zones are permissible in 'G' zone. The original intention behind these provisions was to encourage creation of new employment opportunities for local villagers. It is doubtful if in actual practice, these industries have come up near village settlements, providing employment to local villagers. These provision can be easily misused to start industries in the area not zoned for industrial purpose.

#### 14.3.4 Inadequate Institutional Setup for Development Control

The Regional Plan envisaged that the local authorities and the other Government agencies would continue to be responsible for the implementation of the Regional Plan proposals falling within their purview. It therefore suggested new organisational arrangements only for residual functions not falling within the sphere of the existing authorities. The main focus of the new organisational arrangement was on the new metro-centre across Thane Creek (i.e. Navi Mumbai) for which the State Government created CIDCO and appointed it as the New Town Development Authority for Navi Mumbai. For other areas, the Regional Plan's recommendations were as under:

1. Industrial areas near Dombivali and Kalyan should be merged with the respective municipal councils. If industrial area near Kalyan (Atale-Shahad) cannot be merged with Kalyan Municipal Council, a separate new town municipal council should be set up;
2. If Kolshet-Balkhum Complex does not get merged with the Thane Municipal Council in ordinary course, a new town municipal council should be set up;
3. Hindustan Organic Chemicals Ltd. should function as a development authority for Apte-Turade area at least for a period of first 10 years, after which possibility of creating a municipal council should be considered;
4. Mira-Bhayander should be merged with BMC or a separate new town municipal council should be established; and
5. A single new town development authority should be created for all major new towns in the Region.

The Regional Plan did not favour setting up immediately either a local authority or new town development authority or new townships in Bassein Tahsil. Similarly, such authorities were also not considered necessary for various dormitory townships proposed around a number of railway stations. Preparation of broad layouts indicating land use zones and road network, and control of development by the Collector was then considered adequate.

Largely, the organisational recommendations remained un-implemented for more than a decade. Some did not find acceptance. It was only in 1982 that the Thane Municipal Corporation was formed by including Kolshet-Balkum complex, Kalwa, Khari and Diwa-Mumbra areas. A year later, Kalyan, Dombivali, Ambernath, Badlapur and surrounding areas were merged into a new Municipal Corporation (only to be reorganised again in 1992). The HOC did not assume the role of a development authority for Rasayani and nearby areas of Apte-Turade, nor was a municipal council established for the area. The CIDCO, which was entrusted with the responsibility of planning and development of Navi Mumbai, declined to accept the role of a single development

authority for other new towns in the region. This left vast areas of 'G' Zone and areas around many suburban railway stations to be controlled by the District Collector.

### **Control by the Collector**

Section 18 (i) of the MR&TP Act empowers the District Collector to grant or refuse development permission for lands which fall outside the jurisdiction of any planning authority. This power can be exercised with due regard to the provisions of the Regional Plan. This arrangement was devised because of the absence of a regional planning and development authority for the vast 'G' Zone areas of the region. The Collector with his district level machinery was considered capable of performing this role, particularly when the development activities in the 'G' Zone were of marginal nature. Moreover, the Collector was any way responsible for regulating the conversion of lands from agriculture to non-agriculture purpose under the Maharashtra Land Revenue Code, 1966. The technical scrutiny for NA permission which was carried out by the officer of the Town Planning Department was identical with the scrutiny required before granting development permission under MR&TP Act, 1966. Although the arrangement sounded most appropriate, following weaknesses of the system are observed.

1. The Collector's office is not equipped in terms of staff and technical knowledge to handle the complex task of development permissions, which sometimes involves large buildings. The technical scrutiny carried out by the officer of the Town Planning Department is very limited as the remarks are essentially advisory in nature.
2. The Collector's control on development is limited to granting or refusing development permission. Other aspects of the development control, such as, checks during construction, certifying completion of building etc. are not covered.
3. Not being a planning authority, the Collector does not have powers to take actions against the unauthorised construction under Section 52 to 57 of the MR&TP Act, 1966. This is a serious handicap in dealing with unauthorised developments.
4. The provision relating to the conversion of land from agriculture to non-agriculture use under Maharashtra Land Revenue Code, 1966 are more revenue-oriented than planning-oriented. The procedures and practices are more favourable to regularisation and collection of additional revenue than to ensure proper development. Hence it is easy to get the structure regularised. This encourages people to build without obtaining prior permission or without regard for the provisions of the Regional Plan.
5. It is also observed that the powers of the Collector are often exercised by other officers, though these powers cannot be delegated. Similarly, the provisions of the Regional Plan have been interpreted loosely and, at times, the technical opinions of the officer of the Town Planning Department is also not obtained.

In view of the foregoing, the developments in the 'G' Zone of the Region could not be controlled adequately. Since the 'G' Zone included some of the potentially urbanisable areas such as those around the railway stations, large scale construction activity has taken place either without permission or without regard for conditions imposed while permitting such construction.

### **Plan without Planning Authority**

The Regional Plan had identified for urbanisation certain areas around suburban railway stations, namely, Vasai Road, Nallasopara, Virar, Karjat, Neral, Wangani and had recommended that for these areas the Director of Town Planning should prepare layouts which could be referred to by the Collector for regulating the developments. The preparation of these plans had the effect of opening up of 'G' Zone for urbanisation and, in the absence of proper authority to control development and provide infrastructure, it resulted in unplanned development. Taking advantage of certain 'G' Zone provisions, the development outside these planned areas also took place.

#### **14.3.5 Ribbon Development Rules**

Apart from the DC rules of the Regional Plan development along the state highways and major district roads were expected to be controlled by the Highway Authority under the Mumbai Highways Act, 1955. However, the relevant ribbon development rules seem to be non-existent. As regards National Highways, the legal provision for controlling development along them does not exist. In the absence of ribbon development rules, the building lines along the national highways, state highways and major district roads are controlled on the basis of guidelines issued by the Central Govt. In actual practice, however, there is no consistency in applying these guidelines to various highways in the region. The control on access from the highways is also not adequate.

#### **14.3.6 Two-Mile Belt**

The Regional Land Use Plan had defined a two-mile belt around Navi Mumbai's boundary. This was a buffer zone and was intended to ensure that, taking advantage of the developments in Navi Mumbai, private development does not take place just outside its boundary. CIDCO was asked to monitor development in this belt. The arrangement, however, lasted for a short time as CIDCO did not then have adequate manpower to look after this additional responsibility, and, perhaps, because it did not find this extra control of the peripheral areas necessary. Today, CIDCO is helplessly witnessing building activity in the 'G' Zone just outside Navi Mumbai's boundary, especially near Taloja, New Panvel, Panvel etc. The decision to dispense with the extra control in the two-mile belt has indeed proved to be a short-sighted one.

**14.3.7** The zoning proposals of the Regional Plan have often posed difficulties in deciding individual proposals of development. This is because the Regional Land Use Plan was prepared at a very small scale i.e. 1:1,26,720, and was not related to the village map at larger scale, except for some isolated pockets. This, occasionally led to dispute about the correct status of a particular piece of land and consequent delays in deciding the applications.

### 14.3.8 **Lack of Monitoring**

One of the most serious drawbacks of the present development control system is the lack of monitoring by a central agency. Although MMRDA is empowered to perform this role, no formal monitoring mechanism has been established. In the absence of any monitoring and feed back, MMRDA, which is entrusted with the responsibility of implementing the Regional Plan, is not aware of the extent and type of development that is taking place in the various parts of the Region. It is, therefore, difficult to know how the provisions of the Regional Plan are being interpreted by the various development control agencies, and how changes in the regional land use are taking place. It is only lately that the MMRDA has started vetting development proposals of certain types, such as, holiday homes, quarrying, etc.

### 14.4 **Proposed Reforms**

14.4.1 Various problems and difficulties experienced in the past in the operation of the development control system suggest that the reforms are necessary in (a) the land use plan and development control regulations, (b) institutional set up for development control, and (c) monitoring system. The changes in the revised land use plan and Development Control Regulations are discussed in detail in Chapter-13 on the subject. The reforms proposed in other fields are explained in the following.

### 14.5 **Proposed Institutional Setup for Development Control**

14.5.1 If the land use zoning and regulation system introduced in the revised Regional Plan is to succeed, it is necessary to improve the present institutional arrangements for planning and development. Some areas zoned as U1 or U2 zones are outside the jurisdiction of any Planning Authority. Certain provisions of the new D.C. Regulations are such that to operate them a rapid-response machinery is needed. For instance, for the U2 zone, lands will be subjected to substantial development in coming years. Skeletal plans with broad network of roads will have to be prepared. Outlined Development Proposals scrutinised, Planning Brief issued, complex system of bonus F.S.I. operated, and resources for development generated. In order to perform such complex tasks new authorities may have to be created. The institutional arrangement suggested is as follows:

#### 14.5.2 **Areas Beyond Local Authority's jurisdiction**

All the local authorities (provided they are also the planning authorities) will continue to exercise development control in their respective areas. Where U1 or U2 zone of revised Regional Plan falls outside the boundaries of these local authorities, their planning jurisdiction should be suitably extended to enable them to plan and regulate development in such areas. For this purpose MR&TP Act may be amended to enable the Local Authority to function as a planning authority or Special Planning Authority for its surrounding area. Where the local authority is small and technically ill- equipped to perform the role of Planning Authority, it should be strengthened by obtaining the staff from the State Government or MMRDA. If this is not feasible, the areas outside the local authority should be considered as a part of the residual area of the region, for which institutional options as spelt out in para 14.5.7 may be considered.

### 14.5.3 Growth Centres

Without increasing the boundary of Navi Mumbai, CIDCO should be appointed as a Special Planning Authority for the 4266 ha. area towards the east of Khopta Bridge. CIDCO may then proceed with the development of this area without resorting to wholesale acquisition of land as in Navi Mumbai. This is an undeveloped area and is beginning to acquire some development potential on account of CIDCO's land development activities west of Karanja creek and because of the Khopta bridge which has improve its accessibility.

In the revised Region Plan Rasayani is recognised as the new Growth Centre. Considering the industrial and residential development that has already taken place, an appropriate municipal authority may be immediately established.

### 14.5.4 Notified Area Under SPA

Outside Greater Mumbai, two major areas as SPA, namely, KCNA (without including Kalyan Corporation) and VVNA are notified with MMRDA and CIDCO as SPAs, respectively. With the exclusion of the Kalyan Municipal Corporation, MMRDA is left with Ulhasnagar, Ambernath and Badlapur towns and large rural area. Demands are being made to exclude even these three towns from the notified area and permit the respective local Authorities to function as Planning Authorities. Frequent changes in the jurisdiction of Local Authorities and the uncertainty about MMRDA's continuance as SPA have been responsible for virtual absence of any planning and development efforts in this fast growing urban complex. No further change in the Planning Authority for KCNA be made until Development Plan is prepared. However, a stretch along NH 4 on the eastern boundary of KCNA area should be an exception. A relatively short stretch of land along the NH 4 south of Kousa in Thane Municipal Area and north of Taloja in Navi Mumbai is divided in two planning authorities. The northern portion is in Navi Mumbai Municipal Corporation (NMMC) and the southern portion is in KCNA. It would be appropriate to annex the southern portion to NMMC once the Regional Plan is sanctioned, as both these portions are zoned as U-2. This would facilitate more integrated planning and development of the area. MMRDA has already delegated its power of development control to Ulhasnagar, Ambernath and Badlapur Municipal Councils. Since the ultimate responsibility for the development of these areas rests with MMRDA, it is necessary that it monitors the development permissions granted by the Local Authorities.

As for the VVNA, CIDCO should continue to function as the SPA for the area. Since its appointment, CIDCO has published the interim Development Plan and has commenced exercising development control in the area. It has also focused its attention on the provision of infrastructure facilities. In view of the 74th Constitutional amendment and in the interest of the long term sustenance of infrastructure development CIDCO should make the local authorities in the sub-region partners in the process of development.

By an amendment to the MR&TP Act, 1966, since October, 1993, the MIDC has been appointed as the SPA for all industrial areas under its jurisdiction. This is intended to remove dual control on development exercised by the MIDC and the concerned Planning Authority. In addition, the State Government has also decided to keep the

MIDC industrial areas outside the jurisdiction of any Municipal area for 25 years. These were some of the measures announced by the State Government in March, 1993 as a part of the new Industrial Policy for Maharashtra. Although these measures would serve to attract new industrial investment in the State, they may further complicate the urban planning and management problems that arise from the lack of integration and coordination between industrial areas and development around them.

#### 14.5.5 Areas requiring urgent Attention

Bhiwandi has experienced rapid growth spilling over its municipal boundaries. The Regional Plan has proposed U-1 and U-2 zones in the areas surrounding Bhiwandi. It is necessary that a detailed plan is prepared and infrastructure development undertaken for the entire area. The best course would be to constitute a Municipal Corporation for the entire area. This would not only enable better planning and control but also a better municipal administration which is a pressing need. If this is not found to be feasible, MMRDA may be appointed as a Special Planning Authority for the area.

Area along Mumbai-Pune highway and Mumbai-Goa road near Panvel has been zoned as U-2 and is under considerable pressure of development. Planning of this area needs to be undertaken immediately. Given the proximity to Navi Mumbai, CIDCO may be appointed as the Special Planning Authority for this area.

#### 14.5.6 New Notified Areas Under SPA

Three areas which are likely to experience rapid urbanization in the future are :

1. Areas along Mumbai-Pune Highway and Mumbai-Goa Highway and Panvel-Matheran Road.
2. Badlapur-Karjat Belt.
3. Bhiwandi Sub-Region.
4. Manori Creek West side RTD Zone.

The boundaries of these areas are marked in Figure-14.1.

1. Areas along Mumbai-Pune Highway and Mumbai-Goa Highway and Panvel-Matheran Road Increasing investment in infrastructure and housing in Navi Mumbai is attracting large investment in land in the surrounding areas. The change from 'G' Zone to 'U2' zone in the revised plan will give further inducement to development of these areas. Since these areas are virtual extensions of Navi Mumbai, CIDCO could be appointed as SPA which will ensure their planned development.

#### 2. **Badlapur-Karjat Belt**

This belt has not experienced much development during the last two decades in spite of its being served by a commuter railway. With the saturation of areas near railway stations in Kalyan-Badlapur belt, the demand for lands in Wangani-Neral belt is likely to rise in future. Before much damage is done through unplanned growth it would be advisable to designate SPA for this area. In view of MMRDA's presence in the nearby Ulhasnagar-Ambernath area, it may be appointed as the SPA for this area.

### 3. Bhiwandi and surrounding area

The revised Regional Plan has designated sizable areas beyond Bhiwandi Municipal Council's boundaries, namely, areas along Bhiwandi, Thane, Bhiwandi Nasik Road, Bhiwandi-Kalyan Road (Old Agra Road) as U1, U2 & I Zone. Two possible organisational options are as follows:

- a. The responsibility of planning and development of all areas between Bhiwandi and Kalyan can be entrusted to Kalyan Municipal Corporation, if necessary, by extending the boundary of the Kalyan Municipal Corporation. Areas along Mumbai-Agra Road, both on the south and north of Bhiwandi could be entrusted to Bhiwandi Municipal Council for planning and development. However, both KMC and Bhiwandi Municipal Councils are technically ill-equipped today to perform this task and hence will have to be augmented by giving technical assistance from either State Government or MMRDA.
- b. As an alternative to (a.) above, MMRDA can be appointed as an SPA for the entire Bhiwandi Sub-Region including Bhiwandi Municipal Council.

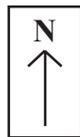
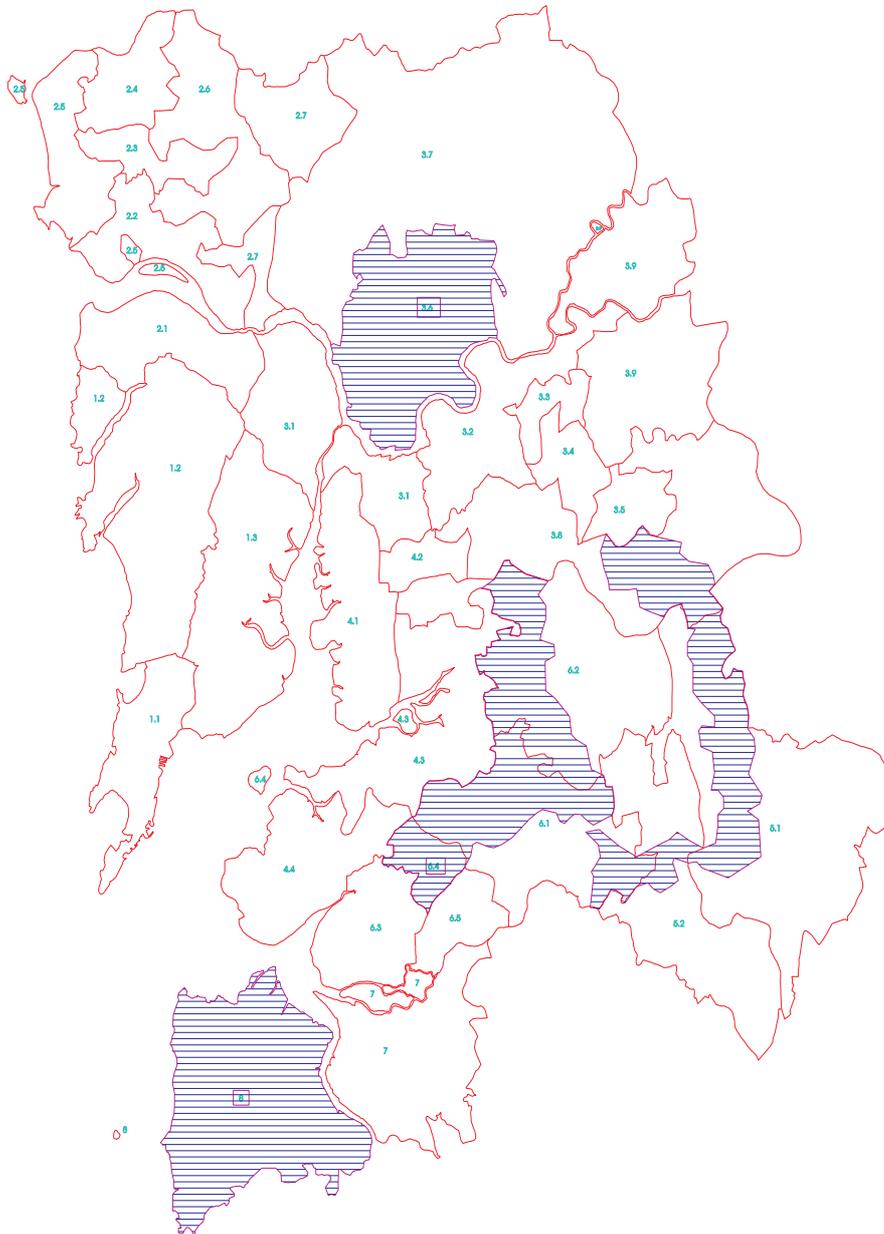
#### 14.5.7 Residual Areas

In the institutional arrangements proposed in the foregoing, MMRDA has figured as a prospective Special Planning Authority for a number of areas. The same objective can be achieved if the Section 18(1) of the MR&TP Act is suitably amended to empower MMRDA to function as a Planning Authority for the areas of the Region not covered by any Local Authority, SPA, or new Town Development Authority. This will end the Collector's control under Section 18(1) and make MMRDA responsible for planning, development and regulation for the residual areas. For this purpose, MMRDA may be empowered to levy and recover development charge under Chapter VI(a) and also to control development under Chapter IV of the MR&TP Act, 1966. Other options for planning and controlling developments in the residual areas are as follows :

1. The residual area may be divided into two or three separate notified areas and MMRDA may be appointed as the SPA for each of them.
2. Appoint under section (1)(15)(c)(i) of the MR&TP Act Zilla Parishad of Thane and Raigad as Planning Authorities for the residual areas of the Region coming under their jurisdictions. Since the Zilla Parishad are any way responsible for providing physical and social infrastructure facilities in rural areas such as roads, water supply, schools, health centers etc. It will not be inappropriate to entrust them with the responsibility of planning and development under the MR&TP Act. A separate Planning Unit under the Zilla Parishad will have to be set up to enable it to perform its function as Planning Authority.
3. If the foregoing proposition is found to be infeasible on administrative and financial grounds, as an alternative, the Collector's role will have to be strengthened by vesting in him the powers of the planning authority to take action against unauthorised construction under Section 52. Similarly, some specialist technical staff and enforcement staff may have to be created under the Collector to enable him to perform effectively his duties under the MR&TP Act.

# Proposed SPA Areas

## REGIONAL PLAN MUMBAI METROPOLITAN REGION 1996 - 2011



1.0 REGION	2.0 ZONE	3.0 SUB-ZONE	4.0 NEW SPA AREAS
1.1 WESTERN MUMBAI	1.1.1 WESTERN MUMBAI	1.1.1.1 WESTERN MUMBAI	1.1.1.1.1 WESTERN MUMBAI
1.2 EASTERN MUMBAI	1.2.1 EASTERN MUMBAI	1.2.1.1 EASTERN MUMBAI	1.2.1.1.1 EASTERN MUMBAI
1.3 CENTRAL MUMBAI	1.3.1 CENTRAL MUMBAI	1.3.1.1 CENTRAL MUMBAI	1.3.1.1.1 CENTRAL MUMBAI
1.4 NORTH MUMBAI	1.4.1 NORTH MUMBAI	1.4.1.1 NORTH MUMBAI	1.4.1.1.1 NORTH MUMBAI
1.5 SOUTH MUMBAI	1.5.1 SOUTH MUMBAI	1.5.1.1 SOUTH MUMBAI	1.5.1.1.1 SOUTH MUMBAI
1.6 ISLAND MUMBAI	1.6.1 ISLAND MUMBAI	1.6.1.1 ISLAND MUMBAI	1.6.1.1.1 ISLAND MUMBAI
1.7 SUBURBAN MUMBAI	1.7.1 SUBURBAN MUMBAI	1.7.1.1 SUBURBAN MUMBAI	1.7.1.1.1 SUBURBAN MUMBAI
1.8 RURAL MUMBAI	1.8.1 RURAL MUMBAI	1.8.1.1 RURAL MUMBAI	1.8.1.1.1 RURAL MUMBAI
1.9 SPECIAL ZONE	1.9.1 SPECIAL ZONE	1.9.1.1 SPECIAL ZONE	1.9.1.1.1 SPECIAL ZONE
1.10 OTHER AREAS	1.10.1 OTHER AREAS	1.10.1.1 OTHER AREAS	1.10.1.1.1 OTHER AREAS

Figure -14.1

## **14.6 Enforcement**

**14.6.1** Enforcement has been found to be the weakest part of development control system. Planning authorities have been unable to prevent or remove unauthorized construction though deterrent provisions such as demolition of structure and imprisonment are available under the MR&TP Act. This is largely because of the lack of support from the police who themselves suffer from endemic shortage of personnel. Hence, it is imperative to create special enforcement squads under the control of the Planning Authorities.

## **14.7 Monitoring**

**14.7.1** Since the development control function is decentralised, it is necessary that a proper monitoring mechanism is established. The objective of the monitoring will be -

1. To get a feedback on the land use changes taking place in different parts of the region. This feedback is expected to provide a wealth of data on different aspects of the region's development which will be useful for formulating policies and projects;
2. To ensure that the land use plan and DC rules are correctly interpreted and consistently applied;
3. To evaluate the effectiveness of land use plan, DC rules and the enforcement measures;

**14.7.2** As an apex agency MMRDA should be entrusted with the responsibility of monitoring. All development authorities should be required to submit quarterly returns to MMRDA giving details of the application for development permissions received and decisions taken on such applications. Location on maps should also form part of these details. The past experience indicates that planning authorities are unable to supply such information because they have no system of maintaining any systematic record of the permissions, and, because they have no staff to carry out this task. Through the intervention of the State Govt. the system of submission of returns needs to be formalised. In the case of smaller planning authorities, the MMRDA will have to consider offering technical and financial assistance. MMRDA should organise review of the development control system through half-yearly conferences of the planning authorities in the Region in which information and experience can be shared and strategies to deal with the various development control problems can be decided.