



MoEF Queries & Lavasa Replies



Town Planning related....

S No	MoEF queries	Lavasa Replies
	i) layout dated 31.08.2006 includes unacquired pockets;	<p>The same is factually incorrect statement. For the sanction of the layout, the it is required to submit the documents showing the possession as well as ownership and/or the rights claimed through the owners. Before sanctioning the layout plan, the Collector requires the Applicant to submit the 7/12 extract, as well as other relevant documents. Even in the present case, all the 7/12 extracts were submitted and thereafter the plans were sanctioned by the Collector. Lavasa in their submissions on 11.12.2010 submitted under the heading "The statement of land use area by revenue land parcels" & have submitted the list of properties owned by giving the Survey numbers with layout plan. LCL have also given the layout plan, the same also describes the lands for which the layout is sanctioned. In respect of the lands which are not owned in the said layout, LCL have acquired the rights from the owner and on the said basis the layout is sanctioned. In any event it is a matter between the State authorities and the land owner and/or any person who is disputing the acquisition of the rights of Lavasa and can never be a subject matter of the jurisdiction.</p>

Town Planning related....

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	ii) Layout plans Includes Government forest.	The Hill station Regulations exclude the Government forest or any forest area from the purview of notification. The layout sanctioned by the Collector also excludes all the Government forests. Therefore, the statement is palpably false to the knowledge of Lavasa and the Committee. The in principal approval, Hill Station Regulations and the notification declaring the Hill Station area have been submitted to MOEF on 10.12.2010 & The layout submitted on 11.12.2010
	iii) There is no approved landscape plan, parking and circulation plan, baseline environmental information.	It is not heard anywhere in Maharashtra that before sanctioning a layout plan under the Town Planning Act, the information such as landscape plan and/or for baseline environmental information as understood under the said Act is called for. No such directions are ever issued by any planning authority to incorporate the same in DC Regulations. The provisions applicable for sanction of the layout are followed under the provisions of MLR Code r/w. Maharashtra Regional and Town Planning Act, 1966. In the absence of any provision requiring landscape plan and baseline environmental information under the relevant acts and in the absence of any such statutory directions to the Planning Authorities, the observations are loosely made and is a deliberate attempt to criticize the lawful sanctions. MoEF have also deliberately ignored the mention of the "Lavasa Landscape Master Plan for Dasve and Mugaon Valley" which was submitted to them on 28.12.2010.

Town Planning related....

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	<p>It is observed that information regarding parking and circulation plan is not provided.</p>	<p>The layout shows internal road network. The layout plan is not the building plan. The parking requirements are always attached with a building plan and made whilst sanctioning the building plans. The building has its independent parking area specifically demarcated for the same. Not only that there are areas demarcated on the layout for public and semi public. In the areas demarcated as amenities the parking lots are created, the plans for such parking lots were also submitted to the Committee on 11.12.2010 which were the Building Layout Plans for Dasve . Complete data of all the sanctioned Building Plans including CC and OC were submitted on 28.12.2010.</p>
	<p>iv) In No Development Zone Roads are constructed and completed.</p>	<p>There is no sanctioned No Development Zone in the regional plan. The no development zone, as is understood by LCL is the area above 1000 meters, as the same is outside the 'in-principle approval'. However, the lands to some extent owned by LCL fall in that area. There is no prohibition of law to construct a road. That apart, the road referred by the Committee is the other district road No.66A from Dasve – Temghar, which is at the Entry Point. This was specifically explained in the submissions filed on 28.12.2010 , that the same is other district road. In spite of the same the adverse comment is made without reference to the same. Nothing on record is shown that there is any prohibition of construction of road in any sanctioned regional plan or there is any prohibition imposed by any</p>

Town Planning related....

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		authority notifying the same as no development zone wherein road construction is impermissible.
	v) Report from Collector is necessary to confirm the construction in accordance with building plans.	Building construction activity is going for more than 5 years. At no point of time any such verification is called for. On the other hand the documents are called for from LCL and when the documents are submitted on 28.12.2010 and 06.01.2011 the negative comment is made so as to create a suspicion about the purported violations. MOEF and the Committee directed LCL to submit not only the CC, OC and plans sanctioned, however they also directed LCL to submit applicable regulation including the amendments passed therein, the same was also submitted by LCL on 8.1.2011.
	vi) Verification of process for conversion of land from agricultural to non-agricultural.	The Committee has referred to section 44 A of MLR Code, 1966. Section 44 A of the MLR Code clearly mandates the conversion of land from agricultural to non-agricultural by operation of law and there is nothing that is required for LCL to do specifically except the intimation to the State authorities. Therefore there is nothing as a process for converting agricultural land for non-agricultural purposes. LCL have submitted a complete record of revenue authorities maintained by the State Government for a period prior to incorporation of LCL. The said record shows that 95% of the land out of 18 villages was either 'pad' (fallow), 'gavath pad' (grass fallow) or 'barren'. This information was provided on 10.12.2010 and 6.1.2011

Town Planning related....

S No	MoEF queries	Lavasa Replies
	<p>vii) Road width of 9 meter is insufficient for population;</p> <p>viii) Convention Centre does not go with the concept of Hill Station without adequate parking.</p>	<p>The Hill Station Regulations itself contemplates permissible amenities possible of construction. A Convention Centre is also recognized by Government of India and also by the State Government as a Tourism facility eligible for incentives by the MOT. Therefore, there cannot be any fault with the Convention Centre. Knowing this fact Committee tries to link the same with their own opinion about the Convention Centre not going with the concept of Hill Station. LCL have acted in accordance with the regulations. It is further commented that convention centre is without adequate parking and road width. The Hill Station Regulations No.27 prescribing 9 meters road width is not applicable to the areas in and around commercial centre, where it can be more than 9 meters as per modified Hill Station Regulations. Not only that the Committee has not even done basic elementary work of measuring the actual road width outside and around the Convention Centre. The actual road width outside and around the Convention Centre is 15 meters and not 9 meters. The convention centre has 257 Car parking spaces and 10 bus parking space. Not only that, there is a multi-storey car park proposed for 496 cars, just across the road from Convention Centre. The same was also shown to the Committee. The parking plan for Dasve Village provides for 4346 car parking spaces within the buildings and 1196 car parking spaces in public car parks and they are more than sufficient for the current development at Dasve.</p>

Town Planning related....

S No	MoEF queries	Lavasa Replies
	<p>ix) Master plan requires its approval under MRTP Act, including inviting objections and suggestions before final plan is to be approved;</p>	<p>Hill Station Regulations itself forms the part of regional plan sanctioned by Respondent No.5. Regional plan including regional plan regulations are framed by following the procedure as prescribed from section 5 to 18 of the Maharashtra Regional and Town Planning Act, 1966 which involves a public participation and consultation at different stages. It is learnt that in the process of framing of Hill Station Regulations there was participation even by environmentalists. Not only that even thereafter while notifying the 'Hill station' as prescribed under the Hill Station Regulations in respect of these 18 villages, the Government of Maharashtra has once again followed the procedure of inviting suggestions and objections and only thereafter the declaration of Hill Station was made. Not only that every amendment to the regulations is thereafter passed by inviting suggestions and objections and with public participation as required under section 20 of the Maharashtra Regional and Town Planning Act, 1966. Thus, there is a participation of people at every stage. The law does not contemplate any specific Master Plan prepared for entire area and to recognize the same under the Maharashtra Regional and Town Planning Act, 1966 and LCL in the existing set of law are permitted to carry out developments in accordance with the provisions. That apart the comment stated by the Respondent Nos.3, 4 and the committee are also incorrect, as the Petitioner after being appointed as SPA u/s. 40 of the MRTP Act, had already approved the planning proposals for the area under its jurisdiction with a comprehensive approach including the draft plan for the</p>

Town Planning related....

S No	MoEF queries	Lavasa Replies
		<p>entire area. The Petitioners are following the same with comprehensive approach. However, that cannot be the precondition for environmental clearance at all, at least at the stage where the first layout development is in progress in accordance with the Regional Plan. Even under the MRTP Act, every development plan must conform to the regional plan and there is nothing to show that there is any violation of any regional plan. Thus the expectation of Master Plan for integrated area and sanctioned as Development Plan under Maharashtra Regional and Town Planning Act, 1966 cannot be a ground for stopping the development at this stage.</p>
	<p>x) Violation of lease condition of MKVDC</p>	<p>The grant of lease by MKVDC to the Petitioners is purely a matter between MKVDC and LCL. Whether lease is faulty or otherwise or whether Petitioners have violated lease conditions or not, can never be a subject matter of environmental considerations. That apart the allotment of land by MKVDC, is also a subject matter of pending PIL to the knowledge of MoEF and the Committee members. The lease makes it clear that development of tourist centre or service centre and/or permission to develop area on commercial basis. In any event the same is beyond the scope of the jurisdiction of the Committee and the Hon'ble Court would adjudicate upon the same.</p>

Environment related....

S No	MoEF queries	Lavasa Replies
	<p>i) No document to show power of the State Government to grant environmental clearance</p>	<p>LCL at no point of time have stated that the State Government had any such power under EP Act, 1986. Secondly, LCL in the submissions on 28.11.2010 have categorically stated and also orally informed to the Committee that the Hill Station Regulations requires the environmental clearance from the State Government. It also says that the provisions of EP Act shall apply. However, for the contentions raised in the Petition there was no notification applicable to the Petitioners' project under the EP Act and therefore the environmental clearance was sought from the State Government in view of regulation 21 of the Hill Station Regulations. In the matter of Aamby Valley Respondent No.2 themselves have informed the proponents of a similar project in the same district, to approach the State Government, which is at Exhibit 'D' to this Petition. Thus the comparison of the environmental clearance granted by the State Government with the power under the EP Act is thoroughly misconceived, irrelevant and an attempt to confuse deliberately. The Committee has no power to examine the power of the State Government at all, as the State Government never granted the environmental clearance under the EP Act.</p>
	<p>ii) Aforestation zone in Regional Plan, Eco Sensitive Zone, having green tree cover;</p>	<p>such aforestation zone stands modified by a Notification issued on 31.5.2001 under section 20(4) of Maharashtra Regional and Town Planning Act, 1966 (being Exhibit 'I' hereto). There is no aforestation zone in the regional plan and the area in the regional plan is demarcated for Hill Station zone.</p>

Environment related....

S No	MoEF queries	Lavasa Replies
		<p>It is also stated by the committee in the same breath that eco-sensitive zone having green cover is destructed. The Petitioners have annexed the entire record of the barren land as maintained by the Government, so as annexed the photographs to show the nature as earlier and now. The Petitioners have once again carried out survey of entire area of Mulshi Taluka and taken photographs of the entire area which will clearly reveal the nature of land in and around. It will also show that there is hardly any vegetative cover. Such terms are used loosely. Not only that, eco-sensitive zone has a specific meaning where EP Act is concerned. The Central Government is required to issue a notification declaring the area as eco-sensitive if at all they have come to such conclusion, having not issued any such notification, the presumption is obviously otherwise. Thus, there is no force even in the use of adjectives like eco-sensitive zone. No material is produced to establish as to what was the existing green cover, what is the degradation. At the same time, the efforts made by LCL on their own to improve the vegetative cover and the results thereof are completely ignored.</p>

Environment related....

S No	MoEF queries	Lavasa Replies
	<p>iii) Large-scale Hill Cutting and Quarrying and changing Good vegetative cover change to barren expose slopes. Enhancement of siltation in the reservoir;</p>	<p>While dealing with the Hill Cutting LCL have submitted on 08.1.2011 that Hill cutting is carried out only for three purposes, (1) for construction of buildings (2) for quarrying and (3) for construction of roads. There is no mention in the entire report as to what is meant by "large-scale" hill cutting and which is the 'scale' used by them. It is not pointed out in the entire report whether the hill cutting is undertaken except for any of the aforesaid three purposes. It is also not pointed out in the entire report as to what is the quantum of "large-scale" and such large scale is in juxta position with which parameter. Thus, the observation of large-scale is a loose comment. As regards construction of buildings, the committee had called for a contour map from LCL showing the construction activity is in compliance with 1:3 slope. The Committee during the discussion obviously asked for 1:3 compliance because, committee was satisfied that such building activity on 1:3 slope is acceptable building activity and is also a norm easily acceptable throughout India. LCL had submitted such plan showing the locations where buildings are constructed on 06.01.2011 as well as the contour map. Realizing that it is not possible to pass an adverse comment, on the building activity, comments are made on a NASA road. It is undisputed that the construction of road network in such area is extremely difficult, as well as the Government had failed to reach out to local people by undertaking construction of any such roads after independence. Thus construction of roads can never be criticized. It is also not stated that roads are badly constructed.</p>

Environment related....

S No	MoEF queries	Lavasa Replies
	Cont.....	<p>However, committee intends to falsely project the magnitude for creating false impressions and therefore the adjectives like “large-scale” are used. It is interesting to note that on one hand, the Committee observes that road width of 9 meter may be inadequate and on the other the hill cutting which is carried out for the purpose of construction of road is criticized. Thus, the comments on Hill cutting for road also needs to be ignored. The next comment is about Hill cutting due to quarrying. Quarrying is a legitimate and legal activity. There is no observation that the quarrying permission is violated. There is no dispute that quarrying is a permissible activity. Realizing the same the comments are made in such a way that quarrying in eco-sensitive area needs to be carried out with a scientific approach with the environment management plan. LCL are in the process of getting records of quarrying permissions granted and the photographs showing large-scale quarrying activities much more than LCL have carried out. Nothing is heard from MoEF and Committee in that respect. Thus, a valid quarrying activity under the permission can never be disputed and quarrying can never be without Hill Cutting. As regards scientifically formulated approach, the entire EP act, rules, guidelines do not prescribe the so called scientifically designed approach for quarrying. In the absence of such parameter being laid down, it is not correct to criticize, LCL activity. LCL have carried out quarrying at the bottom of the hill and the place is to be used thereafter for a lake. Probably knowing fully well that no such parameter exist under the EP Act or rules for so called</p>

Environment related....

S No	MoEF queries	Lavasa Replies
	Cont.....	<p>scientific approach once again the adjective of eco-sensitive area is used so as to create a prejudice. The same is further added with the observation of good vegetative cover changed to barren exposed slopes. For the reasons as stated hereinabove, there was nothing like good vegetative cover to change the same to barren exposed slopes, not only that LCL have undertaken huge slope protection measures and for generation of vegetative cover and have also shown results of the same on 09.12.2010 and 06.01.2011. The same are deliberately ignored by commenting that although slope measures are taken, the same are inadequate at the same time, nothing is even remotely suggested as to what are adequate measures. It is pertinent to note that worst amongst the aforesaid comments is comment as regarding the siltation and enhancement of siltation in reservoir. When expert committee visits the area, it is expected that comments like this are given with utmost care and caution. The siltation is a matter of concern in every development in and around the water bodies. Without undertaking any verification for siltation, the comment is made about enhancement of siltation. It is not disclosed as to what was the original condition and how there is an enhancement it is also not disclosed which two datas are verified for coming to such conclusion. In fact, no such test was carried out. It is also not disclosed whether any of the State Government or any of the Government department informed about such purported siltation. It is also not disclosed on what basis the enhancement of siltation is decided. The Committee is not even consistent in</p>

Environment related....

S No	MoEF queries	Lavasa Replies
	Cont.....	<p>their own observations, as Committee has stated at one place that enhancement of siltation is occurring and at other place in the same paragraph it says it would occur. It is a clear case of acting with a preconceived vendetta of commenting on every area without any scientific approach or data. LCL have in their possession copy of the report prepared by MERI who has conducted the tests for finding out the siltation in Khadakwasla Warasgaon and other reservoirs at the instance. The results of the report shows that the siltation rate for Warasgaon Dam in last 21 years is minimum and the least. The tests are conducted, not prior to the activities of the Petitioners, but in the year 2007 when LCL activities of development were already in force. Thus the observations about purported siltation is also de hors the record. That apart the Petitioners are also using the water for the same reservoir. It is not even in their interest to allow the siltation as alleged. The Committee also ignored the measures undertaken for reducing the siltation if any by taking various measures in ravines.</p>
	iv) Likelihood of Serious environmental degradation in ecologically sensitive Western Ghat in the absence of scientifically	<p>About the quarrying operations we have already stated in item No.3 above, as regards environment management plan, we have already explained in our submissions dated 28.12.2010, disclosing that the quarrying operation at present, once completed, the said area would be converted as a site for a lake (water body, out of six lakes to be constructed by the Petitioners), the said is a accepted practice as environment and management plan after the quarrying activities are discontinued to the knowledge of the Respondents.</p>

Environment related....

S No	MoEF queries	Lavasa Replies
	formulated quarrying operations with environmental management plans.	Not only that the Petitioners' submissions of quarrying being more environment friendly than procuring material from outside as submitted in their submissions on 08.01.2011 is also deliberately ignored.
	v) Likely to reduce water supply for irrigation purposes and/or of Pune City.	Committee also observed about likelihood reduction of water supply for Pune city. Mr. Dayal the Chairman of the committee was on record immediately after three days of committee's visit before Media to state that prima facie there is no effect on Pune's water supply. It is unknown as to what data is thereafter found out or what has emerged from the data already submitted to receive this comment. The entire paragraph does not indicate the same. The Petitioners have already submitted in their presentation that the activities of LCL would in fact improve the conservation of water, which is otherwise wasted as a spill over discharge. LCL also stated that LCL does not claim any ownership in the water and Petitioners are not allowed to monitor the flow of water. The same is fully controlled by the MKVDC. Thus, it is the MKVDC who decides use and consumption of water and not LCL. LCL purchases the water like any other individual from MKVDC. The Committee deliberately ignores the same. The argument of reduction in water supply is also absurd, the water is required for every citizen and it is duty of the respective department to supply water, whether LCL carry out the development in Pune City or in Lavasa. The argument if accepted would result in creating an exclusive right to

Environment related....

S No	MoEF queries	Lavasa Replies
		<p>a water body for a particular region to the detriment of the others. Even within the area there would be arguments against the new developments.</p>
	<p>vi) No scheme for villagers;</p>	<p>There is a comment about no scheme for villagers. All the corporate social initiatives were pointed out to the Respondents and the Committee. It was also disclosed to the Committee that there is no acquisition of land under land acquisition act. The properties are purchased by private negotiations and contracts under registered conveyance, therefore, there is nothing as an obligation in law on the Petitioners to carry out any scheme for villagers, who have voluntarily sold their lands to the Petitioners. In any event, since the Petitioners does not carry such approach and are conscious of their corporate social responsibility, the Petitioners have carried out the extensive work which includes employment of locals, primary Health Centre, education, communications etc. The same was submitted and pointed out to the Petitioners. In spite of the same comments are made. At the same time nothing is suggested as a further work required to be done for villagers under any of the provisions of law as an obligation of the Petitioners.</p>
	<p>vii) Forcible acquisition of land from locals</p>	<p>The complainant's are roaming around with only three to four families and there is no other person with the complainants other than 3 – 4 families. From media reports if verified for last two years, it can be easily verified that only three names repeatedly pop up in all the media campaign by the complainants.</p>

Environment related....

S No	MoEF queries	Lavasa Replies
	Cont.....	LCL have already pointed out in their written submissions that there are only three suits pending in the Civil Court questioning the title covering 43.4 hectares of area. It is also not disclosed, as to which local complainant met the committee and gave the Complaint. A general observation like this thus deserves to be rejected.

EIA related....

S No	MoEF queries	Lavasa Replies
	<p>i) Soil not suitable for construction or for any other purposes showing samples of heavy metal. Impact of soil on water body not brought out and even;</p> <p>ii) Post Project monitoring also indicates the high values of metals and such soil characteristic is a serious issue needs to be addressed in any EIA / EMP Report.</p>	<p>During the hearing and also in the submissions it was pointed out that there are typographical mistakes as regards the heavy metal presence in the report. It was also pointed out that the said Reports do not indicate the presence of these heavy metals in the aquatic system and they are in the bound form. During the hearing specifically accepted the submission and refrained LCL Counsel from submitting on the said issue stating "we will take care of it". As a matter of abundant precaution LCL added a paragraph in the submissions filed. However, a deliberate reference is made in the report to create a prejudice about the activity. NEERI has also carried out TCPL test, the result of the same show that there is no hazardous effect of such heavy metals in the soil, as they do not get into aquatic system or plants. It is also learnt after consultation with various experts that such presence of heavy metals is ordinarily found in Hilly regions, as hill regions are evolved due to metamorphic process. However, unless the heavy metals have the effect of mixing in the aquatic system or uptake by plant by leaching out, the same does not cause any danger. The results shown are after a chemical analysis of the soil by using different processes, does not represent the soil characteristics as regards the hazardous nature for use of the same. In spite of full knowledge of the same, the Committee deliberately commented on it. The same is not addressed in EIA / EMP as the same is never considered as hazardous even by NEERI.</p>

EIA related....

S No	MoEF queries	Lavasa Replies
	iii) EIA report inadequate from the point of view of monitoring season and monitoring locations etc.	<p>LCL have never refrained themselves from carrying out any fresh EIA. Infact, LCL have disclosed to the Committee during the hearing that already they have completed the fresh EIA and the final report is awaited. LCL as stated hereinabove have already filed an application on 5th August 2009, the procedure requires the State Level Committee established under the 2006 Notification to form the term of reference on which the EIA is required to be undertaken. As stated hereinabove, from 5th august 2009 till today no terms of reference are finalized. On the other hand, MoEF has passed the order against the State Level Committee not to proceed with the application, thereby further delay in the matter for last more than 15 months. LCL have never denied to carry out the fresh EIA and on their own have already undertaken the exercise. As regards monitoring season and monitoring locations in substantial number of the cases, where environment clearance is granted by State govt., it is only the rapid EIA which is followed for the purposes of considering the Environment Clearance. Not only that, in the development projects, environment ministry follows the parameters as prescribed under the regional plans or the development plans. It is therefore only for the purpose of fault finding, the comments are made.</p>

EIA related....

S No	MoEF queries	Lavasa Replies
	iv) EIA studies not adequate for assessing the project in eco-sensitive areas.	<p>LCL have already dealt with the adjective 'eco-sensitive' hereinabove. LCL deny that its project area is eco-sensitive zone. It is interesting to note that Govet. has invited suggestions and objections on the guidelines framed by them on a sustainable development for Himalayas. The Govt. has prescribed certain guidelines for sustainable development in Himalayas. It cannot be disputed that Himalayas are highly eco-sensitive than the barren slopes of Sahyadri. The Parameters set out therein would indicate that the development has been permitted even in Himalayas by Govt. on much liberal terms than the terms on which the Petitioners are carrying out the development. Govt. and the Committee is presumed to be aware of such publications made by them. LCL thus can safely presume that all these comments in the entire report are prejudged, pre-conceived, made with a sole objective to find fault and also perverse to say the least.</p>

Compliance of conditions related to MPCB

S No	MoEF queries	Lavasa Replies
	<p>i) Discharge of treated sewage water in water bodies is inevitable in rainy season and therefore there is a violation of a condition stipulated by MPCB;</p>	<p>LCL during their submission on 09.12.2010, 10.12.2010 and 08.01.2011 have informed that treated sewage water is used for construction purposes and for plantation. It was also pointed out that at present the sewage water generated is much less than the requirement. To overreach this difficulty the committee has stated discharge of treated sewage water in water bodies is inevitable. The same is not based on any data and is based on conjunctures, surmises and feelings. At no point of time LCL have released the treated water in the water bodies or also in the storm water drains. The treated water generated is much less and is used for construction purposes. It is unknown as to how the committee came to the conclusions that during rainy seasons the treated water is discharged in storm water drains. The Committee neither visited in rainy season nor there was any data shown in support of the same by the Committee. Apart from that LCL have pointed out that quality of treated water in LCL plant is better than the quality of raw water in the reservoir. The same is also ignored. LCL deny that they discharge any treated water in storm water drains or in water bodies. It was also pointed out that the treated water is also planned to be used in flushing in the buildings.</p>
	<p>ii) Treated water is discharged in storm waters after</p>	<p>The above answer also covers response to this point.</p>

Compliance of conditions related to MPCB

S No	MoEF queries	Lavasa Replies
	iii) Bio-Medical Waste needs to be collected within 48 hours and instead the same is collected weekly.	The bio-medical waste rules are applicable to Apollo Hospital and not to Hill Station Development. Therefore the applicability of bio-medical rules is no ground for stopping the Hill Station Development. Even the violation pointed out is extremely minor. In any event the same goes with the hospital belonging to the different company and not with LCL. Since LCL is in joint venture with Apollo hospital & would look into the matter and cure the same. It was also informed to the Committee that at present only Out Patients Department is operational and no other hospital activities are operational. Therefore all other necessary things could always be complied with before commencing full-fledged hospital operation including the establishment of separate effluent treatment plant for the hospital.
	iv) Stack (Chimney) Height in D.G. Sets is not as prescribed in the MPCB conditions.	The observation is a curable defect and can be rectified. LCL activities of Hill station development cannot be stopped due to the height of stack "chimney" being less.

Compliance of conditions related to MPCB

S No	MoEF queries	Lavasa Replies
	v) Oil Waste kept in open scrap yard, on the banks of river;	It was pointed out to the Committee that there is hardly any oil waste. LCL development activity does not deal with any such usage of oil, except for maintenance of D.G. Sets. The oil waste kept at the relevant time is not a permanent scrap yard, as sought to be projected. It can be removed to an appropriate location. In any event there is no data to point out that due to such storage at the relevant time, any damage is caused to the water body. Assuming without admitting that such scrap yard is used for number of years, there is no data to suggest that water body is affected. In any event LCL have never denied taking any rectification measures even for these minor errors.

General Observations

S No	MoEF queries	Lavasa Replies
	<p>i) In the absence of baseline environmental studies cannot assess the impact on the surrounding areas as well as influence of uncontrolled and induced development;</p>	<p>First of all it is incorrect to state that there is absence of baseline environmental studies. From the information received by LCL in more than 95% of the cases, GOvt. and/or the State Level Committee appointed by MoEF grant the environmental clearance on the basis of Rapid EIA. Rapid EIA was prepared even in the present case by NEERI recording the necessary baseline information. Apart from that, the present project is a tourism project and the Regional Plan Regulations takes care of the same. The observations that the development may lead to uncontrolled and induced development is also absurd arbitrary and deliberate observations against LCL. The very purpose of Hill Station Regulation is to have a controlled development. The State Government has noticed the uncontrolled and induced rapid urbanizations. The criticism therefore, is unwarranted. The Hill Station Regulations prescribes parameters for development which is the part of the regional plan and therefore, any regulation framed under the said Act is necessarily required to be considered as a regulation for better planning. The criticism is made to reach the conclusion which is perceive;</p>
	<p>ii) Detailed and comprehensive EIA required on various aspects;</p>	<p>LCL have already undertaken the preparation of EIA and which is complete. It may not be out of place to mention here that even under 2006 Notification and assuming without admitting that the project falls under Entry 8(B), LCL not required to submit EIA. Even otherwise, the committee has not given any term of reference for preparing the EIA. The MoEF has also now stopped SEIA from processing LCL application and on the other hand, LCL are criticized for not submitting the fresh EIA.</p>

General Observations

S No	MoEF queries	Lavasa Replies
	<p>iii) Apprehensions by locals of likelihood of landslide, disturbances in ground water, surface water runoff, impacts due to cutting of the trees, forest management and ecology appear to be justified to some extent and could be analyzed if these studies were made available to the Committee;</p>	<p>The observations in these category are as vague as possible and can hold good for any project all over the country and as a general comment, there is no parameter to decide that the apprehension are justified to some extent as recorded in the observations. On every aspect mentioned therein the steps taken by LCL were informed to the Committee. The EIA takes care of many of the aspects mentioned therein. The same is deliberately ignored by criticizing the EIA as inadequate.</p>
	<p>iv) Obvious damage due to speedy development and impacts needs to be assessed constantly;</p>	<p>If any area is developed in a time bound manner, it is unknown how it becomes the obvious damage. It is probably committee's perception that if anybody carries out the work professionally and deploys the manpower to execute the same timely, the Govt. and the committee members feel that it is obvious damage. The assessment of the purported impact due to</p>

General Observations

S No	MoEF queries	Lavasa Replies
	Cont.....	development carried out, if any, could have been mentioned by the committee, in more objective and measureable way and not like a pedestrian report. The committee was expected to be stationed for three days, the committee was expected there to do a site inspection in a technical way and give the objective report of the activities and not a pedestrian report.

Constitution of SPA

S No	MoEF queries	Lavasa Replies
	<p>i) General comments on SPA's functioning;</p> <p>ii) Detailed Master Plan not shown to the Committee and figures of Phase I are not consistent;</p> <p>iii) LCL stated that they have kept planning flexible to suit commercial demand due this impact on environment will be variable and difficult to predict;</p> <p>iv) Committee could not see any documents about public consultation;</p>	<p>Most of the observations about the public consultation, master plan or a preparation of master plan are dealt under the category of town planning. However, comments are made on SPA's functioning. As stated hereinabove, the Committee does not have a jurisdiction at all under the MRTP Act, so as to observe on State Government's functioning under the said Act and the delegation to be done under said Act by the State Government. It is worthwhile to note that the Committee was informed about the development permissions granted by the SPA. The Committee was also informed that after grant of such permissions, the copies thereof are required to be forwarded to Assistant Director, Town Planning. The Committee deliberately avoids to record the same for the reasons that it would suggest a government control on SPA's functioning and if that is mentioned the same would not suit the committee's agenda to reach a pre-conceive conclusion. Apart from that to the knowledge of LCL, the private parties are appointed as SPA by Govt. in case of NMSEZ Development Company Private Limited and Ashriya International Limited. Out of the aforesaid appointment of SPA, MoEF has granted the environmental clearance on 23.08.2006 to NMSEZ. It is not heard in any of the newspapers or seen on the website that any similar observations are made in case of NMSEZ Private Limited. It is thus, clear cut case of victimizing LCL for political agendas and boasting the false media campaign by persons like complainants. The observations like master plan was not provided or planning is kept flexible for commercial demand is false and perverse to say the least</p>

Constitution of SPA

S No	MoEF queries	Lavasa Replies
	<p>v) Detailed Master Plan required by following the due procedure before undertaking the work;</p> <p>vi) Creation of SPA leads to the perception of conflict of interest and changes and revisions are not known to the stakeholders;</p>	<p>In pursuance of a query during oral discussions of giving details of all the buildings in 5000 ha proposed by LCL, it was answered that all the buildings in 5000 ha cannot be planned. However, users in each zone are planned. It was further informed that the planning itself is a dynamic concept and actual construction would take place as per the market demand within the master plan and the regulations. The said answer is deliberately twisted and presented so as to create impression that for commercial gains the speedy development is carried out by compromising all the norms. LCL deny that there is any conflict of interest inasmuch as Assistant Director Town Planning is provided with all the planning permissions. Not only that the Committee of SPA consists of Director Town Planning, highest post in Government of Maharashtra in Town Planning Department.</p>

Jurisdiction issues

- Section 3(3) of the said Act provides for constitution of authority or authorities specified for the purposes of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act as if such authority or authorities had been empowered by said Act to exercise those powers or perform those functions or take such measures.”
Section 5 of the said Act provides powers to give directions of MoEF subject to provisions of the said Act. The power to issue directions under Section 5 is subject to the provisions of the said Act, including Section 3(3), i.e. where authority has been appointed / constituted by the Central Government under Section 3(3), the Central Government cannot issue directions under Section 5 in respect of any violation arising out of or relating to the powers and functions of the said Authority.

Jurisdiction issues

- Section 23 of the said Act, confers powers on the Central Government to delegate the powers and functions under the said Act to the State Government. The same however specifically excludes the powers under Section 3(3) of the said Act.
- By a Notification dated 22nd April 2008 issued under Section 3(3) of the said Act, and in pursuance of the EIA Notification dated 14th September 2006, the SEIAA, Maharashtra was constituted to exercise such powers and to follow such procedures as were enumerated in the Notification dated 14th September 2006.
- A reading of the 2006 Notification (which was issued in supersession of the earlier Notification) would show that same is issued in exercise of powers under Sections 3(2) to 3(2)(i) and (v) the said Act. The Central Govt. has inter alia constituted the State Level Environment Impact Assessment Authority (SEIAA) in exercise of powers of section 3(3) of the said Act;

Jurisdiction issues

- It is significant that under Clause 12 of the said 2006 Notification, it is only pending applications for permissions under the 1994 Notification which are saved. It is well settled law that consequences of repeal of statute/Notification are very drastic. A statute after its repeal is completely obliterated as if it had never been enacted. The effect is to destroy all inchoate rights and all causes of action that may have arisen under the repealed statute. Therefore, leaving aside the cases where proceedings were commenced, prosecuted and brought to finality before the repeal, no proceeding under the repealed statute (1994 Notification in the present case) can be commenced or continued after repeal i.e. 14.9.2006. Sec. 6 of the General Clauses Act would not apply in view of the specific provisions of Clause 12 of the 2006 Notification. The power of the Central Government to take action under Section 5 for any violation of the provisions of the earlier Notification is therefore not saved.

Jurisdiction issues

- It is the State Government/the State Level Environment Impact Assessment Authority constituted under 3(3) of the said Act, which would have jurisdiction in the matter to grant permissions and/or to issue notices for alleged violation of the EIA Notifications. The Central Government having appointed the State Government / SEIAA, as the relevant authority, the MOEF has no jurisdiction or authority to issue the present notice or to issue directions to SEIAA or pass any order against the Noticee;

Applicability of EIA notification

- The EIA Notification dated 27th January, 1994 inter alia provided that projects listed under Schedule I thereto require prior Environmental clearance. The Notification however did not apply to projects falling under clause 3 thereto which contains various exemptions even in respect of projects listed under Schedule I.
- (ii) Under the 1994 Notification and even as per the show cause notice, the only relevant entry so far as the present project is concerned is entry 18 which provided as under:-
 - ENTRY 18:- “All Tourism projects between 200m – 500meters of High Water Line and at locations with an elevation of more than 1000 meters with investment of more than Rs.5 crores.”

Applicability of EIA notification

- It is submitted that the 2004 amendment to the said EIA Notification would also not be applicable to the Petitioners' case, which is clear from the following:
 - By a Notification dated 7th July, 2004 the 1st schedule to the 1994 Notification was amended and two new entries being "new construction projects" and "new industrial estates" were added.
 - These entries were general entries. A bare perusal of the various other entries in the 1st schedule would demonstrate that most of the entries involved construction and would also be construction projects.
 - Entry 31 relating to new construction projects, being a general entry would only apply to projects not falling within or not covered by or exempted under various specific entries being Entry Nos. 1 to 29.

Applicability of EIA notification

- The 2006 EIA Notifications does not apply to the Petitioners project, particularly in so far as the Phase I thereto is concerned, viz. that part of the project for which environmental clearance has been granted by Respondent No.5 in March 2004. It is submitted that it is clear from the following:
 - The 2006 Notification was issued in supersession of the earlier Notification.
 - Whilst there was a specific entry for tourism project under the 1994 Notification, such Entry has been excluded in 2006 Notification. The authority issuing the Notification is deemed to be aware of the difference between the tourism project and a construction / town planning project. By exclusion of the Entry relating to tourism project from the Schedule to the said Notification, the necessary implication is that such tourism projects are exempt under the 2006 Notification. It is

Applicability of EIA notification

- well settled law that where the legislature or concerned authority changes any provisions of law and/or excludes an earlier applicable provision, such change / exclusion is deemed to be deliberately and consciously made and the benefit thereof is intended to be in favour of the citizen.
- The same does not apply to existing projects as on 14th September, 2006 (such as that of the Petitioners) as the aforesaid Notification applies only to
 - New projects or activities
 - Expansion or modernization of existing projects/ activities listed in the schedule entailing capacity addition with change in process and/or technology.