

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE  
APPEAL NO. 139 OF 2024 (WZ)**

National Fishworkers' Forum & Ors. ...Appellants  
Versus  
Union of India Through the Principal Secretary,  
Ministry of Environment, Forests & Climate  
Change & Ors. ...Respondents

**AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 2**

I, Mr. Vishwanath Gajanan Gharat, an adult Indian inhabitant, aged: 53 years, occupation: Deputy General Manager (PP&D), the authorized signatory of Respondent No. 2 in the captioned matter, having its administrative office at Admin Building, Sheva, Uran, Raigad – 400 707, do hereby solemnly declare and state as under:

I am filing the present Affidavit in Reply on behalf of the Respondent No. 2 in the present Appeal i.e. Jawaharlal Nehru Port Authority ("JNPA"). I am fully conversant with the facts and circumstances of the present case and am able, competent and authorized to depose the present Affidavit from my personal knowledge and office records. I pray that the present Affidavit in Reply be treated as an Affidavit in Reply to both, the present Appeal as also I.A. No. 219 of 2024 filed by the Appellants, *inter alia*, seeking urgent interim reliefs.

2. At the outset, I vehemently deny all averments, contentions and allegations made in the Appeal Memo in the present Appeal which are contrary to and / or inconsistent with whatever is stated herein,



and nothing stated therein shall be deemed to have been admitted due to want of a specific denial or by non-traverse. I crave leave to produce, refer and rely upon a separate compilation of documents in support of the present Affidavit, if deemed necessary and expedient.

3. By way of the captioned Appeal preferred under Section 16 of the National Green Tribunal Act, 2010 (“NGT Act”), the Appellants herein have sought to challenge the composite Environment Clearance (“EC”) and Coastal Regulation Zone Clearance (“CRZ Clearance”) dated 16<sup>th</sup> February 2024 granted by the Ministry of Environment, Forest and Climate Change (“MoEF&CC”) to JNPA to develop a greenfield satellite port at Vadhvan, Taluka Dahanu, District Palghar, Maharashtra (“said Project”).

**Preliminary Objection**

4. At the outset, I say that the following grounds raised by the Appellants herein to challenge the Impugned composite EC and CRZ Clearance have already been raised by the Appellants herein or other parties previously in collateral proceedings:

Sr. No.	Ground	Proceeding
1.	Failure to comply with the TOR – Shankhodar Point	Writ Petition No. 15320 of 2023 filed by the Appellants herein as also Public Interest Litigation No. 14 of 2024 filed by one Conservation Action Trust, both before

		the Hon'ble Bombay High Court
2.	CRZ recommendation granted in violation of the provisions of the CRZ Notification	Writ Petition No. 15320 of 2023 filed by the Appellants herein as also Public Interest Litigation No. 14 of 2024 filed by one Conservation Action Trust, both before the Hon'ble Bombay High Court
3.	Social Impact Assessment Report fails to properly evaluate adverse impacts of projects in the Scheduled Area	Writ Petition No. 15320 of 2023 filed by the Appellants herein as also Public Interest Litigation No. 14 of 2024 filed by one Conservation Action Trust, both before the Hon'ble Bombay High Court

5. Thus, I say that these grounds are squarely hit by the doctrine of *issue estoppel* and the doctrine of *res judicata*, and therefore, on this ground alone, the captioned Appeal ought to be dismissed by the Ld. Tribunal *in limine*.

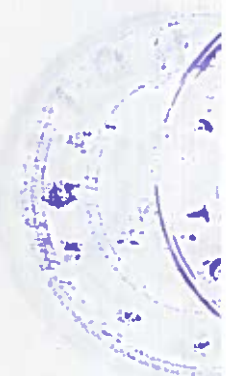
**Brief Background of JNPA**

6. JNPA operates the premier container handling port in India, accounting for around 50% of the total containerized cargo volume, across the major ports of India. Commissioned on 26<sup>th</sup> May 1989, in three decades of its operations, JNPA has transformed from a bulk-



cargo terminal to become the premier container port in the country. JNPA is connected to over 200 ports in the world and is ranked 26<sup>th</sup> in the list of top 100 container ports globally.

7. Currently, JNPA operates five container terminals: The Nhava Sheva Free Port Terminals (NSFT), the Nhava Sheva International Container Terminal (NSICT), the Gateway Terminals India Pvt. Ltd. (GTIPL), Nhava Sheva International Gateway Terminal (NSIGT), Nhava Sheva Distribution Terminal Pvt. Ltd. (NSDTPL) and the Bharat Mumbai Container Terminal Phase I (BMCT). JNPA also has a Coastal Berth to facilitate coastal cargo and a Shallow Water Berth for general cargo which are operated by NSDTPL, and another Liquid Cargo Terminal which is managed by a consortium of Bharat Petroleum Corporation Ltd. (BPCL) and Indian Oil Corporation Ltd. (IOCL). A Fourth Container Terminal is being developed in two phases and is expected to be fully operational by April 2025 with quay length of 2,000 mtrs. adding an annual capacity of 4.8 million twenty-foot equivalent units (“TEU”).
8. To meet the increasing demand from EXIM trade, JNPA is constantly upgrading its capabilities to offer cost-effective integrated logistics solutions, through infrastructure expansion plans and implementation of several ‘Ease of Doing Business’ initiatives. These steps include gate automation, an inter-terminal transfer system linking all terminals, Direct Port Delivery (DPD) services helping faster delivery of import consignments at reduced costs, the creation of a logistics data bank to track the movement of containers and the introduction of new tariff incentives for rail cargo to promote modal-shift.



9. In addition, JNPA has also developed a multi-product Special Economic Zone (“SEZ”) in its owned freehold land of 277 ha to attract international capital and global giants in manufacturing, and is also developing Dry Ports at Jalna and Wardha to promote the industrialization of the hinterland.
10. These expansion plans are being developed in an eco-friendly manner and adequate measures are being taken to maintain ecological balance. Today nearly about 34% of the port area is under green cover including mangroves and JNPA has taken up various other initiatives as a green port. JNPA has also undertaken various social initiatives to develop a healthy relationship with the port and the local population. With a view to improving the employable abilities of the local project affected persons (“PAP”) and other local population, JNPA in association with CIDCO has established the JNPA-CIDCO Multi-Skill Development Center to provide and impart proper technical training in different disciplines to PAPs and local persons in order to create suitable skilled labor force by improving / imparting necessary skill to cater to diverse requirements of labor for maritime logistics in port terminals, requirements of maritime and other industries, port users, airports and service sector.
11. As India’s leading container port, JNPA is constantly upscaling its operations to provide state-of-the-art technology, efficiency and manpower which comply with international standards. JNPA has firmly anchored itself as the major catalyst for trade and commerce



in the country and is strongly committed to providing seamless services.

**Brief description of the said Project**

12. JNPA and Respondent No. 3 i.e. the Maharashtra Maritime Board (“MMB”) has proposed to jointly develop the said Project, which is a greenfield all weather deep draft port at Vadhvan, Taluka Dahanu, District Palghar, Maharashtra. The total area of the said Project is 17,471 ha, out of which 16,900 ha has been declared as ‘Port Limit’ and 571 ha outside Port Limit for the road and rail connectivity. The said Project is located near Dahanu Taluka, abutting northern boundary of Palghar District at co-ordinates Latitude 19°55.8’N and Longitude 72°39.6’E. A natural water depth of around 20 mtrs. below chart datum (“CD”) is available at 10 kms. from Vadhvan point and 15 mtrs. contour is available at a distance of 6 kms. which will allow safe voyage and mooring for the new generation vessels up to 24,000 TEUs. The cargo handling capacity of the said Project would be 298 million metric tonne per annum (“MTPA”). The site is about 150 kms. north of Mumbai and about 150 kms west of Nashik and about 180 kms. south of Surat respectively.

13. The Port Limit has three components, namely (i) Waterfront area admeasuring 15,363.5 ha, (ii) Reclamation and land filling of 1,448.0 ha for inter tidal zone with 200 million cubic mtrs. (“M cum”) and (iii) Berth area of 63.5 ha. The requirement of land for rail and road is 571 ha, which will be met through acquisition of land in accordance with the applicable law.

14. The basic infrastructure of the port necessitating upfront investment such as breakwater, rail and road linkages, power, water lines and common infrastructure and services will be developed by JNPA / VPPL whereas all cargo handling infrastructure will be developed and operated by concessionaires. The following infrastructure is proposed as a part of the said Project:

**a. Inside Port**

- i. Breakwater of total length 10.14 km
- ii. Dredging 6.98 M cum in Phase I and 21.5 M cum in Phase II
- iii. Annual maintenance dredging of about 6.5 M cum with its disposal at designated dumping ground in the sea or coastal area
- iv. Port craft / Tug berth of 200 mtrs.
- v. Total Reclamation area inside the port 1,448 ha with 1,162 ha in Phase I
- vi. Road inside the port 32 km
- vii. Dedicated Freight Corridors ("DFC") rail yard 227.5 ha
- viii. Buildings with area of 23,500 sq. m.

**b. Outside Port**

- i. Land acquisition 571 ha (For road and rail connectivity)
- ii. External road connectivity of 33.4 kms., 120 mtrs. wide corridor with alternatives routes
- iii. Rail linkage area length 12 kms. 60 mtrs. wide corridor with alternative routes
- iv. Water pipeline from Kurze Dam which is about 40 kms from the port site



- v. Power line from PGCIL line / Tarapur Boisar power station 20 kms from the port site

**c. Terminal Operators – Concessionaires**

- i. Container terminals including storage yard, equipment, terminal pavements, drainage, utilities networks etc., with total berth length of 9,000 mtrs. (4 terminals in Phase I and 5 terminals in Phase II, each of 1000 mtrs. length) capable of handling vessels of 24,000 TEUs and above with 24,000 TEUs design container vessels
- ii. Multipurpose berths of 1,000 mtrs. (4 berths of 250 mtrs. each) including equipment, storage yard / shed
- iii. 1 Ro-Ro berth of 250 mtrs. including storage and onshore facilities, 4 liquid cargo terminals including pipelines and tank farms
- iv. Vadhvan is 12 km away from Vangaon Railway Station along Mumbai-Surat Western Rail Link and will be linked to DFCC line at New Palghar Station. The port location is 33.4 kms. away from NH-48 and 22 kms. away from Vadodara Expressway from the port site. All roads will be merging with the road connecting the port to the NH-48 and Mumbai Vadodara expressway.

**d. The final master plan layout incorporates the following:**

- i. 9 container terminals each with a straight 1,000 mtrs. long marginal quay. 7 terminals have the container storage yard located directly behind the quay apron whilst for 2 of the terminals the container yard is located about 1 kms. behind the quay



- ii. 4 multi-purpose berths each 250 mtrs. long at the southern end of the reclamation
- iii. 4 liquid bulk berths located on the leeside of the breakwater
- iv. A Ro-Ro berth at the south-west end of the offshore reclamation with adjacent vehicle parking
- v. Small craft (pilot boats and tugs) and coastguard berths at the southern end of the reclamation
- vi. Additional berths for small craft may also be provided at the northern end of the reclamation
- vii. Rail terminal located along the eastern side of the offshore reclamation
- viii. Onshore reclamation for liquid bulks storage (Except LPG and LNG and other petroleum products) and administrative facilities
- ix. Water depth in the channel is around 17 mtrs. to 18 mtrs. depth below CD + 2 mtrs. tidal advantage has been considered, as the Mean Sea Level ("MSL") is about + 2.8 mtrs. w.r.t CD
- x. The diameter of the sheltered turning circle with tug assistance is 700 mtrs. The main emphasis while developing the port layout is given to balance the cost of dredging and reclamation land area developed
- xi. It is estimated that approximately 200 M cum of reclamation material would be required for the port development and the material will be brought from the borrow pit located at off shore Daman coast at around 50 kms. into sea from the port site. The marine sand will be dredged using Trailing Suction Hopper Dredger



("TSHD") and the sand will be transported and dumped at the reclamation location. The Ministry of Mines vide its Government Resolution dated 21<sup>st</sup> December 2023 has already issued an order for reservation of the site for dredging

- xii. The dredged volume of 7.01 M cum comprising of soil and rock is required to be dredged in Phase I and 21.5 M cum in Phase II and is to be disposed at designated dumping ground or for reclamation purpose as per its suitability
- xiii. The port aims to provide long-term commitment, strong policy push, innovation, and alignment of interests and business philosophies along with serious investment in technologies, systems, and manpower in order to achieve the objective set out in developing the vision of the port by JNPA. These sustainable solutions will range from analysis of climate change risk and resiliency at the planning stage for renewable energy, alternative energy sources, cold ironing / shore power supply, efficient port operations and other green initiatives, thereby achieving reduction in carbon footprints and energy costs during the operations phase
- xiv. The required electrical system for the project will comprise incoming electrical supply at 80 megavolt-amperes ("MVA") level. 220/33 kilovolt ("kV") substations containing transformers, switchboards, control equipment, etc. to supply the electrical power to various parts of the site at the required voltage levels of 11 kV or 6.6 kV and 0.415 kV as well as requisite control and Monitoring systems





to 2,40,000 tons) with low volume and cost incurred in capital and maintenance dredging. A unique feature of the proposed site / location is the natural depth near shore and short navigational channel of about five nautical miles, which will substantially reduce the turnaround time of ships. This feature will translate into docking of larger container ships, which will in turn contribute to India's global trade competitiveness.

17. The JN Port operated by JNPA and other container ports in Gujarat currently handle nearly 60% of total container volume of the country and thus, there is a dire and urgent need to add to the handling capacity to ward off shortage of container handling capacity, particularly on the west coast of India. Infact, the JN Port operated by JNPA is expected to reach 100% of it's capacity utilization by the year 2024-25.

18. The proximity to the Vapi, Ankleshwar and Boisar industrial belts as also major business cities in Maharashtra and Gujarat offer additional advantages of the proposed site / location from the development point of view. The existing connectivity and infrastructure facilities would ensure limited land acquisition required solely for dedicated rail and road linkages.

19. The coastline at the proposed site / location is such that no land acquisition is required for the port operational areas, berths, storage yards and the layout of the said Project. The said Project will be constructed offshore between intertidal land (i.e. land between low and high tide) extending over 1.7 kms. and low – lying land will be reclaimed from the sea and this plan makes available all the 1448

hectares (i.e. 3620 acres), which would be more than adequate for the said Project.

20. Land acquisition of about 571 ha will be required only for road and rail connectivity.

21. Setting up of the said Project at the site / location at Vadhvan would not majorly disturb the existing residential and commercial setups and would require lesser relief and rehabilitation measures in respect of the local population. Additionally, the said Project would also assist and kick start the economic upliftment and development of the predominantly backward citizens of the Palghar District.

**Relevant Dates and Facts**

22. I say that the relevant facts and dates in respect of the Impugned composite EC and CRZ Clearance are as under:

- a. On 15<sup>th</sup> August 2020, JNPA submitted an online proposal to the MoEF&CC, *inter alia*, seeking Terms of Reference (“TOR”) to obtain an EC for the said Project, as mandated by the Environmental Impact Assessment Notification dated 14<sup>th</sup> September 2006 (“EIA Notification”) and the subsequent amendments thereto.
- b. On 25<sup>th</sup> August 2020 and 26<sup>th</sup> August 2020, the Expert Appraisal Committee for Infrastructure, CRZ and other Miscellaneous Projects (“EAC”), *inter alia*, considered and consequently recommended the grant of TOR in respect of the proposed port, during its it’s 241<sup>st</sup> Meeting.



- c. On 7<sup>th</sup> October 2020, the MoEF&CC issued the TOR for the said Project and for preparation of an EIA/ EMP report with public consultation. Project Specific Condition No. (v) under the said TOR required JNPA to obtain an NOC from the Dahanu Taluka Environment Protection Authority (“DTEPA”), which is an expert body constituted by the MoEF&CC vide a Notification dated 19<sup>th</sup> December 1996 (“DTEPA Notification”) in exercise of powers under Section 3(3) of the Environment Protection Act, 1986 (“EP Act”) initially for a period of 1 year, which period came to be extended from time to time. The DTEPA was to exercise the following powers and perform the following functions, namely:
- i. Exercise powers under Section 5 of the EP Act for issuing directions for taking measures with respect to matters referred to in clauses (v), (vi), (vii), (viii) (ix) and (xii) of section 3(2) of the EP Act;
  - ii. To protect the ecologically fragile area of Dahanu Taluka and to control pollution in the said area;
  - iii. To consider and implement the precautionary principle and the polluter pays principle;
  - iv. To consider and implement the recommendations given by NEERI;
  - v. To ensure implementation of the 1991 CRZ Notification dated 19<sup>th</sup> February 1991 and the Notification dated 20<sup>th</sup> June 1991 published by the MoEF&CC (“Dahanu Notification”) in exercise of powers under section 3(2)(v) of the EP Act, inter alia, declaring, “*Dahanu Taluka, District Thane (Maharashtra) as an ecologically fragile area and to impose restrictions on the setting up of*

*industries which have detrimental effect on the environment*";

- vi. To comply with the relevant orders issued by this Hon'ble Court and the Hon'ble Supreme Court;
  - vii. To deal with any other relevant environment issues pertaining to Dahanu Taluka, including those which may be referred to it by the MoEF&CC.
- d. On 12<sup>th</sup> May 2022, JNPA made an application to the DTEPA seeking its permission / NOC to develop to the said Project, which came to be numbered as DTEPA Case No. 2 of 2022. It is pertinent to note that the Appellants herein were admittedly arrayed as Respondents / Defendants in the said DTEPA Case No. 2 of 2022 and fully participated in the proceedings all throughout.
- e. On 19<sup>th</sup> December 2022, JNPA made an application for amendment in the TOR dated 7<sup>th</sup> October 2020.
- f. Between 19<sup>th</sup> April 2023 and 21<sup>st</sup> April 2023, the EAC, *inter alia*, considered and consequently recommended JNPA's application for amendment in the TOR during 324<sup>th</sup> Meeting.
- g. On 2<sup>nd</sup> June 2023, the MoEF&CC issued the additional TOR for the said Project.
- h. On 31<sup>st</sup> July 2023, after completion of pleadings (including of the Appellants herein), conducting an in-person site visit and after hearing all parties concerned (including the Appellants herein),



the DTEPA passed an Order thereby granting its permission / NOC for developing the said Project.

- i. One of the conditions of the TOR was to conduct a public hearing for ascertaining concerns of local affected persons, which was to be conducted in accordance with Appendix IV of the EIA Notification. As per clause 7(III)(iii) of the EIA Notification, the public hearing is required to be conducted by the concerned State Pollution Control Board or Union Territory Pollution Control Board within 45 days of a request being made by an applicant, at or in close proximity to the site of the project.
- j. On 27<sup>th</sup> October 2023, JNPA submitted its request to the MPCB.
- k. Although a public hearing was initially scheduled to be held by the MPCB on 22<sup>nd</sup> December 2023, however, the same was postponed to 19<sup>th</sup> January 2024 on the directions of the Hon'ble Chief Minister of Maharashtra during a meeting held between one Vadhvan Virodh Sangharsh Samittee (i.e. of whom, Appellant No. 7 herein is the President), the State Government of Maharashtra and JNPA.
- l. A Writ Petition being Writ Petition No. 677 of 2024 was filed by one Akhil Maharashtra Macchimar Kruti Samiti and 3 other such Societies (of affected fishermen / persons) before the Hon'ble Bombay High Court, *inter alia*, seeking a direction to change the venue of the public hearing scheduled in respect of the said Project to be held at the District Sports Complex Ground, Near Sonopant Dandekar College, College Road, Tembhode, Taluka and District Palghar – 400 404, or in the alternative, to conduct



an additional public hearing in the vicinity of the 19 villages, more particularly set out in the Petition therein. However, on 18<sup>th</sup> January 2024, the Hon'ble Bombay High Court, *inter alia*, disposed off the said Writ Petition.

- m. On 19<sup>th</sup> January 2024, a public hearing was duly held in respect of the said Project.
- n. On 31<sup>st</sup> January 2024, JNPA duly submitted its application for grant of an EC for the said Project, after complying with all the conditions of the TOR and additional TOR.
- o. JNPA had also submitted a proposal to the Maharashtra Coastal Zone Management Authority ("MCZMA") to obtain CRZ clearance in respect of the said Project. JNPA's proposal was considered by the MCZMA during its 171<sup>st</sup> and 172<sup>nd</sup> Meeting held on 15<sup>th</sup> December 2023 and 5<sup>th</sup> February 2024, respectively.
- p. On 5<sup>th</sup> February 2024, the MCZMA was pleased to recommend the grant of CRZ Clearance for the said Project during its 172<sup>nd</sup> Meeting.
- q. On 6<sup>th</sup> February 2024, the aforesaid recommendation of the MCZMA was communicated by the Director, Environment & MS of the MCZMA to the Director (IA-III), Coastal Zone Regulation of the MoEF&CC.
- r. On 6<sup>th</sup> February 2024, JNPA gave a presentation before the MoEF&CC for grant of an EC.



- s. On 6<sup>th</sup> February and 7<sup>th</sup> February 2024, the EAC of the MoEF&CC duly considered and accordingly, recommended JNPA's proposal for grant of an EC and CRZ Clearance during its 356<sup>th</sup> Meeting.
- t. On 16<sup>th</sup> February 2024, the MoEF&CC was pleased to grant composite EC and CRZ Clearance in respect of the said Project.
- u. Writ Petition No. 15320 of 2023 filed by the Appellants herein and Public Interest Litigation No. 14 of 2024 filed by one Conservation Action Trust & Anr. came to be filed before the Principal Bench of the Hon'ble Bombay High Court, *inter alia*, challenging the Order dated 31<sup>st</sup> July 2023 passed by the DTEPA.
- v. On 18<sup>th</sup> April 2024, the Hon'ble Bombay High Court disposed off the said Writ Petition No. 15320 of 2023 and said Public Interest Litigation No. 14 of 2024.

**Studies conducted by JNPA in relation to the said Project**

23. In furtherance of the TOR, JNPA had itself undertaken and / or commissioned various studies in compliance with the conditions mentioned in the said TOR, which have all been completion. A detailed chart of the various studies undertaken / commissioned by JNPA is as under:

Sr. No.	Study	Agency / Authority
1.	Mathematical Model Studies to assess the impact of the proposed capital	

	dredging on the tidal hydrodynamics of the nearby area of the said Project	
2.	Mathematical Model Studies to assess the impact of the said Project on flooding in the Dahanu Creek and nearby control area under cyclonic conditions	Central Water and Power Research Station (CWPRS), Pune
3.	Marine biodiversity management plan for the said Project, which included a study of the impact of dredging and dumping on marine ecology, preparation of a detailed biodiversity impact assessment report and management plan, impact of undersea noise on cetaceans and the concentrations of petroleum hydrocarbons in seawater at low tide and high tide conditions	CSIR - National Institute of Oceanography (NIO)
4.	Marine Biodiversity at Shankodhar Point, Dahanu Taluka, Maharashtra	
5.	Assessment of the cumulative impact of all development and increased inhabitation	Indian Institute of Technology Bombay
6.	Traffic forecast and congestion studies at roads connecting arterial roads	
7.	Wind data and wave data as required by CWPRS for model study	Indian National Centre for Ocean Information Services (INCOIS)
8.	Topography survey, Borehole survey for the alignment of rail and road connectivity for additional 20 mtrs strip including realignment if any and land acquisition proposal	M/s. Composite Combine
9.	Impact study of proposed Vadhavan Port on coastal fisheries.	ICAR - Central Marine Fisheries Research Institute
10.	NOC from Dahanu Taluka Environment Protection Authority (DTEPA)	Dahanu Taluka Environment Protection Authority (DTEPA)
11.	Rainfall data for last 50 years	India Meteorological Department
12.	Procurement of Toposheet	Survey of India
13.	Drone survey for the catchment area of Dahanu Creek	M/s. Vefes Engineering Pvt. Ltd.
14.	Demarcation of HTL and LTL as per the CRZ 2019 Notification	Institute of Remote Sensing (IRS), Chennai



15.	Collection of culverts, bridges and obstruction in Dahanu Creek	M/s. Vefes Engineering Pvt. Ltd.
16.	Carrying out bathymetry survey for Dahanu Creek	Maharashtra Maritime Board (MMB)

24. In addition to the studies undertaken and / or commissioned by JNPA in compliance with the conditions mentioned in the TOR, JNPA had also undertaken and / or commissioned the following additional studies:

Sr. No.	Study	Agency / Authority
1.	Biodiversity study of sea sand area at Daman by Zoological Survey of India	Zoological Survey of India (ZSI)
2.	Socio-economic studies fisherman community both in Dahanu and Daman	ICAR-Central Marine Fisheries Research Institute
3.	Mining Ministry allocation of mining of sea sand at Daman and comments from the CRZ division in this regard	Ministry of Environment, Forest and Climate Change
4.	Zoological Survey of India on offshore marine mammals' movement and fish aggregation sites	Zoological Survey of India (ZSI)
5.	Impact of breakwaters and transport carriageway on the erosion / accretion by NCCR	National Centre for Coastal Research (NCCR) and Indian National Centre for Ocean Information Services (INCOIS)
6.	Traffic assessment on NH-8 / Vadodara Expressway	Royal Haskoning DHV

JNPA craves leave to produce, refer and rely upon a separate compilation of the abovementioned studies, as and when deemed necessary and expedient.

25. I say that all these agencies / authorities are renowned and reputed institutions comprising personnel who are all experts in their respective domains.



**Reply on Merits**

26. At the outset, I say that JNPA had duly submitted all the studies, reports and permissions obtained by it before the competent authorities (including the EAC and the MoEF&CC), which have been accepted by the authorities and which ultimately culminated into the issuance of the Impugned composite EC and CRZ Clearance, after due consideration, scrutiny and with proper application of mind.

27. Admittedly, the Appellants are themselves not experts in the field of environment (as expressly stated by them in I.A. No. 206 of 2024 taken out in the captioned Appeal), nor have they given any details and / or particulars of any experts that may have been consulted by them. Despite the same, the Appellants have proceeded entirely on surmises and conjectures, and have only sought to nit pick and find faults with the studies, reports and permissions submitted by JNPA (all of which have all been prepared / carried out by renowned and reputed institutions that are experts in their respective fields), without having produced even an iota of any scientific or technical data to negate / counter these various studies, reports and permissions.

28. In several instances, the Appellants have sought to impose their own pre-conditions / views / opinions while critiquing the studies, reports and permissions submitted by JNPA. Infact, most of the grounds on which the Appellants have sought to challenge the Impugned composite EC and CRZ Clearance are vague, repetitive and wholly devoid of material details and / or particulars. Once the competent



authorities have considered, scrutinized and accepted the studies, reports and permissions submitted by JNPA along with its Application, it would now not be permissible for the Appellants to attempt to adorn the role of the competent authorities and to insist on their subjective satisfaction of such studies, reports and permissions submitted by JNPA along with its Application, as a condition precedent to granting the a EC and / or CRZ Clearance.

29. I shall now deal with grounds raised by the Appellants herein to challenge the Impugned composite EC and CRZ Clearance:

**A. Failure to comply with the TOR**

i. Cost-benefit analysis

30. In that regard, it is submitted that the said Project shall have the following benefits:

*Project Benefits*

- a. Significant role in strengthening connectivity along the coastline of Maharashtra;
- b. Enhancement of economy of the State of Maharashtra;
- c. Substantial positive impact on socio-economic profile of Vadhvan and in particular, Dahanu, both in terms of overall employment and skill development of local workforce;
- d. Direct and indirect employment potential;
- e. Probable augmentation in infrastructure resources such as transport, communication, health facilities and other basic facilities;

*Economic Benefits*



- f. Generation of large scale employment during construction phase of the said Project. Direct and indirect employment would be generated for people working on the said Project for construction of civil infrastructure, installation of mechanical and other utilities and infrastructure. Although the material handling equipment for the container terminal(s) are likely to be imported, all other equipment and machineries would be procured locally, which would add to the growth of the local economy;
- g. Construction of the said Project would attract Goods and Service Tax ("GST") at the rate of 12%, which would directly add to the GST collection by the State Government of Maharashtra and the Central Government;
- h. The two phase construction of the said Project by JNPA as the nodal authority and the appointed concessionaire would require finances to be raised from banking and other financial institutions, which is expected to translate into an interest earnings of approximately Rs. 1,406,17,00,000/- (One Thousand Four Hundred and Six Crore and Seventeen Lakh Only);
- i. Construction of the said Project will also involve several other associate infrastructure developments, which would also translate into tax earnings for the State Government of Maharashtra and the Central Government during the construction period;
- j. The said Project is estimated to have a civil construction cost of approximately Rs. 47,280,00,00,000/- (Rupees Forty Seven Thousand Two Hundred and Eighty Crores Only). It is estimated that 10% of the construction cost of civil and marine infrastructure shall be directly spent on the salaries of employees and personals of the JV between JNPA and MMB. Further, an



additional 10 to 12% shall be spent on the manpower employed by the contractors / sub contractors. Thus, nearly 20 – 25% of the civil construction cost amounting to Rs. 9,500,00,00,000/- (Rupees Nine Thousand Five Hundred Cores Only) shall be spent on direct employment;

- k. Approximately 1,19,000 persons are estimated to be employed during the construction phase of the said Project, with an average pay package of Rs. 8,00,000/- (Rupees Eight Lakh Only) per annum per person. Such persons would pay an amount of Rs. 50,000/- (Rupees Fifty Thousand Only) per person as income tax, leaving behind a salary / disposal income of Rs. 7,50,000/- (Rupees Seven Lakh Fifty Thousand Only) per person, aggregating to an additional 8,900,00,00,000/- (Rupees Eight Thousand Nine Hundred Crores Only) into the economy, which would in-turn have a multiplier effect and is expected to lead to further employment generation. Further, a cumulative income tax collection of nearly Rs. 595,00,00,000/- (Rupees Five Hundred and Ninety Five Crore Only) would be directly attributable to the said Project;
- l. The marine and civil construction works would involve large scale requirements of building materials including steel, cement, etc., which would be sourced locally. Hence, the construction of the said Project itself along with the transport / connectivity infrastructure would generate secondary benefits for the sourcing and transport businesses, which in turn would lead to increase in employment in such businesses;

*Indirect Benefits*



m. Indirect benefits would occur through the supply chain in the activities of businesses that supply goods and services to support operations, leading to more economic output and jobs. Indirect employment includes the portion of employment in the supplier industries which are dependent on sales to the sector. For example, in the marine transport industry, indirect impacts include oil refining activities for fuel, food wholesalers that supply food for catering, companies providing accounting, management and legal services to terminal operators, etc.

*Socio Economic Benefits*

n. The socio-economic scenario in the region will certainly change and shall have a positive impact on the existing regional socio-economic pattern. There will be change in employment pattern, as local residents will be given preference for jobs opportunities and / or self-employment. The economic growth will have positive impact, which will also help in increasing the standard of living of the local residents. Due to enhancement in infrastructure facilities and utilities, their living condition will also improve. During the construction phase of the said Project, many persons are expected to be employed whereas during operation phase there will be lots of job openings. Most of these workers / staff are likely to be from the region.

31. Thus, I say that the cost benefit analysis is scientific and is based on the relevant parameters, and the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

ii. Impact of dredging and dumping on marine ecology



32. It is submitted that the dredging activities shall not cause degradation of water quality and the associated environmental values in the sea. Compliance with the water quality limits is considered to protect water quality and associated environmental values.
33. Further, the dredging activities shall not cause harm to marine ecology and minimal disturbance and disruption shall be caused to surrounding area.
34. As per the Management Action:
- a. dredge material disposal option shall be in place;
  - b. Adequate capacity shall be available at the disposal location for the quantity of the material to be removed, taking into account bulking factors and water content;
  - c. All necessary environmental and planning approvals shall be in place in relation to dredge material disposal;
  - d. Testing of dredged material shall be undertaken on regular basis;
  - e. The Harbour Master shall be notified of dredging program, including timing, locations to be dredged, equipment to be used and any access restrictions or hazards to vessels using the navigation access channel. Further, the Harbour Master shall be notified of completion of the dredging program;
  - f. Fishermen shall be notified of proposed works and proper signage shall be in place to notify them;
  - g. It shall be ensured that the dredging equipment and associated vessels comply with all the necessary requirements.



*Dredging and Reclamation Management Plan (for sourcing of sand from offshore)*

35. The construction of the said Project envisages use of dredged material from marine burrow pit for reclamation apart from using the dredged material in the port area. The capital dredging capacity in Phase I of the said Project is 6.98 M cum. Apart from this, additional dredged material is sourced from marine burrow pit to meet the reclamation requirement which is to the tune of 200 M cum. This outline of a Dredge and Reclamation Management Plan is based on the Revised OSPAR Guidelines for the Management of Dredged Material (Reference number: 2004-08). As the dredged material will be mainly used for the reclamation purpose in the berthing area, the adverse impact on the disposal of dredged material elsewhere is reduced. The following measures will be adopted to mitigate the potential impacts from dredging and when reusing the dredge material:

- a. No discharge from the dredgers or work boats shall be allowed into marine waters. The dredging activity will be confined within the project site and the impact due to dredging will cease upon completion. The impact due to dredging can be minimized with the implementation of a dredge management programme;
- b. Prior to commencement of dredging, a Dredge Management Plan will be prepared and implemented;
- c. A schedule for dredging shall be prepared and list of DO(s) and DO NOT(s) shall be circulated among the people involved in construction activities;
- d. It is proposed to check turbidity levels with baseline turbidity levels as a reference during dredging;



- e. Less intrusive dredging techniques shall be adopted to minimize turbidity;
- f. It will be ensured that suitable dredging equipment is deployed to minimize the suspension of fine sediments at the dredging site;
- g. Dredging activity will be regulated during rough sea conditions;
- h. Waste Oil/ grease/ lubricants are categorized by MoEF&CC as Hazardous Wastes. All such waste will be collected and stored at a protected place handed over to vendor authorized by the MPCB;
- i. Use of silt curtains to confine areas of high turbidity during dredging and pile driving;
- j. Most of the quantity of dredged material (marine burrow pit) will be used as reclamation material and for revetments. Limited material, which will not be suitable for reclamation, will be disposed off at an identified designated area;
- k. It will be ensured that barges/workboats have slop tanks for collection of liquid/solid waste generated onboard. Discharge of wastes into sea will be prohibited;
- l. Spill control measures will be adopted while fueling dredgers, barges, workboats, etc.;
- m. Post dredging monitoring program will be carried out to assess effect of dredging and disposal on marine ecology;
- n. Environmental Monitoring Programme comprising of monitoring of marine water quality, marine sediment quality and marine ecology will be initiated prior to commencement of dredging and will be carried out throughout dredging period;
- o. Dredging and dredged material disposal will be monitored for compliance with proposed mitigation measures;



- p. Where appropriate, disposal vessels will be equipped with accurate positioning systems. Disposal vessels and operations will be inspected regularly to ensure that the conditions of the disposal permit are being complied with and that the crews are aware of their responsibilities under the permit;

36. Thus, I say that the impact of dredging and dumping on marine ecology has been duly and adequately studied, considered and assessed, and the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

iii. ZSI Report

37. The biodiversity study for the proposed burrow pit region in the Arabian Sea has been conducted by Zoological Survey of India (ZSI), MoEF&CC, which is a reputed and accredited institution.

38. The EAC of the MoEF&CC had suggested the ZSI to study the biodiversity at Daman offshore area (proposed burrow pit), from where the sand to be extracted for construction of the said Project. ZSI was also advised to monitor the offshore marine mammal movement and fish aggregation sites if any, along with the study on the biodiversity in the proposed burrow pit in the Arabian Sea off the Daman coast.

39. The marine borrow pit has been identified in the offshore of the Daman coast about 50 kms. from the proposed port site at a depth varying from 20 to 25 mtrs. The proposed area falls under Exclusive Economic Zone (EEZ) of India and it stretches from the outer limit



of the territorial sea (12 nautical miles from the baseline) out to 200 nautical miles from the coast.

*Biodiversity of Proposed Burrow Pit - Faunal composition*

40. Total of 51 marine species that comprised finfishes, elasmobranch, shrimps, lobster, crabs, cephalopods, stomatopods and other shellfishes were documented by 10 hauls of day trawlers operated off the Daman coast and within the proposed burrow pit. Biodiversity in terms of number of species was in the depth range of 20 to 30 mtrs. and poor representation of the faunal groups indicate that the area is not rich or productive.
41. The proposed burrow pit area is unlikely to be a major fishing ground for commercially viable fishes and shellfishes and in terms of capture fisheries in the Arabian Sea.
42. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.
- iv. Impact of the said Project on shoreline changes and assessment of flooding due to cyclones
43. The coastal geomorphology of the Vadhvan coastal area consists of the pocket beaches, rocky coasts, headlands, and bays. There are no habitats / establishments in the close proximity to the shoreline in the areas adjacent to the location of the said Project. Therefore, to study the current status / trend of the shoreline change, JNPA through CWPRS carried out assessment of longterm shoreline changes in and around the location of the said Project. Shoreline



changes likely to occur after 1, 2, 4 and 6 years, while the proposed breakwater shoreline advancement is negligible.

44. Thus, I say that the impact of the said Project on shoreline changes and assessment of flooding due to cyclones has been duly and adequately studied, considered and assessed, and the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

v. Requirement of water and power

45. It is submitted that power supply shall be sourced for electrically operated construction machinery / equipment from the Electricity Board of the State of Maharashtra.

46. Daily water demand for the Phase I development is estimated to be around 6.8 MLD, and the anticipated demand for the master plan phase is at 13.3 MLD. Out of this, the potable water demand for port usage is 1.8 MLD in Phase I and 2.8 MLD in master plan phase, with the balance being the demand for raw water and supply to port township. A static storage of raw water of 1 day storage is provided for the port while half a day storage is provided for the township.

47. The water source identified for the port operations is Kurze Dam about 40 kms. away from the location of the said Project. The Maharashtra Jeevan Pradhikaran of the State Government of Maharashtra will be facilitating the required water supply to the said Project.



48. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

vi. Failure to assess the impact of the said Project on the marine biological environment

49. I say that separate studies were carried out for a Marine Biodiversity Management Plan for the said Project and for the Marine Biodiversity at Shankodhar Point, Dahanu Taluka, Maharashtra by CSIR - National Institute of Oceanography (NIO).

50. The Shankodhar point (19°56'44.78"N; 72°38'14.6"E), is a small rocky patch that remain submerged throughout the year and gets exposed during the extreme low tides. This rocky intertidal area is located 1 km. East of the port limit and this place is of religious significance and attracts pilgrims during a particular day in the year when the tides are negative. Besides, the Shankodhar point is also considered to be an ecologically sensitive area due to the presence of diverse group of marine organisms as claimed by the local people.

51. Sampling was carried for two days on 18<sup>th</sup> May 2023 and 19<sup>th</sup> May 2023 during the low tide between 06:30 am and 08:30 am. Different species of marine flora and fauna observed on the rocks were digitally recorded and their abundance was estimated within 0.5 sq. mtrs. area in quadruplicates. The organisms were photographed using an Olympus digital camera and the photographs were used to recognize the taxonomic identity of the organisms to maximum possible resolution. In addition, the habitat characteristics of the study area was assessed.



52. Thus, I say that the impacts of the said Project on the marine biological environment has been duly and adequately studied, considered and assessed, and the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

vii. Site suitability

53. I say that the selection of the location of the said Project was based on the nature of stable coast, vicinity of major trunk railway and major National Highways. The location has many advantages apart from geographical considerations as the location of the said Project falls on the international sea route and direct access to majority of middle east ports, as more particularly stated in Paragraphs 16 to 21 hereinabove.

54. A comparative chart of the locations that were considered for the said Project is as under:

Criteria	Narapur	Chinchoad	Varur	Vadkavva	Balsar	Badapokhran	Gungwada	Tadhyala	Dahanu
Connectivity	4	4	4	4	5	4	4	4	5
Rocky terrain and Mangroves	3	3	3	3	3	2	2	4	2
Dredging requirement	1	1	1	1	1	1	1	1	1
Reclamation possibility	1	1	1	4	1	1	1	1	2
Shoreline stability	1	2	2	4	2	2	2	2	3
Least Population	2	1	2	4	2	2	2	2	1
Total	12	12	13	20	14	12	12	14	14

55. In addition to what is stated in Paragraphs 16 to 21 hereinabove, it is submitted that one of the major site-specific advantages of the proposed site as a natural water depth of around 20 mtrs. below CD

is available at 10 kms from the Vadhvan point and 15 mtrs. contour is available at a distance of 6 kms, which will allow safe voyage and mooring for the new generation vessels. As deep-water depth is available at 6 to 10 kms from the shore, new generation vessels calling for deep draft can be planned without or with minimal cost on dredging. Vadhvan is 12 kms. away from Vangaon Railway Station along Mumbai-Surat Western Rail Link and will be linked to DFCC line at New Palghar Station. The port location is 33.4 kms. away from NH-48 and 22 kms. away from Vadodara Expressway from the port site. All roads will be merging with the road connecting the port to the NH-48 and Mumbai Vadodara expressway, for providing connectivity to cargo destinations centres in the hinterland.

56. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

viii. No fresh EIA study conducted after issuance of additional TOR as per the revised configuration

57. I say that in accordance with the additional TOR dated 2<sup>nd</sup> June 2023 issued by the MoEF&CC, JNPA has duly conducted the additional studies stated at Paragraph 24 hereinabove and the same are also reflected in the EIA report submitted for issuance of the Impugned EC and CRZ Clearance.

ix. Impact of the said Project on fishing activities not adequately studied

58. It is submitted that an impact study of the said Project on coastal fisheries was conducted by the Central Marine Fisheries Research



Institute (ICAR-CMFRI). ICAR-CMFRI tried to undertake socio-economic surveys in 16 selected fishing villages around a 10 kms. radius of the said Project limit based on a structured questionnaire prepared by the Socio-Economic Evaluation and Technology Transfer Division (SEETTD) of ICAR-CMFRI. The fisher population of these fishing villages was found to be 20,809 residing in 5,333 households.

59. The conclusions and recommendations of the Impact Assessment of Proposed Sand Mining on the Marine Fisheries and Fisher Community of Daman Union Territory conducted by the ICAR-Central Marine Fisheries Research Institute, Mumbai Regional Station (ICAR-CMFRI) are as under:

- a. The offshore sand borrow method is the most environmentally acceptable method of obtaining the required fill material. The site is selected with a view to achieving the smallest and least persistent environmental impact as possible. The method of dredging, the area of dredging and times of the dredging operations have all been selected with this in view;
- b. The Lanka Hydraulic Institute Ltd. (2000) study in offshore sand mining reported that the impact of removal of 1 m of bed is not expected to create a significant physical impact, the maximum possible impact will be from the temporary raising of the turbidity levels during dredging operations. The loss of productivity in the dredged area will be temporary. The inconvenience and restrictions imposed on small scale fishermen have to be minimized. The distance and depth at which dredging



- takes place will ensure that this activity will in no way have an impact on coastal stability;
- c. As the marine borrow pit location far away from the coastal region approximately 50 – 60 kms with high tidal range and associated strong currents, the concentration of the sediment plume gets weakened immediately during the dredging activity. This was validated by model simulation studies of IIT Madras. The model simulation shows that the turbid plume does not reach the shore. Based on the above scenarios, it can be observed that, the plume trajectory of the dredged sediment does not move towards the coast, and they appear not to cause any impact on the shore and the marine environment;
  - d. Project proponent should allocate a reasonable amount of funds to monitor long term effects of dredging operation on the ecosystem.
  - e. Fishermen affected during the operation period of dredging need to be compensated against the non-accessibility of fishing ground by the fishers. In case of trawl and gillnet fishing operations, diesel cost has to be compensated if they are moving to new fishing ground.
  - f. Guidelines for Management of Marine Sediment Extraction may be followed strictly to prevent any harmful effect on fisheries and their dependent community.
  - g. Proposed mitigatory measures should be followed stringently in order to prevent the impact of dredging activity on productivity and fisheries of proposed sand mining area.
  - h. A number of commonly accepted and proven practices are available for mitigation of specific effects associated with offshore extraction of sand mining. These practices reduce the



potential for deleterious/ detrimental effects on the environment of the proposed sand mining area.

- i. Sea bed at site is completely flat and does not contain any reefs or habitats such as seagrass bed, coral reef etc. as evinced by the detailed bathymetric survey;
- j. ZSI in its technical report also mentioned that there is no significant nesting /breeding grounds for any endemic or threatened marine species observed in the proposed sand mining area.

60. Thus, I say that the impact of the said Project on fishing activities has been adequately studied, and the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

k. Final EIA Report does not deal with the issues raised in the public hearing

61. I say that the EIA Report duly deals with the issues raised in the public hearing. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

l. Shankhodar Point

62. It is submitted that the Shankhodar Point was specifically studied and considered in the Marine Biodiversity Management Plan prepared for the said Project by NIO in June 2023. The Master Plan prepared in respect of the said Project ensures and preserves the existing Shankhodhar Point and provides for unimpeded access to it. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.



63. It is pertinent to note that an identical issue was raised by the Appellants herein at Paragraph 93(iv) of the Petition in the said Writ Petition No. 15320 of 2023 filed by the Appellants herein as also at Paragraph 118(iv) of the Petition in the said connected Public Interest Litigation No. 14 of 2024 before the Hon'ble Bombay High Court, *inter alia*, challenging the Order dated 31<sup>st</sup> July 2023 passed by the DTEPA. However, as stated hereinabove, the said Writ Petition No. 15320 of 2023 came to be disposed off by the Hon'ble Bombay High Court vide its Final Order and Judgment dated 18<sup>th</sup> April 2024. Although the Appellants have not challenged the said Final Order and Judgment dated 18<sup>th</sup> April 2024 before the Hon'ble Supreme Court of India, the Petitioners in the said connected Public Interest Litigation No. 14 of 2024 have challenged the same in Special Leave Petition (C) No.14000 of 2024, which is pending as on date.

64. In view thereof, it is submitted that the doctrine of *issue estoppel* and / or *res judicata* squarely applies to this issue, and the same is stated to be rejected.

**B. CRZ recommendation granted in violation of the provisions of the CRZ Notification**

65. On 19<sup>th</sup> February 1991, the MoEF&CC issued a Notification under the Environment Protection Act, 1986 ("**CRZ 1991 Notification**"), *inter alia*, declaring coastal stretches as Coastal Regulation Zones and regulating activities therein. The CRZ 1991 Notification enumerated number of "*Prohibited Activities*" within the CRZ areas under Para 2 thereof. Under Para 3 thereof, all other activities, except those prohibited under Para 2, were termed as "*Permissible*



*Activities*” and were to be regulated in the manner set out therein. Pertinently, “*operational construction for ports and harbours*” was specifically treated as a “*Permissible Activity*” in CRZ areas, after obtaining environmental clearance from the MoEF&CC under Para 3(2)(ii) thereof.

66. On 6<sup>th</sup> January 2011, the MoEF&CC issued the Coastal Regulation Zone Notification (“CRZ 2011 Notification”) superseding the earlier CRZ 1991 Notification. Under the CRZ 2011 Notification, setting up of new industries (and expansion of existing industries) was permissible for those industries “*directly related to waterfront or directly needing foreshore facilities*” under Para 3(i)(a) thereof. The term “*foreshore facilities*” referred to those activities which were permissible under the CRZ 2011 Notification, which specifically included “*ports and harbours*”. Under Para 3(iv)(a) “*Land reclamation, bunding or disturbing the natural course of seawater*” was permissible for “*setting up, construction or modernization or expansion of foreshore facilities*” like ports, harbours, etc. Under Para 4(i)(a) thereof, clearance would be given for any activity within the CRZ areas if it required waterfront and foreshore facilities. Further, under Para 4(i)(f) thereof, the activity of “*construction and operations of ports and harbours*” was specifically treated as “*permissible activities*” which were to be regulated.

67. The aforesaid CRZ 2011 Notification came to be superseded by the CRZ 2019 Notification notified on 18<sup>th</sup> January 2019. However, the “*activities related to waterfront or directly needing foreshore facilities such as ports and harbours*”, as enumerated above,



continue to remain permitted and/ or regulated under the CRZ 2019 Notification in CRZ-IB areas, CRZ-II areas, CRZ III areas and CRZ IV areas.

68. Therefore, the said Project is permissible under the CRZ Notifications published from time to time.

69. The provisions of the CRZ 2019 Notification, and in particular Regulation 6(iii) read with Regulation 6(iv) of the CRZ 2019 thereof, contemplate categorisation of CRZ areas in accordance with the approved CZMP duly prepared by the State Government, and all development activities listed in the CRZ 2019 Notification are to be regulated basis such categorisation. Accordingly, a local level Coastal Regulation Zone Map was prepared by the Institute of Remote Sensing, Anna University, Chennai, by superimposing the approved Coastal Zone Management Plan ("CZMP") of Palghar District 2019 based on the CRZ 2019 Notification. The details of the same are as under:

Sr. No.	Description	Project Details	CRZ Classification	Area	Total Area
1.	Area for proposed development within the Port Limits	Approach Trestle	CRZ-IVA	55.26 acres	8,763.2 acres
		Breakwater		444.36 acres	
		Navigational Area		3,0004.28 acres	
		Offshore Reclamation area		3,388.87 acres	
		Reclamation area near shore	CRZ-IB	131.67 acres	
			CRZ-III (200 mtrs. to 500 mtrs. from High Tide Line ("HTL"))	12.14 acres	
			CRZ-III (NDZ)	22.86 acres	
			CRZ-IVA	417.8 acres	
	Outside CRZ	49.56 acres			

		Sheltered area	CRZ-IVA	1,246.41 acres	
2.	Remaining area within the Port Limits	Nil	CRZ-IA (50 mtrs. mangrove buffer)	126.48 acres	33,214.37 acres
			CRZ-IA	98.25 acres	
			CRZ-IB	426.28 acres	
			CRZ-III (NDZ)	19.71 acres	
			CRZ-IVA	32,543.64 acres	
<b>Total</b>					<b>41,977.57 acres</b>
3.	Proposed road alignment for port connectivity	Proposed road	CRZ-IB	277.29 mtrs.	34,033.32 mtrs.
			CRZ-III (200 m to 500 m from HTL)	257.89 mtrs.	
			CRZ-III (NDZ)	491.77 mtrs.	
			Outside CRZ	33,006.36 mtrs.	
4.	Proposed rail alignment for port connectivity	Proposed railway line	CRZ-IB	217.26 mtrs.	21,735.45 mtrs.
			CRZ-III (200 m to 500 m from HTL)	355.71 mtrs.	
			CRZ-III (NDZ)	514.39 mtrs.	
			Outside CRZ	20,648.10 mtrs.	
<b>Total</b>					<b>55,768.77 mtrs.</b>

70. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

71. It is pertinent to note that an identical issue was raised by the Appellants herein at Ground H of the Petition and Paragraphs 10 and 20(e) of the Written Submissions in the said Writ Petition No. 15320 of 2023 filed by the Appellants herein as also at Ground C of the Petition in the said connected Public Interest Litigation No. 14 of 2024 before the Hon'ble Bombay High Court, *inter alia*, challenging the Order dated 31<sup>st</sup> July 2023 passed by the DTEPA. However, as stated hereinabove, the said Writ Petition No. 15320 of 2023 came to be disposed off by the Hon'ble Bombay High Court vide its Final Order and Judgment dated 18<sup>th</sup> April 2024. Although the Appellants have not challenged the said Final Order and Judgment dated 18<sup>th</sup> April 2024 before the Hon'ble Supreme Court of India, the



Petitioners in the said connected Public Interest Litigation No. 14 of 2024 have challenged the same in Special Leave Petition (C) No.14000 of 2024, which is pending as on date.

72.In view thereof, it is submitted that the doctrine of *issue estoppel* squarely applies to this issue, and the same is stated to be rejected.

**C. Public hearing held in violation of the provisions of the EIA Notification, 2006**

i. Hearing not conducted in proximity to the proposed project location

73.In that regard, it is submitted that an identical issue was raised in the said Writ Petition No. 677 of 2024 filed by one Akhil Maharashtra Macchimar Kruti Samiti and 3 other such Societies (of affected fishermen / persons) before the Hon'ble Bombay High Court. However, the said Writ Petition came to be disposed off by the Hon'ble Bombay High Court vide its Order dated 18<sup>th</sup> January 2024. The said Order dated 18<sup>th</sup> January 2024 was not challenged before the Hon'ble Supreme Court of India, and has now therefore, attained finality.

74.In view thereof, it is submitted that the doctrine of *res judicata* squarely applies to this issue, and the same is stated to be rejected.

ii. Public hearing in an atmosphere of fear and intimidation

75.In that regard, it is submitted that the local police authorities had informed the District, Collector, the MPCB and JNPA that an approximate number of 30,000 people were expected to show up and attend the public hearing. Given this fact and keeping in mind the



security concerns, adequate police personnel were deployed at the venue, which was a large sized open ground that was found to best suited for managing such a large crowd, so as to prevent any law and order situation and any untoward incident from occurring.

76. Thus, the issue is stated to be rejected.

iii. Incomprehensible translations of EIA Report

77. I deny that the translations of the EIA Report provided were incomprehensible. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

iv. Other procedural violations of the public consultation stage

78. I say that public consultation stage was conducted strictly in accordance with law, and I deny that there were any procedural violations. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

v. Failure to address concerns raised by the Appellants

79. I say that the various authorities have duly responded to and / or addressed the concerns raised by the Appellants and other stakeholders. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

**D. Comprehensive EIA Report, as required under the provisions of the CRZ Notification, not conducted**

80. I say that the final EIA Report has been prepared strictly in accordance with law. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.



**E. EIA Report fails to take into account climate change and rising sea levels**

81.I say that the final EIA Report duly takes into account climate change and rising sea levels. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

**F. Social Impact Assessment Report fails to properly evaluate adverse impacts of projects in the Scheduled Area**

82.I say that the Social Impact Assessment Report duly evaluates the adverse impacts of the said Project. Thus, the apprehension(s) / allegation(s) of the Appellants in this regard are entirely misplaced and unfounded.

83.It is pertinent to note that an identical issue was raised by the Appellants herein at Paragraphs 99 to 106 and Grounds P and S of the Petition in the said Writ Petition No. 15320 of 2023 filed by the Appellants herein as also at Paragraphs 124 to 131 and Grounds J, U, V and Z of the Petition in the said connected Public Interest Litigation No. 14 of 2024, before the Hon'ble Bombay High Court, *inter alia*, challenging the Order dated 31<sup>st</sup> July 2023 passed by the DTEPA. However, as stated hereinabove, the said Writ Petition No. 15320 of 2023 came to be disposed off by the Hon'ble Bombay High Court vide its Final Order and Judgment dated 18<sup>th</sup> April 2024. Although the Appellants have not challenged the said Final Order and Judgment dated 18<sup>th</sup> April 2024 before the Hon'ble Supreme Court of India, the Petitioners in the said connected Public Interest



Litigation No. 14 of 2024 have challenged the same in Special Leave Petition (C) No.14000 of 2024, which is pending as on date.

84. In view thereof, it is submitted that the doctrine of *issue estoppel* and / or *res judicata* squarely applies to this issue, and the same is stated to be rejected.

#### **G. Plagiarized and False Information contained in the Form-1 Application and EIA Report**

85. I say that the final EIA Report has been prepared strictly in accordance with the 2006 EIA Notification and the subsequent amendments thereto. The EIA Report has been prepared by an NABET accredited consultant, as per the TOR and additional TOR issued by the MoEF&CC. JNPA has conducted additional studies as stated in Paragraphs 23 and 24 hereinabove in accordance with the TOR and additional TOR, which are also reflected in the final EIA Report submitted for grant of the Impugned composite EC and CRZ Clearance. The EIA Report covers all studies carried out by various renowned research institutes, public hearing details, baseline data etc, and the same was accepted by MCZMA and EAC (Infra-1) of MoEF&CC. Thus, the issue is stated to be rejected.

#### **H. Violation of the Dahanu Notification**

86. As stated hereinabove, On 20<sup>th</sup> June 1991, the MoEF&CC issued the Dahanu Notification, *inter alia*, declaring, "*Dahanu Taluka, District Thane (Maharashtra) as an ecologically fragile area and to impose restrictions on the setting up of industries which have detrimental effect on the environment*". The Annexure to the Dahanu Notification classified "*Industries*" into the three categories i.e.



Green, Orange and Red. The Note to the aforesaid Annexure, *inter alia*, provided that “*The case of industries, which do not fall in any of the above – mentioned three categories, decision in regard to their classification will be taken by the State Government for those projects having an outlay not exceeding Rs. 3 crores and for others references to be made to the Ministry of Environment & Forests, Government of India.*”

87. Since ports and harbours are not specifically categorised thereunder, the Dahanu Notification neither expressly nor impliedly prohibits the setting up of ports and harbours in the Dahanu Taluka region. Further, admittedly, the MoEF&CC has now granted a composite EC and CRZ Clearance in respect of the said Project. Therefore, the said Project is permissible even under the Dahanu Notification.

**Summary of cases in relation to / having a bearing on the said Project, as on date**

Sr. No.	Details	Description
<i>Supreme Court of India</i>		
1.	Civil Appeal Nos. 005718 of 2021 and 005719 of 2021 – Jawaharlal Nehru Port Trust v. National Fishworkers Forum and Ors. filed under Section 22 of the NGT Act  <i>(Appellants herein are arrayed as Respondents therein)</i>	Challenging the Orders passed by the Ld. NGT, Western Zone Bench, Pune dated (i) 15 <sup>th</sup> June 2021 in O. A. No. 22 of 2021 and (ii) 2 <sup>nd</sup> August 2021 passed in Review Petition No. 01 of 2021, as more particularly stated in the foregoing paragraphs
2.	Civil No. 7008 of 2021 – National Fishworkers’ Forum & Ors. v. Jawaharlal Nehru Port Trust & Ors. filed under Section 22 of the NGT Act  <i>(i.e. the Appellants herein)</i>	Also challenging the Orders passed by the Ld. NGT, Western Zone Bench, Pune dated (i) 15 <sup>th</sup> June 2021 in O. A. No. 22 of 2021 and (ii) 2 <sup>nd</sup> August 2021 passed in Review Petition No. 01 of 2021



3.	Writ Petition No. 287 of 2020 – Wadhwan Virodh Sangharsh Samittee & Anr. v. Union of India & Ors. filed under Article 32 of the Constitution of India  (i.e. of whom, Appellant No. 7 herein is the President)	Seeking, <i>inter alia</i> , retention and continuation of the DTEPA, in terms of the judgment of the Hon'ble Supreme Court dated 31 <sup>st</sup> October 1996 in Bittu Seghal & Anr. v. Union of India & Ors.
4.	Special Leave Petition (C) Diary No. 39847 of 2024 – National Fishworkers' Forum & Ors. v. DTEPA & Ors. filed under Article 136 of the Constitution of India  (i.e. the Appellants herein)	Challenging the Final Order and Judgment dated 18 <sup>th</sup> April 2024 passed by the Hon'ble Bombay High Court in Writ Petition No. 15320 of 2023 filed by the Appellants herein and Public Interest Litigation No. 14 of 2024 filed by Conservation Action Trust & Anr., <u>in turn challenging</u> the Order dated 31 <sup>st</sup> July 2023 passed by the DTEPA
5.	Special Leave Petition (C) No. 14000 of 2024 – Conservation Action Trust & Anr. v. DTEPA & Ors. filed under Article 136 of the Constitution of India	Also challenging the Final Order and Judgment dated 18 <sup>th</sup> April 2024 passed by the Hon'ble Bombay High Court in Writ Petition No. 15320 of 2023 filed by the Appellants herein and Public Interest Litigation No. 14 of 2024 filed by Conservation Action Trust & Anr.
6.	Writ Petition (C) Diary No. 23452 of 2024 - Conservation Action Trust & Anr. v. Union of India & Ors. filed under Article 32 of the Constitution of India	Challenging the Impugned composite EC and CRZ Clearance dated 16 <sup>th</sup> February 2024
<b>Bombay High Court</b>		
7.	Writ Petition No. 9473 of 2023 – National Fishworkers Forum & Ors. v. Union of India & Ors.  (i.e. the Appellants herein)	Challenging the Notification dated 9 <sup>th</sup> March 2023 published by the MoEF&CC in exercise of powers under section 3(3) of the EP Act 1986 read with rule 5(4) of the Environment (Protection) Rules, 1986, which amends a previous Notification dated 19 <sup>th</sup> December 1996 whereby the names of 3 individuals were substituted with ex-officio members holding specific posts / designations, as



		members of the DTEPA. Additionally, the Director, NEERI or his nominee was also made a member.
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### Sustainable Development

88.A balance between environmental protection and developmental activities can only be maintained by following the principles of 'sustainable development', as propounded by the Hon'ble Supreme Court of India. The principle of sustainable development is a development strategy that caters to the needs of the present, without negotiating the ability of upcoming generations to satisfy their needs and that strict observance of sustainable development would put us on a path that ensures development while protecting the environment, a path that works for all people and for all generations. All environmental related developmental activities should benefit more people while maintaining the environmental balance which could be ensured only by the strict adherence of sustainable development, without which life for coming generations will be in jeopardy. The adherence to the principles of sustainable development is a sine qua non for the maintenance of the symbiotic balance between the rights to environment and development. The right to development cannot be treated as a mere right to economic betterment or cannot be limited to as a misnomer to simple construction activities. The right to development encompasses much more than economic wellbeing, and includes within its definition the guarantee of fundamental rights, which are an integral part of human rights. The construction of a port is definitely an attempt to achieve the goal of wholesome development and must be treated as integral component for development and improving trade and commerce. To



ensure sustainable development is also one of the goals of EP Act, which is necessary to make effective, the guarantee of the right to life under Article 21 of the Constitution.

**Conclusion**

89. For all the aforesaid reasons, it is respectfully submitted that the Appellants are not entitled to any reliefs of whatsoever nature as they have miserably failed to show any reason that would warrant interference of this Ld. Tribunal. The present Appeal ought to be dismissed *in limine* and with heavy costs.

Solemnly declared at Mumbai )

This 18 day of September, 2024 )

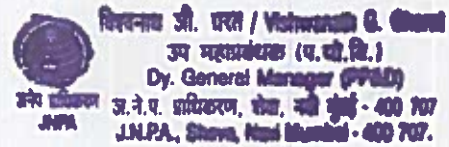
18 SEP 2024

For Jawaharlal Nehru Port Authority,



Mr. Vishwanath Gajanan Gharat  
(General Manger (PP&D))

Authorized Signatory, Respondent No. 2



For Vidhii Partners,

Devansh Shah

Advocates for Respondent No. 2

**BEFORE ME**



**Adv. PARAG D. MHATRE**  
Notary Govt. of India  
Regn. No. 20068, Raigad (MAH.)

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Sr. No....281/18/9/2024....in the  
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18 SEP 2024

