

Real Estate Update

January 24, 2011

COASTAL REGULATION ZONE - RIDING THE WAVE

INTRODUCTION

In a move that is likely to give a fillip to development activities along the coastal zones of India, the Ministry of Environment and Forests ("MOEF") issued the **Coastal Regulation Zone Notification 2011**¹ ("CRZ 2011") repealing the erstwhile Coastal Regulation Zone Notification of 1991 ("CRZ 1991"). The MOEF has also issued a separate **island protection zone notification** regulating development activities in the islands of Andaman and Nicobar and Lakshadweep.²

Based on the recommendations of the "Final Frontier" report prepared by Dr. M.S. Swaminathan Committee on coastal regulation, CRZ 2011 seeks to provide for a revised regulatory framework catering to the peculiarities of the different coastal zones of India.

ANALYSIS OF CRZ 2011

A coastal regulation zone ("CRZ") is the area within 500 meters from the high tide line ("HTL") on the landward side along the sea front, and the area within 100 meters along each side of tidal influenced water bodies like creeks, bays etc.

Akin to CRZ 1991, the classification of CRZs in CRZ 2011 largely remains as follows: CRZ – I covers ecologically sensitive areas; CRZ – II (urban areas) is defined as '*areas that are developed up to or close to the shoreline and falling within the municipal limits*'; CRZ – III (rural areas) is defined as '*areas that are relatively undisturbed and those do not belong to either CRZ-I or II which include coastal zone in the rural areas (developed and undeveloped) and also areas within municipal limits or in other legally designated urban areas, which are not substantially built up*.' There has been a modification of CRZ IV area which now comprises the territorial water area of India, primarily to control the discharge of wastes into the sea. Also, a new concept of hazard line has been introduced, which has to be mapped by the Survey of India. Additionally, certain special provisions have been made for the CRZ falling in Greater Mumbai ("Mumbai CRZ"), Goa and Kerala as well as critically vulnerable areas like the Sunderbans of West Bengal.

CRZ 2011 notified with the objective of protecting the interests of the fisherfolk community and coastal stretches also seeks to promote sustainable development of the coastal areas. Following are the key provisions that will have a bearing on the development potential of the hitherto restricted and conserved CRZ:

- **Construction of roads:** Under CRZ I of Greater Mumbai, the construction of roads and missing link roads is allowed on stilts, provided that the free flow of tidal water is not impacted.
- **Slum rehabilitation and redevelopment in CRZ II:** Provision has been made for implementation of slum redevelopment schemes in CRZ – II areas situated in Greater Mumbai provided that the redevelopment is carried out through an entity where the state government or its instrumentalities hold no less than 51% stake.
- **Redevelopment of old buildings:** Old and dilapidated buildings in CRZ – II areas in Greater Mumbai may also be redeveloped provided suitable accommodation has been provided to the original tenants.
- **Additional FSI:** In each of the projects, whether under *slum rehabilitation or redevelopment*, the floor space index ("FSI") or the floor area ratio ("FAR") shall be in accordance with the town and country planning regulations prevailing as on the date on which the project is granted approval by the competent authority. To that extent, a higher FSI of up to 4 can be availed by the developers undertaking such projects.
- **Enhanced transparency:** In a bid to ensure enhanced transparency, all such redevelopment projects shall be subjected to the Right to Information Act, 2005 ("RTI") in terms whereof any and all information of the project shall be accessible by public. All such projects shall also be subject to inspection by auditors appointed by the MOEF or by the Comptroller and Auditor General of India.
- **No Development Zone ("NDZ"):** In CRZ – III, an area up to 200mts from HTL on the landward side in case of seafront and 100mts along tidal influenced water bodies or width of the creek whichever is less is to be earmarked as NDZ, where no development shall be permissible. All open spaces like parks, playgrounds, gardens etc. in CRZ – II shall be regarded as NDZ. However, the development of Navi Mumbai airport is permitted in the NDZ.
- **Hotels in CRZ – III:** Development of vacant plot in designated areas for construction of hotels or beach resorts for tourists or visitors is permitted subject to specified conditions and prior approval of MOEF.
- **Special economic zones:** Special economic zones will no longer be permitted in CRZ.

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· **Streamlined and time-bound approval process:** Unlike CRZ 1991, which did not lay down the process for obtaining CRZ clearance, a specific procedure has been provided in CRZ 2011 for obtaining clearances. Approval is stipulated to be received within 120 days from the date application is made by the project authorities to the relevant authority. CRZ 2011 also provides for an enforcement mechanism which was missing earlier.

CONCLUSION

CRZ 2011, which is being lauded by both the developer community as well as the fisherfolk community, is clearly a move that seeks to achieve one of its core objectives – *“to promote development in a sustainable manner based on scientific principles, taking into account the dangers of natural hazards in the coastal areas...”*

However, CRZ 2011 is not without its drafting ambiguities. For example, the concept of hazard line is not clear, whether it will be upto 500 meters from HTL or can be beyond that. Also, it is not clear whether redevelopment of dilapidated buildings would also require government participation.

In all, provisions like the NDZ and the hazard line seek to protect the environment and the fisherfolk community. Under CRZ 2011, areas like Marine Drive, Nariman Point and Worli, which fall within Mumbai CRZ, are likely to receive renewed developer interest owing to the enhanced FSI/FAR conferred upon development and redevelopment projects in such areas. Though the development will be subject to local regulations, government participation and open to enhanced scrutiny, as the case may be, developer interest in such coveted areas is unlikely to fizzle down. A new skyline across south Mumbai seems to be on the anvil. As per a newspaper report, permitting redevelopment along the CRZ is likely to benefit most of the 16,000 old and dilapidated buildings and almost two lakh hutments in slums in the island city of Mumbai. Enhanced development activity will not only go a long way in ensuring sustained development but is also likely to renew funding interest of both domestic and offshore investors.

- **Karan Kalra, Navaneeta Kanjilal & Ruchir Sinha**

1 <http://www.moef.nic.in/downloads/public-information/CRZ-Notification-2011.pdf>
2 <http://www.moef.nic.in/downloads/public-information/Island%20Protection%20Zone%20Notification%202011.pdf>

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