New Development Plan: Throwing Baby with the Bathwater

Vidyadhar Phatak

Background
The Municipal Corporation of Greater Mumbai (MCGM) published the Draft Development Plan (DP) of Greater Mumbai in February 2015 (Erstwhile Draft Development Plan-EDDP) for the purposes of inviting suggestions and objections. A tumultuous commotion ensued, led by a group of NGOs, political parties and the media. One of the NGOs carried a campaign called “Dump the DP”.

Instead of “letting the law to take its own course”, the state government asked MCGM to carry out the ‘corrections’ and republish the Draft DP within four months. Government later amended the law retrospectively, to provide legitimacy to its action. The MCGM then engaged a retired civil servant to lead the exercise, as directed by the government. However, instead of four months it took nearly a year to publish the New Draft Development Plan, that was finally published on 27 May, 2016 (Revised Draft Development Plan-RDDP). Once the RDDP was published, the silence of the NGOs and media was deafening.

The Constitution, in its Twelfth Schedule, envisages town planning as the function of the local government. The Maharashtra Regional and Town Planning Act, 1966 (MR&TP Act) also originally envisaged making development plans as the responsibility of the local authority. Despite the enactment of Constitutional Amendment Act (CAA) in 1992, over the years, state legislature has increasingly empowered the state government to intervene in the process of plan-making apart from its sovereign
powers to sanction the plan. Surprisingly, all political parties expressing little faith in their own local leadership have accepted this. The Mayor who signed the EDDP signed the RDDP as well!

The government’s decision to intervene in the legal process was akin to failing a student in the mathematics examination for committing a few spelling mistakes. What has now emerged is rewriting the paper without understanding the subject. Some of the basic flaws are highlighted below.

**Population forecast**

RDDP has adopted the following population forecast for plan formulation

<table>
<thead>
<tr>
<th>Year</th>
<th>2001</th>
<th>2011 (Census)</th>
<th>2021</th>
<th>2031</th>
<th>2034</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population (in million)</td>
<td>11.98</td>
<td>12.44</td>
<td>12.79</td>
<td>11.91</td>
<td>11.40</td>
</tr>
<tr>
<td>Increase over previous year</td>
<td>0.46</td>
<td>0.35</td>
<td>-0.88</td>
<td>-0.51</td>
<td></td>
</tr>
</tbody>
</table>

This is in contrast to the Municipal Commissioner’s estimate of over 17 million by 2041 indicated in his budget speech. The planners of RDDP have not provided any substantive justification for this rather incredible forecast but have taken shelter behind an erroneously interpreted legal provision. Section 27 of the MR&TP Act states that while preparing the DDP, planners ‘shall have regard to and be guided, by the proposals of a draft or final Regional Plan’. Having regard or being guided does not mean blind following.

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RDDP wanted to adopt such a forecast, it should have consciously done so and placed the rationale of forecast in the draft report.

Moreover, population forecast cannot be considered as a ‘proposal of RP’, it is only a step in formulating the proposals. Hence prudence is the essence in selecting a population number. The DP (1991), had similarly assumed a population of 9.8 million for 2001 and accordingly formulated the proposals. The population exceeded the mark in 1991 itself before the DP was sanctioned. Naturally the space norms adopted by the DP could not have been achieved even if 100% of the proposals were implemented. With this experience, adopting a population target is a matter of prudence. Proposals based on higher population estimates could have better outcomes if actual population turns out to be lower, but not the other way round.

One of the major factors causing slower population growth is the lack of affordable housing. RDDP intends to significantly remove this constraint by creating 1 million affordable housing units catering to about 4 million population. All of these cannot be the existing residents of Mumbai. Households that are otherwise forced to seek shelter in adjacent urban areas will also seek the opportunity of living in Greater Mumbai.

Assuming absolute reduction in population is thus clearly inconsistent with the proposal of affordable housing unless the planners do not believe in achieving their own proposals. Similarly, present policies of slum rehabilitation and redevelopment of cessed buildings depend upon meeting the demand for new housing. If the population is going to reduce such demand would also reduce, affecting the scale of slum rehabilitation and redevelopment of cessed buildings.

**Land Use Zoning**

RDDP has identified new Central Business Districts (CBD) within
the commercial zone, including the Octroi Nakas—post abolition of Octroi. The planners should have appreciated that ‘C’ in CBD stands for ‘Central’. Although a city like Mumbai has become polycentric, it cannot have five CBDs on the outskirts of Mumbai without easy access to mass transit.

RDDP first states that environmentally sensitive areas were zoned as No Development Zone (NDZ). Then, it defines ‘No Development Zone as comprising potentially developable lands kept in abeyance for future development.’ If there is going to be a decline in population, where is the need to use environmentally sensitive areas for development? The uses permitted in NDZ make NDZ a misnomer. If at all, it may remain as ‘erstwhile NDZ’!

**Employment**

Under a chapter on employment, the RDDP has dealt with the economy of Mumbai and what RDDP provides for facilitating economic growth. Here too, the RDDP exposes its inconsistent approach. While RDDP adopts a declining population, it adopts a higher employment estimates. Greater Mumbai is expected to have a population of 11.40 million and employment of 8 million by 2034. The ratio of employment to population then would be 70%, implying substantial commutation from outside Mumbai for work. If employment reaches 8 million along with improved mass transit and affordable housing, the population will necessarily exceed the estimates of DDP. Furthermore, RDDP allows for 12.5 sq m floor space per job for the entire 8 million employment by increasing FSI in commercial and CBD zones.

At the same time, the RDDP ‘targets to create more business and employment in the informal sector.’ Informal Sector is known to informally occupy spaces. The RDDP report proposes some vending zones. These are in the nature of short term managerial measures as distinct from the long term spatial plan, which the
DP is supposed to be. If considerable employment is going to continue in the informal sector and RDDP intends to promote it, why does the DDP propose floor space for all the 8 million workers? The problem is that the planners seem to have an inflated notion of what a spatial plan can do.

The RDDP notes that single screen cinemas are languishing and proposes to allow redevelopment of such cinemas with certain allied activities. The problem has arisen because cinemas were treated as ‘designations’. In present circumstances, there is no justification for continuing cinemas as public purpose designations. Removing the tag of designation and permitting zonal uses would have been the most appropriate approach. Some of the malls have also lost patronage and are virtually closed. Would the RDDP do something about such malls too to boost economy? RDDP, under a chapter on employment discusses ‘Digital Mumbai’ and states that “Mumbai must pursue its own digitisation and the DP would strive to provide what would be needed in the city in regard to digital connectivity and universal access to Broadband.” Is this a proposal of RDDP or a recommendation to MCGM? Citizens are interested in DP proposals that are to be accepted and implemented by the MCGM and not general recommendations. What is understood by universal access to Broadband? ‘DP’ in the past has not strived for its own implementation, how can it now ‘strive’ for Digital Mumbai?

Environment
The RDDP ‘proposes to demarcate buffers along rivers, creeks and nallas on either side of the water courses, which are to be maintained as development free zones’. Is this proposal based on the Storm Water Drainage Master Plan that MCGM has prepared following the recommendations of the Chitale Committee? Further it must be clarified whether such a buffer is proposed to
be treated as reservation or only as regulatory constraint on the properties adjoining the water course. RDDP mentions closure of the Deonar dumping ground and its conversion to POS (Public Open Space). However, it does not mention how the need of landfill sites for solid waste would be satisfied.

**Built Up Area (BUA) and Floor Space Index (FSI)**
Principles to be followed in deciding FSI for a 20 year period of a city could be stated as follows:

1) FSI is to be used essentially as a tool of managing the physical development and very sparingly, if at all, as a fiscal tool. In that case, FSI regime should be such that it does not create scarcity of development rights in the market. As scarcity distorts markets, increases prices, adversely affects lower income groups and creates opportunities for rent seeking.

2) FSI pattern should be such that it facilitates efficient use of land. Towards this end, it must respond to the availability of infrastructure, particularly transport and in case of Mumbai, rail-based public transport.

3) As Mumbai is already largely developed, prescribed FSI should generally be more than the consumed FSI to enable redevelopment of properties.

4) One of the purposes of FSI pattern is to guide the design of network infrastructure—particularly water and sanitation. For this, it is necessary to avoid sudden plot specific spikes in infrastructure demand by allowing overshooting of general cap of FSI.

By retaining the basic FSI of 1.33 in the city and 1 in the suburbs that are equal to or lower than already consumed FSI, a deliberate scarcity of development rights has been created. But this too is only a façade. Given the incentive FSI for wide variety of purposes, TDR and premium FSI very haphazard pattern of FSI consumption, without any cap, will result. All the above stated principles have
also been violated and FSI has been turned into an instrument of fiscal exaction.

**Provision of and for public purpose**

It is claimed that the scope of public purpose has been widened and improved per capita space norms have been used. However, obtaining land for public purposes entirely relies upon FSI/ TDR—not only for buildable reservations but also for Public Open Space (POS). In the process, only 40 to 70% (say 50% on an average) of the land would actually be available. Thus, the Table in the report is totally deceptive. Moreover, if the population projection turns out to be an underestimate, the space norms would further go down. The report could have transparently and faithfully represented the real standards. Further, in such some case, landowners might argue that twice the land actually required has been reserved to forcibly exact the land. To assuage such feelings, additional FSI on surrendered land is offered.

Excessive reliance on FSI/ TDR for obtaining land and buildings for public purposes makes the process of plan implementation accidental, particularly when Mumbai’s real estate market has become cyclical. If the market is not conducive, less development would occur, less TDR would be generated and if generated would fetch a lower price. Consequently, very few proposals of DP would be implemented.

RDDP has claimed higher per capita space provision than in EDDP, but hides the fact the population is also assumed to be lower than that in EDDP. In case of healthcare facilities, the standard is shown to have been increased in the same proportion as the population is decreased! Thus, the RDDP has not necessarily found additional land to meet improved standards.

The MR&TP Act has provided for identifying ‘appropriate authority’ while reserving land for public purpose, which is
not being developed by the planning authority. This is with a view to avoiding blocking of land without known institutional responsibility. RDDP has proposed reservation for Urban Planning Institute (4.1) Medical Institute (4.2) Finance Institute (4.3) Other (4.4) without identifying ‘appropriate authority’, implying that the MCGM will be the authority.

**Public open spaces**
RDDP has counted clubs, gymkhanas and swimming pools as public open spaces. Can US Club, Willingdon Club, Bombay Gymkhana, Chembur Golf Club, The Club at Andheri ever be considered as ‘public’? Is it a statistical ploy to pretend that a higher norm of open space has been achieved? RDDP has also proposed green reclamation by way of reclaiming 50m of land on the seaward side of coastal road. Similarly, it has proposed an Iconic Park in the sea (i.e. seaward side of HTL) in the Backbay Reclamation. Both are obviously not only in violation of CRZ Regulations but are proposed without any environmental assessment. Both are proposed in South Mumbai where population is predicted to decline. Such proposals are statistical gimmicks to show higher norms of open space.

RDDP defines use of open spaces as playground, recreation ground, garden or park right now for the next 20 years, showing great foresight. As the population is predicted to decline, the age structure of communities may also change. In such a case and, if meaningful community participation is to be valued, the use of open space should, in fact, be decided by the community which might include multiple uses of open spaces. RDDP retained the reservations on slums with a view to bravely sending out clear signals that encroachers are not incentivised! Additionally, DCRs provide a mechanism for part development of these encroached spaces as POS. The High Court has already imposed a ban on such
part development of open spaces. The outcome of this will be neither the development of open spaces nor the redevelopment of slums. But it certainly serves as a statistical gimmick.

**Affordable housing**

‘The RDDP’s Affordable Housing scheme proposes to take the cost of land out of the AH equation through the deployment of land instruments.’ How this miracle is going to be achieved is not at all clear. What 30 years of ULC, 25 years of PH/HDH and 20 years of SRA could not achieve, RDDP intends to achieve. Many quantititative targets are mentioned-GOM target of 790,000 by 2022, RDDP’s target of 5 lakh at one place and 10 lakh at another. However, 4 million residents in these dwelling units will not cause any addition to a population that would continue to decline. Of the 10 lakh AH Dwelling Units the MCGM is expected to develop 5 lakh units including 3.75 lakh of 45 sq m and 60 sq m.

After BIT was merged into MCGM in 1925-33, MCGM has never done any public housing and now RDDP very boldly commits MCGM to enter this area.

RDDP proposes land from NDZ, TDZ, Salt Pans and MbPT for AH. Salt Pans, according to the 2011 Notification are covered under the CRZ I. (MCGM has still not prepared CZMP under this notification.) Developable NDZ is largely in Aarey, which is now under Eco Sensitive Zone of SGNP, according to the MoEF. MbPT is looking at commercial exploitation of its underutilised lands, but because of RDDP’s provisions, we are led to believe that the MbPT will allocate land for AH.

In the chapter on Employment, the RDDP has identified tourism as the potential activity for employment generation and here it wants to divert land for AH. RDDP does not describe the locations or provide a key map of these lands and their suitability for AH. But from a general description, it seems lower income
residents in these locations would also need Affordable Transport to sustain their livelihoods.

Affordability is obviously linked to prices. The chapter on AH never once mentions prices and how the cost of land will be taken out of equation remains a mystery. In case of rental housing, the RDDP states ‘It should be expected that about 20 to 30% of the total affordable housing will get into the pool of rental housing. Part of this housing should be available to working women.’ Is this a plan or statement of expectations or dreams? In case of slums the RDDP argues for a cafeteria approach without explaining why should people go to buy snacks, when free meals are available. It is also not clear if this is a proposal of RDDP or free advice to Housing Department and SRA?

Gender, special groups and social equity
These are important issues but their nature and characteristics change over a period of time, (the pace of change is going to be faster) what a spatial plan needs to do and can do is to create a pool of land from which land could be made available for relevant activities. The proposals listed in this chapter, in fact, require appropriate institutional design. Once that is available, adequate spatial provisions can be worked out. In fact, land could be a very incidental requirement. Putting these proposals in the present form is placing cart before the horse.

Art and culture, recreation & leisure
The above comments hold equally good for this section. However, one particular proposal regarding revival of single screen cinemas need attention. Cinemas have turned into dead assets because they were treated as public purpose reservations and later, only partial development was permissible. There is no rationale to treat cinema as public purpose. The use is clearly defined by the
market. If cinemas fail (like some of the malls have also failed), new users should be freely allowed to take their place.

**Transportation**
The RDDP Report describes the proposals of CMP but does not categorically state whether all the proposed RoWs have been incorporated in the Proposed Land Use (PLU). The chapter highlights the importance of public transport but rejects its corollary of Transit Oriented Development (TOD). Mumbai is TOD; the option is either to have planned TOD or unplanned TOD. Not having TOD is not an option. RDDP has accepted unplanned TOD. The 2012 Parking norms are excessive. They need to be reduced in the vicinity of transit stations to create a housing market for those who do not intend to own cars. The high parking norms uniformly applied is one of the factors making housing unaffordable. Similarly, walkability in these zones need to improve by ensuring wider footpaths and arcades. Proposal of separate parking authority was made in the 1985 report of W S Atkins but for 30 years, it has not been acted upon. Is it to be believed that it will be accepted as a part of RDDP?

**Financing the Development Plan (DP)**
RDDP states that DP is central to a city’s quality of life and hence, its implementation is axiomatic. However, axioms also need indirect proof. The last 40 years’ experience, if at all, proves that it is not evident. Implementation of DP therefore, has to be a planned, deliberate and continuous activity and not accidental. This requires institutional protocol as proposed in the EDDP. Sadly, RDDP has discarded it without a mention. RDDP believes that DP income, including Development Charge, can be exclusively used for capital expenditure of DP implementation. However, the MCGM Budget recognizes these sources as revenue (and not
RDDP has described its financing strategy as ‘partnership with landowners’ in fact it is a strategy of taxing new floor space buyers. It would have been instructive to estimate per sq m incidence of INR 6000 crores estimated in the budget of 2016-17. Even if we assume that only half of that is attributable to residential development accounting for 20,000 to 30,000 dwelling units the incidence would be INR 10 to 15 lakh per dwelling unit – certainly not conducive to affordable housing. The DCRs have proposed levy of surcharge on Development Charge in some cases. The settled case law makes these legally invalid. Section 22 (M) of MR&TP Act under which DCRs are made does not provide for such fiscal measures.

The financing strategy raises some fundamental public finance issues. DP proposals not only serve the incremental BUA but also the existing development. However, the entire cost is being recovered from the new development. This is inequitable and the one-time initial incidence would push up prices and also reduce the scale of development. Financing DP depends solely on scale of development. In most cities of the developed world, capital assets are funded by bonds that are repaid by tax revenues, including Tax Increment Financing in certain cases.

In case of Monitoring and Evaluation, RDDP drops the word ‘evaluation’ and indicates that MCGM ‘may’ refer to the chapter in EDDP. In fact, assuming that implementation of DP is axiomatic, and therefore not following planned implementation and neglecting Monitoring and Evaluation has been the key problem. Unfortunately, RDDP has also chosen to neglect it.

**Need for reform**

Retrospection of the last forty years’ experience of making and implementing Development Plans would make it obvious that
there is need for reforming both the making and implementing Development Plans. RDDP has either denied or overlooked the need for reform. Some of the key reforms proposed by EDDP but rejected by RDDP are summarised below:

- Contents of DP described in Section 22 of MR&TP Act envisage DP to be a comprehensive and sectorally integrated plan. However, because of the organisation structure and technical expertise required, it is not possible to have sectorally integrated DP. DP is therefore essentially a long term spatial plan. Other sectoral plans like transport, water supply, sanitation as well as education and healthcare need to be formally prepared in a consultative manner. Priorities for resource allocation have to be decided in the framework of a five yearly Capital Investment Plan. The proposal of EDDP in this regard has been set aside.

- A long term spatial plan of a complex city like Mumbai has to be in the nature of a framework that can accommodate the uncertain future. It should be followed by ‘local area plans’ as is practiced in many cities. This is rejected by the RDDP with a lame excuse of a time-consuming procedure laid down in section 33 of MR&TP Act. However, if two tier planning has merit, legal solutions could be found. There are many options if there is a will to adopt responsive planning. Section 37 allows amendments to the DP, Section 38 allows partial revision of DP, Town Planning Schemes are possible and the MMC Act itself allows different types of ‘Improvement Schemes’. The scope of local area plan covers a wide range – from pedestrianisation of streets (as indicated in case of Bora Bazaar in A Ward plan of RDDP) to detailed plans of areas like Shivajinagar or Bhuleshwar. By rejecting the proposal to adopt local area planning, the RDDP has virtually stated that MCGM and Mumbai does not need urban planning and design.

- FSI regime based on the sound principles as proposed in EDDP is rejected along with the TOD. Mumbai has grown as TOD even before the term was coined. Today planned TOD with all

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its facets – ‘transit first’, walkable city, mixed use, restrained car traffic with limits on parking is need of the hour. But, RDDP has opted for unplanned TOD.  

· DCRs (1991) had become a patchwork of innumerable amendments making the process of development control very complex and therefore prone to delays and rent seeking. By continuing to adopt the 1991 DCRs as the base, RDDP has lost an opportunity, despite vouching for ‘ease of doing business’, to significantly reform the development control regime.  

The PLU in this context is to be seen as a means of communicating to landlords all the regulatory constraints imposed on their land and not just proposals of DP. By deciding not to show the RLs, Heritage Buildings and Precincts, HTL and CRZs, the RDDP has perpetuated the NOC Raj – notorious for adversely affecting the ‘ease of doing business’.

**The worst impact**

If the number of urban planners and the activities they perform is seen in places like DDA, CIDCO or other smaller Urban Development Authorities, the status of urban planning in MCGM is pathetic. RDDP has made a loud and clear declaration that MCGM does not need urban planners or urban designers for urban planning. And it is unlikely that this would change for at least the next 25 years.