

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
Tariff Authority for Major Ports

G.No.126

New Delhi,

28 March 2018

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the New Mangalore Port Trust for revision of lease rentals of port land allotted on long term/short term basis for the period from 20 February 2017 to 19 February 2022 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/43/2017-NMPT

New Mangalore Port Trust

Applicant

QUORUM:

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 14th day of March 2018)

This case relates to a proposal received from the New Mangalore Port Trust (NMPT) for revision of lease rentals of port land allotted on long term/short term basis for the period from 20 February 2017 to 19 February 2022.

2. The lease rentals for the land allotted by the NMPT on long term and short term basis were last approved by this Authority vide Order No.TAMP/60/2012-NMPT dated 20 May 2014 from 20 February 2012 to 19 February 2017. The validity of the lease rentals expired on 19 February 2017 but there was no proposal from NMPT for revision of lease rent. Hence, the NMPT was requested vide our letter No.TAMP/60/2012-NMPT dated 20 April 2017 to file its proposal immediately for revision of lease rental of its land following the amended Land Policy Guidelines, 2014, issued by the Government.

3.1. It is relevant here to state that the retrospective effect for the lease rent earlier approved by this Authority for the five years period 20 February 2007 to 19 February 2012 based on the proposal of NMPT vide Order No.TAMP/15/2007-NMPT dated 16 June 2010 was challenged by some of the users/ lessees in the Hon'ble High Court of Karnataka. Though, the Hon'ble High Court of Karnataka vide judgment dated 28 June 2013 has dismissed all the petitions filed by the users/ lessees in the case and has upheld the Order of this Authority for retrospective revision, the order of Hon'ble High Court of Karnataka has been challenged by the users/ lessees in the Hon'ble High Court of Karnataka by filing appeals, which are pending before Hon'ble High Court of Karnataka. The pending court cases relate to the lease rent approved by this Authority vide Order dated 16 June 2010 whose validity was for the five years period from 20 February 2007 to 19 February 2012.

3.2. Some of the users/ lessees have filed Writ Petitions against the Order No.TAMP/60/2012-NMPT dated 20 May 2014 challenging the collection of revised lease rental with retrospective effect from 20 February 2012. These cases are pending in the High Court of Karnataka at Bangalore. No specific direction has been received from the Hon'ble High Court restraining this Authority from fixation of lease rental for the period 20 February 2017 to 19 February 2012. The current proposal is for revision of lease rent following the amended Land Policy Guidelines from 20 February 2017 for 5 years period i.e. till 19 February 2022.

4.1. In response to our reminder dated 20 April 2017 the NMPT vide its letter dated 4 May 2017 has filed its proposal alongwith valuation report for revision of lease rentals of land allotted on short term/ long term basis for the period from 20 February 2017 to 19 February 2022. The main points made by the NMPT in the proposal are summarized below:

- (i). (a). Total area available with the port – 2290.43 acres as detailed below:

Sl. No.	Location	Land in acres	Use of land
1.	Tannirbavi, Panambur and Baikampady	1837.74	Port
2.	Kudupu **	156.24	Quarrying Stones
3.	Bondel **	296.45	Quarrying Stones

** The lands at Kudupu and Bondel village were acquired for the purpose of stone quarry for major port works like break water and construction of berths and jetties. These are located 11 kms. and 7 kms. respectively from port limits. Presently, these land are hilly terrain and no development is carried out till date. As such, the land is presently not utilized by the port.

- (b). Of the total land area of 1837.74 acres situated at Panambur, 565 acres is inside the security compound wall, 320 acres is water lagoon area and 952.74 acres area is outside the compound wall.
 - (c). The area under port utilization inside as well as outside the security compound wall is 447.15 acres.
- (ii). As per the Policy Guidelines for Land Management 2014 for Major Ports issued by the Ministry vide letter No.PD-13017/2/2014-PD.IV dated 17 July 2015, the schedule of rate will have to be recommended to the TAMP by the Land Allotment Committee (LAC). Accordingly, a LAC was constituted by the NMPT under the Chairmanship of Deputy Chairman, NMPT comprising of Chief Engineer (I/c) (Civil), FA & CAO, Traffic Manager, Dy. Chief Engineer (Civil) as members and Suptdg. Engineer (Civil-II) & Assistant Estate Manager (Gr-I) as Convener and Co-Convener of the Committee for recommending revision of the lease rentals.
- (iii). The Committee in its meeting held on 25 November 2016 considered various factors among those listed in the amended Land Policy Guidelines to determine the market value of the land. The highlights of the report of LAC are given below:
- (a). Land valuation:

As per the procedure laid down in the guidelines, the LAC has taken into account the following applicable factors from among those listed in guidelines to determine the market value of the Port Land. As regards the fifth factor prescribed in the guidelines, the port has stated that they have not found land valuation under fifth factor i.e. any other relevant factor.

 - (i). As per State Government Ready Reckoner, the land values in the areas for similar classification/ activities.
 - (ii). The highest rate of actual relevant transactions registered in last 3 years in the Port's vicinity, with an appropriate annual escalation rate to be approved by the Port Trust Board.
 - (iii). The highest accepted tender cum auction rate of Port land for similar transactions updated on the basis of the annual escalation rate approved by the Port Trust Board.
 - (iv). The rate arrived at by an approved valuer appointed for the purpose by the Port as per Income Tax rule.
 - (b). The NMPT has appointed a valuer M/s. M.C. Jain & Associates for the purpose of ascertaining the market value of land in and around the Port area.
 - (c). The Port Trust Board in its meeting held on 28 January 2016 vide Resolution No.104/2015-2016 has approved the Port vicinity of the villages those falling adjacent to the Port limits. The valuer engaged by the Port has ascertained the values of land of the villages in the Port vicinity and same as been considered to arrive the lease rentals.
 - (d). The revision of lease rentals in NMPT is due from 20 February 2017. Therefore, the Port proposes to submit the proposal for revision of lease rentals for further period of 5 years i.e. from 20 February 2017 to 19 February 2022.
 - (e). A comparative position of valuation of land under the above 4 methods for the years 2013-14, 2014-15 and 2015-16 as considered by LAC and highest land value arrived by LAC for each of the years and furnished by NMPT is given below:
 - (i). For the Financial Year 2013-2014:

Sr. No.	Zone	Port Vicinity/ Villages	GOVERNMENT READY RECKONER		HIGHEST RATE OF ACTUAL TRANSACTION REGISTERED IN PORT VICINITY		LAND RATE AS PER HIGHEST TENDER CUM AUCTION	LAND RATE AS PER INCOME TAX RULE		HIGHEST VALUE RECOMMENDED
			INDIVIDUAL HIGHEST	HIGHEST	INDIVIDUAL HIGHEST	HIGHEST		INDIVIDUAL HIGHEST	HIGHEST	
			4	5	6	7		8	9=6*1.2	
1.	Panambur	Panambur colony	270	270	90	335	338	108	402	402
		Inside Custom Bond Area	225		90			108		
		Bykampady	270		335			402		
2.	Marshaling Yard	Kulai	293	293	325	325	241	390	390	390
		Bykampady Meenakaliya Road	135		90			108		
3.	Commercial Yard	Panambur Along NH-66	270	315	90	225	298	108	270	315
		Padukody	315		225			270		
4.	Thannirbhavi	Thannirbhavi	225	225	-	-	-	-	-	225
5.	Kudupu	Kudupu	270	270	347	347	-	416.4	416	416
		Padavu	-		325			390		
6.	Bondel	Mudushudde	135	263	90	270	-	108	324	324
		Padushedde	117		270			324		
		Pachanady	180		75			90		
		Marakada	225		200			240		
		Thiruvail	263		90			108		

(ii). For the Financial Year 2014-2015:

Sr. No.	Zone	Port Vicinity/ Villages	GOVERNMENT READY RECKONER		HIGHEST RATE OF ACTUAL TRANSACTION REGISTERED IN PORT VICINITY		LAND RATE AS PER HIGHEST TENDER CUM AUCTION	LAND RATE AS PER INCOME TAX RULE		HIGHEST VALUE RECOMMENDED
			INDIVIDUAL HIGHEST	HIGHEST	INDIVIDUAL HIGHEST	HIGHEST		INDIVIDUAL HIGHEST	HIGHEST	
			4	5	6	7		8	9	
1.	Panambur	Panambur colony	218	273	190	260	345	228	312	345
		Inside Custom Bond Area	218		190			228		
		Bykampady	273		260			312		
2.	Marshaling Yard	Kulai	297	297	334	334	246	401	401	401
		Bykampady Meenakaliya Road	218		-			-		
3.	Commercial Yard	Panambur Along NH-66	218	297	190	190	304	228	228	304
		Padukody	297		114			137		
4.	Thannirbhavi	Thannirbhavi	187	187	-	-	-	-	-	187
5.	Kudupu	Kudupu	267	267	321	321	-	156	385	385
		Padavu	225		321			385		
6.	Bondel	Mudushudde	124	248	69	267	-	83	320	320
		Padushedde	99		107			128		
		Pachanady	138		250			300		
		Marakada	223		267			320		
		Thiruvail	248		132			158		

(iii). For the Financial Year 2015-2016:

Sr. No.	Zone	Port Vicinity/ Villages	GOVERNMENT READY RECKONER		HIGHEST RATE OF ACTUAL TRANSACTION REGISTERED IN PORT VICINITY		LAND RATE AS PER HIGHEST TENDER CUM AUCTION	LAND RATE AS PER INCOME TAX RULE		HIGHEST VALUE RECOMMENDED
			INDIVIDUAL HIGHEST	HIGHEST	INDIVIDUAL HIGHEST	HIGHEST		INDIVIDUAL HIGHEST	HIGHEST	
			4	5	6	7		8	9	
1.	Panambur	Panambur colony	250	340	200	216	352	240	259	352
		Inside Custom Bond Area	250		200			240		
		Bykampady	340		216			259		
2.	Marshaling Yard	Kulai	348	348	150	200	251	180	240	348
		Bykampady Meenakaliya Road	165		200			240		
3.	Commercial Yard	Panambur Along NH-66	250	388	200	225	310	240	270	388
		Padukody	388		225			270		
4.	Thannirbhavi	Thannirbhavi	235	235	85	85	-	102	-	235
5.	Kudupu	Kudupu	335	335	358	358	-	430	430	430
		Padavu	-		320			384		
6.	Bondel	Mudushudde	146	312	200	200	-	240	240	312
		Padushedde	113		88			106		
		Pachanady	174		200			240		
		Marakada	292		174			209		
		Thiruvail	312		145			174		

(f). The LAC has recommended highest of the land values arrived for the years 2013-14, 2014-15 and 2015-2016 as given below:

(₹ in lakhs / acre)

Sr. No.	Zone	2013-14	2014-15	2015-16	Highest value of land recommended by LAC
1.	Panambur	402	345	352	402
2.	Marshaling Yard	390	401	348	401
3.	Commercial Yards	315	304	388	388
4.	Tannirbavi	225	187	235	235
5.	Kudupu	416	385	430	430
6.	Bondel	324	320	312	324

- (g). Based on the highest market value of the land, the LAC has arrived at the proposed lease rental at 6% on the highest market value of the land. A summary of the market value of land and the proposed lease rent recommended by LAC for open area is given below:

Sr. No.	Location	For Open Area				
		Land value in lakhs / acre	Land value in ₹ / acre	Land value ₹ / Sqm.	6% of land value	Lease Rental as on 20.02.2017
A	B	C	D = C x 100000	E = D / 4046.86	F = 6% of E	G = F/12 ₹ / Sq. m / month
1.	Panambur	402	4,02,00,000	9933.63	596.02	49.67
2.	Marshalling Yard	401	4,01,00,000	9908.92	594.54	49.54
3.	Commercial Yards	* Highest tender rate of ₹81.32 which is valid upto 21.08.2017				81.32
4.	Tannirbavi	235	2,35,00,000	5806.97	348.42	29.03
5.	Kudupu	430	4,30,00,000	10625.52	637.53	53.13
6.	Bondel	324	3,24,00,000	8006.21	480.37	40.03

[As regards Commercial Yards, lease rent recommended by LAC is ₹81.32/sq. mtr based on highest tender rate valid upto 21.08.2017. (The lease rent based on the land valuation as per the average of the highest value of land for Commercial Yards for the three years 2013-14 to 2015-16 following approach for other locations comes to ₹47.94/sq mtr/month [388*1,00,000/4046.86 *6%/12months]).

- (h). Accordingly, the above lease rent is arrived by LAC for open area as on 20 February 2017.
- (i). Based on the lease rent arrived for open area, lease rentals for paved and covered area are also arrived. The port has attached the Valuer's Report along with the proposal.
- (j). The LAC has stated that during the period 2012-17, TAMP considered 40% of increased percentage of land value to arrive at development cost for arriving at the lease rent for paved area and covered area. The same concept has been applied for arriving the development cost for the period 2017-2022 duly enhancing the development cost percentage by escalation of 2% of base value of 40% which works out to 45%. In the commercial yard zone, the highest tendered rate has been considered to arrive the lease rentals in the proposed SOR, since the major portion of area is of commercial activities. In the Panambur Zone, there are highest tendered rates but not considered while arriving the new SOR rates due to reason that the major portion of the area covers Port Township & Portion of the area is for Port operation purpose to attract the EXIM cargo. A summary of the statement of lease rent furnished by NMPT for paved area and covered area is as under:

	For open areas per 100 sq. mtr. per month (₹)	For paved areas per 100 sq. mtr. per month (₹)			For covered space per 100 sq. mtr. per month (₹)		
	Basic Rate	Basic Rate	Development Cost	Total	Basic Rate	Development Cost	Total
Panambur	4967	4967	2694.73	7662 *	4967	8468.04	13435 *
Marshalling Yard	4954	4954	2683.36	7637	4954	8432.37	13386
Commercial Yards	8132	8132	3598.68	11731	8132	11308.63	19441
Tannirbavi	2903	2903	1803.22	4706	2903	5666.54	8570
Kudupu	5313	5313	3780.35	9093	5313	11878.67	17192
Bondel	4003	4003	2625.22	6628	4003	8249.55	12253

* A sample calculation in respect of Panambur location for lease rent arrived by NMPT for paved area and covered space in above table as considered by LAC is given below:

Working for Lease Rentals at Panambur Village			
Sl. No.	Particulars		(₹ / 100 Sqm / month 20-02-2017)
I	Rent for Open Space		4967
II	Rent for Paved area		7662
	Working	Duly escalated	% increase in Land

		Rental as per existing SOR as on 19.02.2017	value by 138.85% and % increase in Structure i.e. paving 62.48% (i.e. 45% of 138.85%)	
	(i). Land Component	2079.59	4967.10	
	(ii). Structure (i.e. Paving)	1658.5	2694.73	
	(iii). Rental for paved area (i) + (ii)	3738.09	7661.83	
III	Rent for Covered area			13435
	Working	Duly escalated Rental as per existing SOR as on 19.02.2017	% increase in Land value by 138.85% and % increase in Structure i.e. covered 62.48% (i.e. 45% of 138.85%)	
	(i). Land Component	2079.59	4967.10	
	(ii). Super Structure	5211.74	8468.04	
	(iii). Rental for covered area (i) + (ii)	7291.33	13435.14	
Note: Development cost for paved and covered area is considered 45% of increase in the lease rent for the open space.				

- (k). The NMPT has furnished working to arrive at proposed lease rental for paved area and covered area for each of the zones.
- (l). The LAC observed that the valuation report submitted by the Government approved valuer engaged by the Port for the purpose of valuation of lands of the Port vicinity to enable Port to arrive the SOR has been uploaded in the Port website for the comments/ suggestions from the port users/ public. The draft SOR arrived by the Port based on the valuation of the land as per values of land furnished by the valuer has also uploaded in the Port website. The Committee further deliberated on the rates of SOR arrived by the Port and found that the rates are reasonable and justified accordingly.
- (m). **Recommendation of LAC:**
- (a). A comparative position of the lease rental approved by the Authority in Order No.TAMP/60/2012-NMPT dated 20 May 2014 with retrospective effect from 20 February 2012 and duly escalated as on 19 February 2017 and the lease rent recommended by the LAC after deliberation and % increase over the rates applicable as on 19 February 2012 as furnished by the LAC are tabulated below:

Location	For Open area			For Paved area			For Covered area		
	Lease rent approved in Order dated 20.05.2014 w.e.f 20.02.2012 duly escalated and as on 19.02.17	Proposed lease rent from 20.2.2017	% inc	Lease rent approved in Order dated 20.05.2014 w.e.f 20.02.2012 duly escalated and as on 19.02.17	Proposed lease rent from 20.2.2017	% inc	Lease rent approved in Order dated 20.05.2014 w.e.f 20.02.2012 duly escalated and as on 19.02.17)	Proposed lease rent from 20.2.2017	% inc
Panambur	20.80	49.67	138.85	37.38	76.62	104.97	72.9133	134.35	84.26
Marshalling yard	21.20	49.54	133.71	37.95	76.37	101.24	73.8435	133.86	81.28
Commercial yard	27.35	81.32	197.34	46.41	117.31	152.77	87.25	194.41	122.83
Tannirbavi	19.59	29.03	48.17	34.41	47.06	36.76	66.1615	85.70	29.53
Kudupu	12.04	53.13	341.42	26.94	90.93	237.52	58.869	171.92	192.04
Bondel	12.70	40.03	215.08	26.05	66.28	154.48	54.6256	122.53	124.31

- (b). The LAC has also recommended to introduce rental for water area by the Port as the new guidelines envisages the waterfront charges for the purpose of construction of jetties, etc. As per the guidelines, the waterfront charges shall be 50% of the land abutting the water front. This rate is also applicable for laying of submarine pipeline and the charges will be as per the Way Leave permission charges. The Committee opined that the other terms and conditions stipulated in the prevailing Land Policy Guidelines are applicable.

- (iv). Accordingly, the NMPT has stated that LAC has recommended the following lease rates for the period 20 February 2017 to 19 February 2022:

SOR for the Period 2017-2022 in ₹/Sq.m./month			
Location	Open area	Paved area	Covered area
Panambur	49.67	76.62	134.35
Marshalling yard	49.54	76.37	133.86
Commercial yard	81.32	117.31	194.41
Tannirbavi	29.03	47.06	85.70
Kudupu	53.13	90.93	171.92
Bondel	40.03	66.28	122.53

- (v). The recommendations of LAC was placed in the Board meeting on 02 December 2016 and it deferred the proposal. The Board after discussion vide Resolution No. 126/2016-17 constituted a Sub Committee of 4 Trustees for going into details of the proposal and submit the Report.
- (vi). The Sub Committee constituted by NMPT in its report recommended for fixation of Lease rental based on the prevailing lease rent instead of market rate of the land which is derived for sale and purchase for different purpose on free hold basis and recommended as under:
- To carve out the custom bond area from Panambur zone, since the Panambur zone includes Custom bond and non-custom bond area and to make the custom bond area as a separate zone as custom bond zone and fix the lease rent based on the land lease rent obtained in the tender cum auction process, which is ₹24.83 per sqm per month as on 20 February 2017.
 - To include one part of the Panambur zone from KIOCL to IOC Terminal in the Tannirbhavi zone because of suitability of the area for development of Tank farms and other infrastructures as it is area away from human habitation and on the bank of the river. The remaining area of the Panambur zone may be retained as Panambur zone.
 - The rates of all other zones may remain as proposed by the Land Allotment Committee.

4.2. The Board of Trustees of the NMPT in its meeting held on 27 March 2017 discussed the recommendation of the Sub Committee constituted by the Board and taking into consideration the provisions of the Land Policy Guidelines unanimously approved the following vide Resolution no.172/2016-17 of the Board of Trustees dated 27 March 2017. The NMPT has in its original proposal forwarded a copy of the minutes of the Board of Trustees of the NMPT in its meeting held on 27 March 2017:

- To bifurcate the Panambur Zone to 3 segments i.e. Custom Bond area zone including KIOCL area, the area from KIOCL junction to IOC Terminal outside the Custom bond area and remaining area as Panambur zone
- To include the area from KIOCL junction to IOC terminal outside the custom bond area in the Tannirbhavi zone and extend the rate recommended for Panambur zone by the Land Committee to the Tannirbhavi zone.
- Seven zones after formation of custom bond zone as follows: (i). Custom bond zone (ii). Panambur Zone (iii). Marshalling yard zone (iv). Commercial yard zone (v). Tannirbhavi zone (vi). Kudupu zone (vii). Bondel zone

The Board further resolved to recommend the following rates to TAMP for approval and notification for implementing for the period of 20 February 2017 to 19 February 2022:

- The rate of ₹24.83 per Sqm/month for the open area in Custom bound zone including KIOCL area and extending the same rate for allotting open area in panambur zone for storage of EXIM Cargo on license basis, vessel to vessel.
- Extension of the rate proposed by the Land Committee for the Panambur zone to the revised Thannirbhavi zone.
- All other rates as recommended by the Land allotment committee.”

4.3. To summarize, the NMPT has stated that the Board in its meeting held on 27 March 2017 has approved the recommendations of the LAC subject to some modifications as explained above. Accordingly, based on the recommendations of the LAC and approval of its Board, the NMPT has proposed revised lease rental for the period 20 February 2017 to 19 February 2022 as follows:

(i). Lease of Port lands at various location:

(Rate in ₹ / sq. mtr./ month)

Location	For open areas	For paved area	For covered space/ area
Panambur	49.67	76.62	134.35
	24.83 [For storage of EXIM cargo on License basis, Vessel to Vessel]		
Custom Bound Area	24.83	76.62	134.35
Marshalling Yard	49.54	76.37	133.86
Commercial Yards	81.32	117.31	194.41
Tannirbavi	49.67	76.62	134.35
Kudupu	53.13	90.93	171.92
Bondel	40.03	66.28	122.53

It has proposed following conditionalities governing the proposed lease rentals:

- (a). For the allotment inside the Security Wall, a surcharge of 10% on the rate prescribed above will be levied.
 - (b). The rates prescribed shall be applicable with effect from 20 February 2017 and will be reviewed/ revised after five years.
 - (c). The lease rent shall bear an escalation @ 2% (compoundable) per annum till such time the rate of escalation is revised by the Competent Authority.
 - (d). Security Deposit equivalent to one month's licence fee shall be applicable at the time of allotment for license upto 4 or 6 months. In case of lease of land, refundable Security Deposit of equivalent to two years lease rental will be applicable. The Security Deposit shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT.
 - (e). The other conditions governing the lease rental shall be as per the guidelines issued by the (then) Ministry of Shipping as may be amended from time to time.
- (ii). Way leave charges for laying of pipelines/ service conduits:
The rate for open area as applicable to the location vide (i) above for the area occupied by the pipelines / service conduits.
- (iii). Waterfront charges:
50% of the license fee for the land abutting to the waterfront for construction of jetties, submarine pipeline, etc. and will be charged as a way leave permission.

5. In accordance with the consultation process prescribed, a copy of the NMPT proposal was vide our letter dated 12 May 2017 circulated to the users/ user organisations/ lessees seeking their comments. The comments received from users/ user organisations/ lessees were forwarded to NMPT as feedback information. The NMPT has furnished its reply on the comments of users/ user organisations/ lessees.

6. Based on a preliminary scrutiny of the proposal, the NMPT was requested vide our letter dated 28 July 2017 to furnish information/ clarifications on various points by 31 July 2017. This was followed by several reminders dated 03 August 2017, 9 August 2017, d.o. letter dated 28 September 2017 and reminder dated 28 November 2017. After regular follow up, the NMPT has, vide its email dated 30 November 2017, responded to the additional information / clarification sought by us. A summary of the information/ clarifications sought by us and the response of NMPT are tabulated below:

Sl. No.	Information / clarification sought by us	Reply furnished by NMPT
(l).	GENERAL:	
(i).	The NMPT in its proposal dated 4 May 2017 has stated the following:	
(a).	At page no.4 in the first para, the NMPT has stated that though TAMP has issued the notification late TAMP Ordered to implement the revised lease rent with retrospective effect from 20 February 2012.	The proposal submission with clarification sought by TAMP time to time and subsequent reply furnished by Port is all are procedural part. Since the both authorities had processed the proposals with rules, the delay is from procedural part and hence delay can't be attributed to any single entity.
(b).	At page no.5 in the Second para, the NMPT has stated that during the revision for the	

	<p>period 2007-2012, the TAMP has insisted the port for bifurcation of land and categorisation of land based on the usage.</p>	
	<p>In this regard, the following points are brought out for the specific attention of the NMPT.</p>	
	<p>(i). As regards point (a), it is to state that the pre revised SOR was valid up to 19 February 2012. The NMPT filed the proposal for revision of lease rental on 28 September 2012 after lapse of more than six months from the date of expiry of original validity of lease rental rates. After scrutiny of the proposal it was found that additional information/ clarification was required which was sought by TAMP vide its letter dated 28 March 2013. This was followed up with NMPT. After follow up, the NMPT responded on 20 January 2014, i.e. after lapse of more than 10 months period. Further, a joint hearing in this case was held on 21 June 2013 and the port was requested to take action on points arising out at the time of joint hearing. The NMPT was reminded vide our letter dated 11 July 2013, 31 July 2013, d.o. letters dated 11 September 2013 & 13 November 2013 and letter dated 03 February 2014. The NMPT furnished its response on the action point of joint hearing only in January 2014 after about 6 months. Further additional information / clarification was furnished by NMPT on 24 April 2014. Subsequent to receipt of information / clarification from port, the case was disposed by the Authority vide Order dated 20 May 2014. After Hindi translation of the speaking Order, the Order was notified in the Gazette on 1 July 2014. From the above; narration of events it is seen that delay is largely on the side of the port in furnishing information / clarification sought by us in time. Thus, the contention of the NMPT that TAMP has issued the notification late is factually incorrect.</p> <p>It is further relevant to state that the NMPT has itself in this proposal proposed for revision of lease rental retrospectively from 20 February 2012 to 19 February 2017. The note proposed by NMPT is brought out in para 3.2 (b) in Order dated 20 May 2014 which may be perused. NMPT itself sought retrospective revision of lease rental.</p> <p>The Authority while according retrospective revision in lease rental based on proposal of the port has elaborately dealt it in para 9 (ix) (a) of the Order No.TAMP/60/2012-NMPT dated 20 May 2014. Hence, the statement of NMPT that Authority accorded retrospective revision does not bring out factual position.</p>	
	<p>(ii). As regards point (b) above made by</p>	<p>The bifurcation of land and categorization</p>

	NMPT, it is relevant to state that none of the Authority's Order dated 16 June 2010 or 20 May 2014 mentions or insists the port to bifurcate and categorise the land based on usage. The categorisation of land falls under the domain of the concerned port Trust.	of land based on the usage is reassessed under all options given in the Govt. Guidelines and derived the lease rentals which are most beneficial to Port.
(2)	The NMPT has not furnished the tariff filing forms viz., Form – 1 as prescribed in the Formats to be submitted at the time of filing proposal for revision of the Estate Rentals. The NMPT to furnish the requisite forms with all details duly filled in.	The tariff filing forms are furnished.
(3).	As mentioned at Note nos.1, 2 and 3 respectively to Form – 1, the NMPT is required to furnish the following:	----
(i).	A certificate confirming that its proposal for fixing lease rentals is in conformity with the amended Land Policy for Major Ports, 2014 approved by the Government of India.	It is to certify & confirm that proposal for fixing lease rentals is in conformity with amended Land Policy for Major Ports, 2014 approved by Government of India.
(ii).	A certificate to the effect that the land leased (zone-wise) is as per the port's Land Use Plan.	It is to certify to effect that the land to be leased (zone-wise) is as per the Port's Land Use plan.
(4).	If on any matter the present proposal deviates from the amended Land Policy Guidelines 2014 referred above, NMPT to furnish the details thereof justifying the reasons for deviations.	No deviations. It is as per Amended Land Policy Guideline 2014.
(5).	Valuation of Land:	
(i).	The NMPT has, based on the approval of its Board on 27 March 2017, proposed to revise the land zones from existing six zones to seven Zones. This rezoning includes addition and transfer of area from one zone to another. The amended land policy guidelines, 2014 stipulate that any proposal for revision of land use plan shall be finalised by the Board only after considering the objections and suggestions received from the various stakeholders. The NMPT to confirm that the proposed rezoning is as per Land Use Plan of the Port and complies with clause 8 of the amended Land Policy Guidelines, 2014.	The Port Trust Board vide Reso.126/2016-17 constituted a Committee of Trustees for going into details of Proposal and submit the report. One of the recommendations is also that bifurcation of zones and transfer of one area from one zone to other zones. These arrangements are within the original Land use plan approved during 2014 and it is confirming that rezoning is processed within the original land use plan approved during 2014, which complies with clause 8 of amended Land Policy Guide Line 2014.
(ii).	The port is requested to confirm that the market value of land of Panambur at ₹402 lakhs/ acre proposed to be applied by the port for Thannirbhavi area is representative to the market value of land at Thannirbhavi in terms of layout facilities, development, commercial utility and proximity as the comparative statement furnished by the LAC assesses the highest market value of land for Thannirbhavi at ₹235 lakhs/ acre.	As per Board Resolution No.172/2016-17 dated 27-3-2017, it is confirmed that the Market value of land in Panambur at ₹402 lakhs/acre is proposed to be applied for Thannirbhavi Zone. <i>(Copy of Board Resolution is furnished in Proposal dated 4-5-2017)</i>
(iii).	With reference to the market value of land assessed by the port to arrive at the proposed lease rent for all the six zones, the NMPT is requested to confirm that the value of land considered by NMPT for each zone is representative in terms of layout facilities, development, commercial utility,	Yes, it is confirmed that market value of land assessed to arrive the proposed lease rent for all the six zones in terms of layout facilities, development, commercial utility, proximity etc.

	proximity, etc.	
(iv).	Under highest tender cum auction methodology, the NMPT has not indicated land value for Thannirbhavi, Kudupu and Bondel areas. The NMPT may confirm that there is no market value of land available for these areas under tender cum auction method. (Please refer Table No. 14, 15 and 16).	Yes, it is confirmed that no market value of land available under tender cum auction method.
(v).	In the proposal and Valuation Report, one of the methods is shown as "Land Value as per Income Tax Rule." To our understanding, the approved valuer has assessed the land value under this method and may have to be treated as value of land by Approved Valuer. Please confirm that our understanding is correct.	Yes, it is confirmed the understanding is correct.
(6).	<p>Lease rent for structures i.e. paved area and covered area:</p> <p>The guidelines do not mention any factors/methods for valuation of superstructures. From the detailed working furnished by NMPT to arrive at the lease rentals for the paved areas and covered area, it is seen that the NMPT has considered the lease rent for land as arrived for open area plus for structures port has applied 45% of the percentage increase in lease rent of land on the lease rent component of structure as on 19 February 2017 to arrive at the total lease rent for paved area and covered area under each zone.</p> <p>In this regard, the following point may be clarified:</p> <p>During the last revision of lease rent of port land, the NMPT had considered 40% of the percentage increase in the lease rent of open area to arrive at lease rent of structure i.e. paved area and covered area. In the current proposal the NMPT has applied 45% of the percentage increase in lease rent of open area on the ground that it is based on 2% annual enhancement of development cost on base percentage value of 40% [2% annual escalation on 40% works out to 43.29% (40% x 1.02 x 1.02 x 1.02) and not 45%]. It is seen from the working that the lease rent for structure approved by the Authority in the last Order has already been escalated by NMPT applying 2% annual escalation to arrive at the figure as on 19 February 2017. That being so, again applying 2% escalation on 40% and increasing it by 45% may result in duplication. The NMPT to, therefore, examine the lease rent arrived by NMPT for paved area and covered area in the light of the above observation and consider at 40%.</p>	<p>Last revision of lease rent it was considered 40% of percentage increase in the lease rent of open area to arrive at lease rent of structure. In the current proposal Port has applied 45% of percentage increase in lease rent of open area on the ground that it is based on 2% enhancement of development cost on base percentage value of 40% which comes out to 43.29% which is rounded next to 45%. The last revision cycle period 2012-17 prescribing increase by 2% every year ended on 19-2-2017 is equivalence of percentage increase in superstructure at base of 40% increased by 2% comes out to 43.29% rounding next to 45%. Hence there is no duplication.</p>
(7).	Scale of Rates:	
(i).	The note proposed by NMPT in the draft	The note proposed in the draft notification

	notification forwarded by port at (b) regarding allotment of land is not related to fixation of tariff. Major Port Trust are governed by the policy guidelines issued by the government from time to time as regards allotment of the port land. Hence, the NMPT is requested to review whether the proposed note needs to be included in the Schedule of rent.	where it is mentioned that allotment of land is by fixation of tariff as rightly said Major Port Trust are governed by policy guidelines issued by the government time to time as regards allotment of the Port land.
(ii).	The NMPT has proposed for deletion of existing Note no.(vi) which relates to way leave charges for laying of pipelines / service conditions. The NMPT is requested to explain the reasons for deletion of existing note relating to way leave charges. Clause 14 of the amended Land Policy Guidelines, 2014 deals with right of way permission giving list of guidelines / conditions for right of way permission for laying pipelines / conveyors. The NMPT may, consider to incorporate the provisions as per the amended Land Policy Guidelines, 2014.	The existing note No.(vi) is modified and shifted under the table of proposed lease rental at Serial No. B.
(iii).	<u>Existing note (xv) and proposed note d (vi):</u> The port has modified the existing note to state that failure to obtain the prior written permission from the NMPT shall attract levy of penalty as per prevailing guidelines time to time. The amended Land Policy Guidelines, 2014 do not prescribe any such provision for penalty. The port is requested to clarify under which guidelines, penalty will be imposed. The port may propose penalty explicitly in the note and give basis for the same.	It is to clarify that as per clause 12(G) read with Clause 12(F) of Amended Land Policy Guideline 2014 there is a provision for such a cause.
(iv).	<u>Existing note (xvi) and proposed note d (v) and (vii) and note (iv) below table of proposed lease rental:</u>	
(a).	The existing note relating to security deposit states that security deposit equivalent to 1 month license fee shall be applicable at the time of allotment for license up to 11 months and 3 months license fee for license up to 3 years. The port has retained the existing security deposit of one month and proposed it for vessel to vessel and plot wise benefit at proposed note (vii) (a). The words "plot wise benefit" is not used anywhere in the proposal. The NMPT may clarify the meaning of the word "plot wise benefit" and justify the relevance of using this term in its proposal.	It is to clarify that " <i>Plot wise benefit</i> " may be deleted.
(b).	The NMPT has proposed general note d (vii) relating to Security deposit and also a separate note relating to Security deposit below the table of proposed lease rental at serial no. (iv) is proposed. There is slight difference in two provisions. The NMPT to confirm which of the provisions is to be retained in the SOR.	It is to clarified that Serial no.d(vii) and serial no.iv under head of proposed lease rent are all same only in the former generally describes about Security Deposit in the later its specifically detailed about that Security deposit, which shall be refunded "without interest". So both may be retained in the SOR.

(v).	<p>Existing note (xvi) (c) : The NMPT has proposed for deletion of existing conditionality which states that “in case the security deposit is not refunded within 20 days from the date when land/space is finally vacated and production of documents by the licensee, the NMPT shall pay penal interest @ 13% p.a. on such delayed refunds. The NMPT may furnish the reasons for deletion of existing note (xvi) (c). In the event of deletion of this note, what is the remedy to the allottee in case there is delay in refund by the port?</p>	<p>The Security Deposit refunds are processed in electronic mode, so there is no such cause of action and hence, deleted the existing note (xvi)(C)</p>
(vi).	<p>The NMPT has proposed retention of some of the conditions as per the existing SOR. These conditions are not in line with the amended Land Policy Guidelines, 2014. These conditions appear to be more related to terms and conditions to be incorporated by port in the letter of allotment/ lease agreement. The NMPT may justify and give reasons for insertion of the following conditionalities and clarify as to how they are relevant to the lease rent for which approval is sought:</p>	<p>---</p>
(a).	<p>Goods stored under the license deed/ permit/ agreement shall be at the entire risk and responsibility of the licensees. The NMPT will not in any way take responsibility for pilferage, theft, fire and loss thereof. The licensees shall post their own watch to safeguard the goods stored at their allotted space and to prevent any unauthorized occupation of such land/ space by others.</p>	<p>This is a general condition followed in past and more over it is a preventive measures of Port.</p>
(b).	<p>The license fees or charges shall be paid from the date of receipt of the allotment letter by the licensee or occupation of the land/ space by the licensee, whichever is earlier, in accordance with the rates prescribed in the NMPT's Schedule of Rates. The license fee shall be remitted for each calendar month for subsequent period in advance to the NMPT i.e. before 1st of every month. In case the payment is not received before the due date, penal interest at SBI (MCLR)+2% per annum revised from time to time on the accumulated arrears in addition to the license fee [penal interest subject change as per the guidelines issued from time to time by Competent Authority] [MCLR-marginal cost lending rate]</p>	<p>This condition is responsibly of licensee to remit before due date and preventive measure of Port.</p>
(c).	<p>The licensee shall have the right to appeal against resumption of the land to the Board of Trustees of the NMPT within a period of 30 days from the date of receipt of the Order appealed against and the decision of the Board of Trustees of the NMPT is final in this regard.</p>	<p>This is a legal condition followed in the past also.</p>
(d).	<p>The licensee shall agree to comply with all rules or directions issued by the NMPT from time to time. Should the licensee neglect to comply with the rules or directions, the</p>	<p>This is a general condition being followed and more over nature of condition is a preventive measures of Port.</p>

	NMPT may terminate the license.	
(e).	The licensee shall agree that all payments and expenses of whatever sort due to the port in respect of land / space allotted to the licensee, shall be recoverable at the rates prescribed in the SOR of NMPT.	
(f).	The licensee shall comply with all rules and regulations that may from time to time be issued by the local authorities or the inspector of Explosives, the Department of Explosives, Commissioner of Customs and Government of India or whosoever concerned in relation to the storage of goods under the license / permit.	
(g).	Where a doubt arises as to the interpretation of any of these rules, the matter shall be referred to the Board or Sub-Committee of the Board who shall decide the same.	

7.1. As regards, the Joint hearing scheduled on the subject proposal, Association of New Mangalore Port Stevedores (ANMPS) vide its letter dated 02 June 2017 under cover of its email dated 17 June 2017 intimated that NMPT Board has constituted a sub-committee of Trustees to relook into Port Land Rentals/ Lease/ License and Zoning issues, on receiving grievances/ complaints from Port users and EXIM Trade. Further, ANMPS has stated that since report of NMPT sub committee constituted by NMPT Board is yet to be finalised, joint hearing on subject matter may be postponed until the Port Trust Board finalises its position on the same.

7.2. In response, we have vide our letter dated 28 June 2017 clarified to ANMPS that the joint hearing will be held as scheduled on 05 July 2017 as communicated vide our letter dated 19 June 2017 since the Land Policy Guidelines requires this Authority to dispose of proposal received from Major Port Trusts for revision of lease rent in a time bound manner.

8.1. However, the joint hearing in this case was then rescheduled due to administrative reasons and held on 14 July 2017 at the New Mangalore Port Trust (NMPT) premises. The NMPT made a power point presentation of its proposal. At the joint hearing, NMPT and the concerned users/ organization bodies have made their submissions.

8.2. As agreed at the joint hearing, the NMPT was requested vide our letter dated 21 July 2017 to take action on the following points arising out of joint hearing proceedings:

- (i). At the joint hearing, Central Warehousing Corporation (CWC) has furnished its written comments. A copy of the written comments was forwarded for comments of NMPT. The NMPT was requested to furnish its comments immediately.
- (ii). The users/ lessees at the joint hearing submitted that (a). Steep increase proposed by the port in lease rent will result in diversion of general cargo to other neighbouring ports. The aim of the port should be to attract cargo to the port (b). The NMPT may consider to apply ₹24.83/ sq. mtr./ month proposed by NMPT for storage of EXIM cargo in Panambur area and Custom Bond area for all areas for storage of EXIM cargo (c). The port may consider to propose 17.06% increase for all the zones as against steep increase proposed by the port (d). Consider revision in lease rent with prospective effect instead of retrospective effect.
- (iii). The NMPT officials submitted that Chairman and Deputy Chairman could not attend the joint hearing. As agreed by the officials of the NMPT at the joint hearing, the port to discuss the above main points raised port users with the Chairman and Deputy Chairman of NMPT. The port to also discuss the proposal with the trade. The port was requested to respond by 24 July 2017 in this regard.

9. With reference to the first point of action of the joint hearing, NMPT vide its letters dated 7 August 2017 has furnished its comments on the written submissions made by CWC. Further, subsequent to the joint hearing, few users / user associations have furnished their comments, a copy each of which was forwarded to NMPT. The NMPT has furnished its comments thereon.

10. With reference to the second and the third action point flowing from the joint hearing, the NMPT has responded vide its letter no.2/33/2016-EBL.2 dated 15 September 2017. The NMPT has intimated that a meeting was held with the port users on 22 August 2017 on the subject proposal. The NMPT has furnished the Minutes of the Meeting held with the Trade. A summary of views of the trade to the port and the comments of NMPT therein as brought out in the Minutes of the meeting the port had with the trade is given below:

- (i). Port users expressed following views/concerns to the port in the said meeting taken by the port.
- (a). Shri Nagaraj Shetty, Managing Partner, M/s.Ganesh Shipping Agency, Mangalore:
While expressing his concern over the vacancy of berths, informed that the trade fraternity wants to improve the Port on general cargo handling facilities and traffic demand in order to be competitive. He stated that neighboring Ports like Cochin Port Trust and Mormugao Port Trust are charging very reasonable ground rents and desired that New Mangalore Port may also charge the ground rentals similarly. He stated that in this regard, a letter has already been submitted to TAMP with a copy to the Port. Reply has also been received from the Port. Any increase in rentals will affect the common user, thereby consumers. The increase in ground rentals will divert the Cargo from NMPT to other Ports and finally the Port and the trade would be the loser in the bargain.
- (b). Shri Shekar Poojary, President, Stevedores Association:
He has expressed his displeasure that Port users' views are not taken into consideration unlike earlier days. For every increase in rentals, Land Policy Guidelines is quoted. Import/Export trade does not require commercial area for loading and stacking. As there is scarcity for land inside the Custom bond area, the traders are compelled to shift the Cargo to the Commercial Zone of the Port, where the proposed ground rent is very high. When cargo is stored inside the Custom bond area it may not be considered as commercial area. For Port user, commercial and marshalling yard do not make any difference since they have developed the area and are using it. TAMP has clearly informed that other ports have not increased the rents and requested the Port to have one more meeting with the Port users.
He further requested the Port that there should not be any discrimination of ground rentals on Zonal basis for the import/export cargo. Stacking of cargo in the commercial zone or in the Marshalling yard Zone does not make any difference. As such, requested that irrespective of zones viz., Panambur, Marshalling Yard Commercial Yard, etc. the ground rentals should be equal for all the Zones. Trade is agreeable for 17.06% increase in tariff irrespective of the zones. In the interest of the trade and users, he requested the Port not to increase the rentals from retrospective effect. He apprehended that if there is such an increase, stevedores will lose business.
- (c). Shri Ameen, Managing partner, M/s.Hasan Haji & Co:
He opined that revision of lease rent has been misinterpreted as increase of rentals. The Revision may be to decrease the tariff as well. He requested for an early settlement on the matter.
- (d). Shri Edward, President, Custom Agents Association:
He has informed that when compared to other ports, New Mangalore Port is lagging behind in the development front. When Port and trade are working together, there should be give and take policy. The trade can survive if the Business in the Port increases. The Business can flourish if the Port frames its policies and ground rentals conducive to the Trade.
- (e). Shri Balakrishna Kotari, President New Mangalore Port Welfare Association:

He has informed that land is playing a significant role in the handling of cargo at New Mangalore Port. Earlier also the Port land was divided into various Zones, viz. Panambur, Marshalling Yard, Commercial Yard, etc. But the variations in rate between the zones were significantly less when compared to the present proposal. As such, requested to look into the present scenario. Already the demonetization and implication of GST has had its toll on the General Cargo handled at the Port. The Revised Ground rentals proposed by the Port for approval of the TAMP is considerably high and is not logical. The competitive ground rentals will improve cargo handling and thereby will result in more income to the Port and employment will be generated. Concern of the day is employment, and if general cargo handling at Port decreases by enforcement of very high ground rentals; it will affect more than 100 families who are dependent on Port for livelihood. He also requested the Port to give a block rate (single rate) irrespective of zones viz., Panambur, Marshalling Yard Commercial Yard, etc. He also requested the Port not to increase the rentals from retrospective effect.

- (f). Shri P.G. Rai, General Manager (HR), MCF:
He has informed that MCF is working in a controlled environment under the Government. Any increase in cost will have impact on the end users. But as the MCF is working in a controlled environment under the Government, the increase in cost cannot be transferred to the Farmers by MCF and MCF may not be able to bear the cost. An increase of the order 250% is not reasonable. Increase has to be in a logic way. When the real estate market is down, 2 1/2 fold increase in rents for any industry is a matter of concern. As such, he requested the Port to look at the ground reality and recommend to TAMP. Since the escalation has to be passed on to the customers, he requested that the revision should be from prospective effect.
 - (g). Shri S.K. Chaudhary, IOC:
He has requested to reconsider the hike.
- (ii). The response of the NMPT on the views of port users as brought out in the said Minutes of the Meeting forwarded by NMPT are given below:
- (a). It is not true that berths are vacant, because if that would have been the case, Port could not have handled 39.95 million tonnes of cargo during the last year. With regard to classification of areas, it is clear that the areas have been bifurcated with clear definition. Zones were made in 2006-07.
 - (b). With regard to a remark that there is no logic for increase in rates, it is informed by the port that revision in rentals is done in accordance with the Land Policy Guidelines 2014. The proposal for revision of lease rentals of port land for the period from 20.02.2017 to 19.02.2022 is based on the Valuation report submitted by the independent Registered Valuer, M/s MC Jain & Associates.
 - (c). The remarks of Shri Edward that development of the Port has been ignored is disagreed by the port. To substantiate, that interest of the trade is foremost for the Port it is stated that in the last two to three years, three godowns have been constructed and stackyards have been concretized. Considering the demand, Port is constructing two more godowns of area 10000 Sqm. which would be ready by May 2018. With regard to handling general cargo from berth no.1, port desired to discuss it separately.
 - (d). With regard to increase in rentals, port has informed that calculation is done as per Clause 13 of Land Policy Guidelines.
- (iii). Chief Engineer (Civil) informed the trade that based on the outcome of the public hearing, in case TAMP would like to take some of the issues which is of concern to trade, Port would abide by the same.

- (iv). The Chairman i/c of NMPT also informed that the report of the Sub-Committee, formed in the Board meeting held on 03.07.2017 is expected to be ready soon and the same would be forwarded to the TAMP after approval of the Board.

11. The NMPT has vide its letter no. 2/3/2016/EBL.2 dated 1 August 2017 has communicated that the port has started collecting licence fee/ lease rent/ way leave charges w.e.f. 20.02.2017 in respect of short term/ long term allotments as per the rates proposed to TAMP for revision of rates for the period from 20.02.2017 to 19.02.2022 as detailed below.

Location	Per sq. meter per month (₹)		
	For open areas	For paved areas	For covered space
Panambur	49.67	76.62	134.35
	24.83 [For Storage of EXIM cargo on License basis, Vessel to Vessel]		
Custom Bound Area	24.83	76.62	134.35
Marshalling Yard	49.54	76.37	133.86
Commercial Yard	81.32	117.31	194.41
Tanuirbvi	49.67	76.62	134.35
Kudupu	53.13	90.93	171.92
Bondel	40.03	66.28	122.53

12.1. Subsequent to the joint hearing held on 14 July 2017 and meeting with trade held on 22 August 2017, the NMPT vide its letter no. 2/33/2017/EBL.2 dated 16 October 2017 has submitted its revised proposal alongwith approval of its Board of Trustees. The port has also furnished a copy of Minutes of Board Meeting held on 9 October 2017. Some of the main points from the minutes of the Board of Trustees Meeting of VOCPT are given below:

- (i). TAMP has conducted joint hearing with the port users / trade and the clarification to the issues raised during the joint hearing were furnished by the port.
- (ii). In the meeting on 30 May 2017, Trustees representing other interest said that levying commercial rate for EXIM cargo would make handling unviable, resulting in diversion of cargo, loss of throughput and income to the port and requested for reduction in lease rentals for EXIM cargo.
- (iii). The port users also submitted various representation requesting for concession in lease rent for Exim cargo.
- (iv). Chairman NMPT clarified that the Port users in their various meetings with the Management and through representations had requested for concession in lease rent for all the areas where EXIM cargo is stored. Accordingly, the sub-committee was formed and they had submitted their recommendation to the NMPT on 22 August 2017 which was considered by the Board in the meeting held on 6 September 2017.
- (v). The Board of Trustees after deliberation constituted a Committee comprising of the FA & CAO, Traffic Manager and Chief Engineer (Civil) to study the report of the Sub committee and submit their recommendations. The recommendation of the said Committee submitted on 8 September 2017 was circulated to the Board of Trustees of the NMPT and the matter was considered in the Board meeting of the NMPT dated 9 October 2017. It is seen from the copy of the report of the Committee forwarded by the NMPT, that the Committee has viewed that rebate of 30% in the rates for commercial zone cannot be accepted as majority of the area has been occupied by commercial organisations like petrol pump, cement and fertiliser companies. Further, as per LPG these areas are subject to tender cum auction and hence SOR will act only as a Reserve Price.
- (vi). The minutes of the Board of Trustees after giving the back ground has brought out the revised rates arrived on the basis of Sub-Committee's recommendation for the Open area, Paved area and Covered space at Panambur Village, Panambur EXIM cargo, Custom Bond area and Marshalling yard as under:

Rate applicable for open area at various locations:

Sl. No.	Zones	Existing as on 19.02.2017	Proposed to TAMP	Revised Proposal
1.	Panambur Village	20.7959	49.67	29.80
2.	Panambur Exim Cargo	-	24.83	24.83
3.	Custom Bound Area	-	24.83	24.83
	Marshalling Yard along NH 66	21.1972	49.54	29.72

Rate applicable for Paved Area at various locations:

Sl. No.	Zones	Existing as on 19.02.2017	Proposed to TAMP	Revised Proposal
1.(i).	Panambur Village	37.3809	76.62	45.97
(ii).	Panambur Exim Cargo	-	76.62	45.97
2.	Custom Bound Area	-	76.62	45.97
3.	Marshalling Yard along NH 66	37.9504	76.37	45.82

Rate applicable for Covered Space at various Locations:

Sl. No.	Zones	Existing as on 19.02.2017	Proposed to TAMP	Revised Proposal
1.(i).	Panambur Village	72.9133	134.35	80.61
(ii).	Panambur Exim Cargo	-	134.35	80.61
2.	Custom Bound Area	-	134.35	80.61
3.	Marshalling Yard along NH 66	73.8435	134.35	80.32

- (vii). The revised rate proposed for Exim cargo is around 40% less than the original rate proposed. The rates proposed to TAMP for Commercial Yard along NH-66, Thannirbhavi, Kudupu and Bondel area have been retained at the original proposed rate.
- (viii). The Board has noted that port users requested for 50% concession in the proposed rate for Exim cargo vide their various representations during the processing of the proposal by TAMP. The concession in the rate now proposed works out to 40% to 50%. It has been recorded in the minutes of the Board meeting that reduction in the rate would make the transaction cost competitive and that would bring additional throughput and maximize lease rental and also give additional income in form of wharfage as committed by the trade. The proposed increase after granting concession is around 15% to 20% on the existing lease rent and Stevedores are also supporting the same.
[As per the Minutes of the users Meeting held on 22 August 2017, the Stevedores Association was agreeable for 17.06% increase in rates irrespective of rates.]
- (ix). To one of the queries of the Trustees on the basis of arrival of the proposed revised rate for which port official has informed that it is taken on percentage basis comparing with the rate applicable for open space in Custom Bond area. The increase in lease rent should be around 5 to 10% keeping in view the growth in economy and comparable rates at other port.
- (x). After detailed discussion and deliberation, NMPT Board has accorded approval for the following:
- The Rate for Open area in the custom bound area for Exim cargo at earlier proposed level / rate as recommended by the Sub-committee of Trustees.
 - To decrease the rate for paved area and covered area in Custom bonded area by 40% from the proposed rate as recommended by the Sub-Committee of Trustees.
 - To decrease the rate for open area, paved area and covered area in the marshalling yard and Panambur by 40% of the proposed rate as recommended by the Sub-Committee of Trustees.
 - To continue the rate for commercial area as proposed.
 - To consider the rate proposed for open space for Exim cargo in custom bond area for areas leased in the commercial zone where Exim cargo is stored, on vessel to vessel basis, till the areas are leased out for commercial purposes.
 - Rates for Kudupu and Bondel area shall be as proposed earlier.
 - As regards Custom House, the matter of rebate to be taken up separately with the Ministry.

12.2. The other main submission made by NMPT in its letter dated 16 October 2017 are summarized below:

- (i). The proposal for fixation of tariff has been further taken up in the Board Meeting held on 9 October 2017. In the meeting, the report prepared by the sub

committee comprising of Trustees of the Board has been taken into consideration for modification in the proposal for tariff already sent to the Authority.

- (ii). The Board resolved to revise the proposal with modification in the tariff in certain categories.
- (iii). Accordingly, the lease rent proposed by NMPT in the revised proposal based on the recommendation of the Board of Trustees of the NMPT in the meeting held on 9 October 2017 are as follows:

(₹ in per sq. mtr. per month)

Location	For open areas	For paved areas	For covered space
Panambur	29.802	45.972	80.61
	24.83 [For Storage of EXIM cargo on License basis, Vessel to Vessel]		
Custom Bound Area	24.83	45.972	80.61
Marshalling Yard	29.724	45.822	80.316
Commercial Yard	81.32*	117.31	194.41
Tannirbavi	49.67	76.62	134.35
Kudupu	53.13	90.93	171.92
Bondel	40.03	66.28	122.53

Note:

* The rate proposed for open space for EXIM Cargo in custom bond area shall be applicable for areas leased in the commercial zone where EXIM cargo is stored, on vessel to vessel basis, till the areas lease out for commercial purposes.

- (iv). The revised proposal of revision of land lease rentals from 20.02.2017 to 19.02.2022 is submitted for the approval of the TAMP. The port has requested to consider its revised proposal for revision of lease rentals and notify the same at the earliest.

12.3. A comparative statement of lease rent proposed by NMPT in its Original proposal dated 4 May 2017 and Revised proposal dated 16 October 2017 w.e.f 20 February 2017 highlighting bold wherever reduction proposed by NMPT over its original proposal and tariff increase at the original proposed rate and revised proposed lease rent is tabulated below:

Location	For Open area per sq. mtr per month			For Paved areas per sq. mtr. per month (Rs.)			For Covered space per sq. mtr. per month (Rs.)		
	Original Proposal Dt.4.5.17	Revised Proposal Dt.16.10.17	% Reduction over the original proposed lease rent	Original Proposal Dt.04.05.2017	Revised Proposal Dt.16.10.17	% Reduction over the original proposed lease rent	Original Proposal Dt.04.05.17	Revised Proposal Dt.16.10.17	% Reduction over the original proposed lease rent
Panambur	49.67	29.802	40	76.62	45.972	40	134.35	80.61	40
	24.83 (For storage of EXIM cargo on license basis vessel to vessel)	24.83 (For storage of EXIM cargo on license basis vessel to vessel)	0						
Custom Bound Area	24.83	24.83	0	76.62	45.972	40	134.35	80.61	40
Marshalling yard	49.54	29.724	40	76.37	45.822	40	133.86	80.316	40
Commercial yard	81.32	81.32 *	0	117.31	117.31	0	194.41	194.41	0
Tannirbavi	49.67	49.67	0	76.62	76.62	0	134.35	134.35	0
Kudupu	53.13	53.13	0	90.93	90.93	0	171.92	171.92	0
Bondel	40.03	40.03	0	66.28	66.28	0	122.53	122.53	0

Note:

* The rate proposed for open space for EXIM Cargo in custom bond area shall be applicable for areas leased in the commercial zone where EXIM cargo is stored, on vessel to vessel basis, till the areas lease out for commercial purposes.

13. In the revised proposal submitted by NMPT vide its letter dated 16 October 2017, the NMPT has, based on approval of its Board, proposed reduction in the lease rent for Panambur (excluding lease rent for Storage of EXIM) by 40% i.e. ₹29.802 per sq. mtr. per month for open area (excluding storage of EXIM), ₹45.972 per sq. mtr. per month for paved area and ₹80.61 per sq. mtr. per month for covered space. However, in the revised proposal dated 16 October 2017, the lease rent proposed by NMPT for Tannirbhavi is maintained at ₹49.67 per sq. mtr. per month for open area at par with lease rent proposed for Panambur (excluding storage of EXIM), ₹76.62 per sq. mtr. per month for paved area and ₹134.35 per sq. mtr. per month for covered space as in the original proposal. The rates for Tannirbhavi are not proposed at par with reduction proposed in the lease rent for Panambur in the revised proposed by NMPT. In this regard, NMPT has clarified

that the Thannirbhavi zone is a prime area of port where a separate corridor has been earmarked for laying pipelines and liquid cargo storage tank terminals and is in proximity to jetties handling liquid cargo. As such, reduced rates of Panambur are not extended to the rates proposed for Thannirbhavi zone and are not treated at par with the rates proposed for Panambur zone.

14. The Raftaar Terminal Private Limited (RTPL) vide its letter dated 12 January 2018 has pointed out that they are new customer having a bulk liquid storage tank terminal at Thannirubavi and being port user and holding major portion of NMPT land at Thannirubavi location was neither informed nor invited and not given a chance to represent and lodge its grievances before the Authority during joint hearing. In this regard, the RTPL being a new user, its name was not in the records of this Authority. Further, while acknowledging the receipt of the proposal vide our letter dated 12 May 2017, NMPT was requested to let us know if there are any other major users/ organisations/ lessees (with their contact details alongwith mailing address) who may be consulted in this case. We did not hear from NMPT in this regard. Subsequently, Delta Infralogistics (worldwide) Ltd. (DIL) vide its email dated 18 January 2018 has furnished additional comments. A copy each of the comments of the RTPL and additional comments of the DIL was forwarded to NMPT for its comments. The NMPT has furnished its comments thereon. This exercise shows that the comments of RTPL including the DIL have been considered both by NMPT and this Authority.

15. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>.

16. With reference to the totality of the information collected during the processing of this case, the following position emerges:

- (i). The existing lease rental Rent Schedule for New Mangalore Port Trust (NMPT) was last approved by this Authority vide Order No.TAMP/60/2012-NMPT dated 20 May 2014 for a period of five years from 20 February 2012 to 19 February 2017. This Authority in the said Order had approved lease rentals for the six locations as then proposed by the NMPT. As brought out in the earlier paragraphs, the revision of lease rentals of NMPT lands last approved by this Authority was due for revision from 20 February 2017. In this back drop and after follow-up, the NMPT has filed the proposal in May 2017 for revision of lease rent of port land following the amended Land Policy Guidelines, 2014 for the period from 20 February 2017 to 19 February 2022.
- (ii). As per the statute, this Authority is mandated to notify the rates and conditionalities for any property belonging to or in the possession or occupation of the concerned port trust. Further, Clause 12 of the Working guidelines issued to operationalize the Governments policy for determination of Tariff for Major Port Trusts, 2015 requires to follow the Land Policy Guidelines issued by the Government from time to time for revision of lease rental of Major Port Trusts Lands. There is no direction or order from the Hon'ble Court of Karnataka in the Writ Petition filed by various lessees on the last Order of 20 May 2014 restraining this Authority to undertake the statutory obligation of fixing the lease rents of NMPT Lands for the period beyond the validity prescribed in the last Order i.e. beyond 19 February 2017.
- (iii). (a). The NMPT in its original proposal has stated that though this Authority issued notification late, this Authority ordered to implement the revised lease rent with retrospective effect from 20 February 2012. In this regard, the factual position has been clarified to NMPT as brought out in earlier paragraphs while seeking additional information/ clarification from NMPT and hence not reiterated for the sake of brevity. As regards the point on retrospective revision, as brought out in the earlier paragraph, the NMPT itself has sought retrospective revision from 20 February 2012 as per note brought out in para 3.2.(b) in the Order dated 20 May 2014. Hence, both the points contended by NMPT about late notification of the Order and retrospective revision accorded in May 2014 Order do not reflect the factual position. Subsequently, in fact the NMPT has also, while responding to our point has admitted that delay is on

account of procedural part and delay cannot be attributed to any single entity.

- (b). As regards the another point made by NMPT in its original proposal that during the revision of 2007-2012, this Authority has insisted the port for bifurcation of land and categorization of land on usage basis, it is clarified that none of the Orders of this Authority dated 16 June 2010 or 20 May 2014 mentions or insists the port to bifurcate and categorize the land based on usage, as already clarified to NMPT vide our letter dated 28 July 2017. The categorization of land solely falls under the domain of the concerned Port Trust. In fact, the NMPT has submitted during the proceedings of this case that it has reassessed the bifurcation and categorization of land based on the usage under all options given in the Government Guidelines.
- (iv). (a). It is pertinent here to mention that the existing lease rent approved by this Authority based on the proposal filed by the NMPT covers six zones viz. (a). Panambur, (b). Marshalling Yard, (c). Commercial Yard, (d). Tannirbavi, (e). Kudupu and (f). Bondel. The NMPT has, based on the approval of its Board of Trustees in the current proposal, proposed for bifurcation of existing Panambur Zone to three segments i.e. (a). Custom Bound area zone including KIOCL area, (b). the area from KIOCL junction to IOC Terminal outside the Custom bound area and (c). remaining area as Panambur zone.
- The proposal of the Port is to include the area from KIOCL junction to IOC terminal outside the custom bound area in the Tannirbavi zone and extend the rate for Panambur zone to the Tannirbavi zone. The Seven zones after formation of custom bound zone for which the NMPT has sought lease rent are as follows: (i). Panambur Zone (ii). Custom bound zone (iii). Marshalling yard zone (iv). Commercial yard zone (v). Tannirbavi zone (vi). Kudupu zone (vii). Bondel zone.
- The NMPT has, based on the approval of its Board on 27 March 2017, proposed to revise the land zones from existing six zones to seven zones. The rezoning proposed by NMPT includes addition of zone termed as Custom Bound in Panambur zone and classifying specified area i.e. the area from KIOCL junction to IOC terminal outside the custom bound area from Panambur zone as part of Tannirbavi zone. The NMPT has confirmed that the proposed rezoning is as per Land Use Plan of the Port and complies with clause 8 of the amended Land Policy Guidelines, 2014. The said rezoning has been based on the report of the Land Allotment Committee constituted by the NMPT Board headed by Deputy Chairman and other officials of the Port. Subsequently, the Board of Trustees of the NMPT vide its Board meeting held on 27 March, 2017 has approved rezoning of land. Recognising that the rezoning of the port land is approved by the Board of Trustees of the NMPT and port has confirmed that it is as per the Land use plan, this Authority decides to go ahead with the proposal of the port for revision of lease rent for the rezoned port lands. It is reiterated at the cost of repetition that rezoning of the land and classification of land completely falls under the domain of the concerned Port Trust. The classification of land and rezoning of port land is beyond the mandate given to this Authority.
- (b). The amended Land Policy Guidelines, 2014 stipulate that any proposal for revision of land use plan shall be finalised by the Board only after considering the objections and suggestions received from the various stakeholders. One of the users viz. Delta Infralogistics referring to the amended Land Policy Guidelines, 2014 has stated that the port has not consulted stakeholders on change in the land use plan. To a query relevant to this matter raised by us, the NMPT has clarified that bifurcation of zones and transfer of one area from one zone to other zones are within the original Land Use Plan approved during the year 2014 and confirmed that the arrangement complies with clause 8 of the amended Land Policy Guidelines of 2014.

- (v). The original proposal of NMPT was filed along with recommendation of Land Allotment Committee (LAC) which was based on the final report of the Government approved valuer and approval of its Board of Trustees. In the said proposal, the NMPT, based on the recommendation of LAC and approval of the Board of Trustees, proposed the lease rental as arrived by the Government approved land valuer adopting highest value of land mentioned in Para 13(a) of the amended Land Policy Guidelines 2014. For arriving at the highest market value of land, the highest value of land for each zones for each of the years 2013-14, 2014-15 and 2015-16 under the first four methods prescribed in the amended Land Policy Guidelines, 2014 for valuation of land is considered. From amongst the three years valuation, the highest is adopted as the market value of the land for each of the zone and lease rent is arrived at 6% on that. The port sought revision of lease rent w.e.f. 20 February 2017 with a validity period of five years i.e. upto 19 February 2022 with annual escalation of 2% p.a. The lease rent as on 19 February 2017 and lease rent proposed by NMPT w.e.f. 20 February 2017 subject to 2% annual escalation in its original proposal along with percentage increase is tabulated below:

Location	For Open area			For Paved area			For Covered area		
	Lease rent approved in Order dated 20.05.2014 w.e.f 20.02.2012 duly escalated and as on 19.02.17	Proposed lease rent from 20.2.2017	% inc	Lease rent approved in Order dated 20.05.2014 w.e.f 20.02.2012 duly escalated and as on 19.02.17	Proposed lease rent from 20.2.2017	% inc	Lease rent approved in Order dated 20.05.2014 w.e.f 20.02.2012 duly escalated and as on 19.02.17)	Proposed lease rent from 20.2.2017	% inc
Panambur	20.80	49.67	138.85%	37.38	76.62	104.97%	72.9133	134.35	84.26%
Marshalling yard	21.20	49.54	133.71%	37.95	76.37	101.24%	73.8435	133.86	81.28%
Commercial yard	27.35	81.32	197.34%	46.41	117.31	152.77%	87.25	194.41	122.83%
Tannirbavi	19.59	49.67	153.55%	34.41	47.06	36.76%	66.1615	85.70	29.53%
Kudupu	12.04	53.13	341.42%	26.94	90.93	237.52%	58.869	171.92	192.04%
Bondel	12.70	40.03	215.08%	26.05	66.28	154.48%	54.6256	122.53	124.31%

Sri Ganesh Shipping Agency (GSA) has pointed out that the General cargo handled in NMPT is 5% to 7% of total cargo and remaining cargo is handled by pipeline. The GSA has stated that 90% of general cargo of Karnataka goes through Kandla, Tuticorin, Chennai port and other neighbouring private ports like Krishnapatnam due to high rates at the port. Users are not interested to come to this port due to exorbitant rates at the port. The aim of the port should be to improve export and import from this port to attract general cargo. There cannot be sudden exorbitant increase in lease rent by 100% to 200%. Apart from GSA, other users/ user associations/ lessees have also objected the steep increase in lease rentals proposed by the NMPT in the original proposal. The main concerns of the users/ user associations/ lessees was that steep increase proposed by the port in lease rent will result in diversion of general cargo to other neighbouring ports pointing out that the aim of the port should be to attract cargo to the port. They proposed that the NMPT may consider to apply ₹24.83/ sq. mtr./ month proposed by NMPT for storage of EXIM cargo in Panambur area and Custom Bound area for all areas for storage of EXIM cargo and the port may consider to propose 17.06% increase for all the zones as against steep increase proposed by the port. They have also requested to consider revision in lease rent with prospective effect instead of retrospective effect.

The NMPT was, therefore, requested vide our letter dated 21 July 2017 to discuss with the trade and to re-examine the proposal in the light of the concerns of the users/ users associations/ lessees and file a revised proposal. In this backdrop, the NMPT vide its letter dated 15 September 2017 has stated that it had meeting with the trade on 22 August 2017 to discuss their concern. As a sequel to the Trade Meet, the NMPT has filed its revised proposal vide its letter dated 16 October 2017 after having discussions with the trade and after seeking approval of the Board of Trustees of the NMPT on 9 October 2017. In the revised

proposal, the lease rent proposed by the port earlier for “Panambur location” (other than lease rent proposed for storage for Exim Cargo) for open area, covered area and paved area has been reduced by 40%. The port has also reduced the lease rent proposed by it earlier for Custom Bound Area for Paved and Covered Space by 40%, Marshalling Yard for Open area, paved and covered space by 40%. The lease rent for other zones have been proposed as per its original proposal. The original proposal read with the final revised proposal filed by NMPT vide its letter dated 16 October 2017 under the amended Land Policy Guidelines, 2014 along with submissions made by NMPT during the processing of the case and final submission made by NMPT regarding additional information/ clarification sought by us vide its email dated 30 November 2017 are considered in this analysis.

- (vi). (a). The amended Land Policy Guidelines 2014, clearly lays down the procedure and the methodology to be adopted for determining the market value and the latest Scale of Rates of the port lands.
- (b). As per clause 11.2(e) of the revised Land Policy Guidelines 2014, a Land Allotment Committee (LAC) shall be constituted by the Port Trust Board consisting of Deputy Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic. Port has constituted the LAC under the Chairmanship of Dy. Chairman, NMPT and comprising of other members viz. Traffic Manager, Financial Advisor and Chief Accounts Officer, Dy. Chief Engineer (Civil) and other officers of the NMPT. Thus, the NMPT has complied with the stipulation of the formulation of the LAC as per the amended Land Policy Guidelines, 2014.
- (c). As per Clause 13(a) of the amended Land Policy Guidelines of 2014, the LAC shall determine the market value of land taking into account highest of the five factors like (i) State Government's ready reckoner value if available for similar classification/ activities, (ii) Highest rate of actual relevant transactions registered in last three years in the Port's vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards), with an appropriate annual escalation rate to be approved by the Port Trust Board (iii) Highest accepted tender-cum-auction rate of Port land for similar transactions, updated on the basis of the annual escalation rate approved by the Port Trust Board., (iv) rate arrived at by an approved valuer and (v) any other relevant factors as may be identified by the port. In case the LAC is not choosing the highest factor, the guidelines requires the reasons for the same have to be recorded in writing. As per clause 13 (c) read with clause 13(a) and (b) of the amended Land policy guidelines of 2014, the port shall file a proposal to this Authority for fixation of latest SOR of the land based on the market value of land recommended by the LAC which will normally take into account the highest of the five factors for market value of land stipulated in Para 13 (a) amended Land policy guidelines of 2014. Annual lease rent would in no case be less than 6% of the latest market value recommended by the Port Trust. Further, the Port Trust Board will fix a rate of annual escalation which would not be less than 2%.
- (d). The port has appointed a Government approved valuer to arrive at the proposed lease rent based on valuation of land under different methodology prescribed in the amended LPG 2014. Of the five factors prescribed in the amended Land Policy Guidelines, 2014 for arriving at the market value of the land, the approved valuer has assessed the market value of land based on first four factors (i). State Government's ready reckoner (ii). Highest rate of actual relevant transactions registered in last three years (iii). Highest accepted tender-cum-auction rate of Port land. Under the fourth method of market valuation of land as per approved valuer under the, the approved valuer has assessed valuation of land under Income Tax Rule Method. As regards the fifth factor viz. any other relevant factor, the LAC has not found valuation of land under any other relevant factor.
- (e). The value of land has been assessed under the following methods:

(i). **State Government ready reckoner of land values in the area:**
The Port has considered Karnataka State Government's ready reckoner Rates for each of the years 2013-14 to 2015-16 for the Port's lands and land adjacent to port. The ready reckoner revised market rate of immovable property belonging to Mangalore City Corporation has been considered.

(ii). **Highest rate of actual relevant transactions registered in last three years in the port's vicinity:**
Under this option, the land valuation report gives the value of land based on actual sale deed registered with the Sub Registrar Office, Mangalore pertaining to each of the years 2013-14 to 2015-2016 covering the respective port areas and other nearby villages.

(iii). **Highest accepted tender cum auction rate of port land:**
Under this option, the land valuation report gives the value of land based on latest tender cum action rate of port land for similar transaction based on the information furnished by the port. The approved valuer has considered the land valuation for 2013-14 and escalated the land value of base year 2013-14 by 2% to arrive at the land valuation for subsequent years i.e. 2014-15 and 2015-16.

(iv). **Rate arrived at by an approved valuer:**
The Approved Valuer has used Income Tax Rule 2009 to arrive at fair market price of land. For determination of land value under this method the Approved valuer has stated that land value is to be determined by comparable sale instance which are to be identified and the factors of adjustment/ influence are to be applied.

The Approved valuer has considered following factors of adjustment for assessing the land value under this method.

- a. Location and Situation
- b. Time Gap
- c. Shape
- d. Size

The approved valuer has stated that as per Income Tax Rule 2009 actual land transaction value should be multiplied with factor ranging from 1.1 to 1.3 times to arrive at the fair market value of land. He is of the opinion that the number of sale instances preferably being three or more, average rate should be adopted. Accordingly, for arriving of land valuation under this method, the approved valuer has considered highest rate of actual transaction registered in the port vicinity and multiplied it by the factor 1.2 to arrive at the land valuation as per Income Tax Rule.

(vii). (a). The approved valuer has assessed market value of land under the above four methods for each of the years 2013-14 to 2014-15 and has recommended the highest value of land amongst the three years for each zones. The LAC has considered the market valuation of land as given by the approved valuer. A comparative position of the market value of land considered by the LAC based on the various factors mentioned under amended Land Policy Guidelines 2014 and highest market value of land recommended by LAC for each of the years is tabulated below:

(i). For the Financial Year 2013-2014:

(VALUE IN ₹ IN LACS PER ACRE)										
Sr. No.	Zone	Port Vicinity/ Villages	GOVERNMENT READY RECKONER		HIGHEST RATE OF ACTUAL TRANSACTION REGISTERED IN PORT VICINITY		LAND RATE AS PER HIGHEST TENDER CUM AUCTION	LAND RATE AS PER INCOME TAX RULE		HIGHEST VALUE RECOMMENDED
			INDIVIDUAL HIGHEST	HIGHEST	INDIVIDUAL HIGH EST	HIGHEST		INDIVIDUAL HIGHEST	HIGHEST	
1	2	3	4	5	6	7	8	9=6*1.2	10	11
1.	Panambur	Panambur colony	270	270	90	335	338	108	402	402
		Inside Custom Bound Area	225		90			108		
		Bykampady	270		335			402		
2.	Marshaling Yard	Kulai	293	293	325	325	241	390	390	390
		Bykampady Meenakaliya Road	135		90			108		
3.	Commercial Yard	Panambur Along NH-66	270	315	90	225	298	108	270	315
		Padukody	315		225			270		
4.	Tannirbavi	Tannirbavi	225	225	-	-	-	-	-	225
5.	Kudupu	Kudupu	270	270	347	347	-	416.4	416	416
		Padavu	-		325			390		
6.	Bondel	Mudushudde	135	263	90	270	-	108	324	324
		Padushedde	117		270			324		
		Pachanady	180		75			90		
		Marakada	225		200			240		
		Thiruvail	263		90			108		

(ii). For the Financial Year 2014-2015:

(VALUE IN ₹ IN LACS PER ACRE)										
Sr. No.	Zone	Port Vicinity/ Villages	GOVERNMENT READY RECKONER		HIGHEST RATE OF ACTUAL TRANSACTION REGISTERED IN PORT VICINITY		LAND RATE AS PER HIGHEST TENDER CUM AUCTION	LAND RATE AS PER INCOME TAX RULE		HIGHEST VALUE RECOMMENDED
			INDIVIDUAL HIGHEST	HIGHEST	INDIVIDUAL HIGH EST	HIGHEST		INDIVIDUAL HIGHEST	HIGHEST	
1	2	3	4	5	6	7	8	9	10	11
1.	Panambur	Panambur colony	218	273	190	260	345	228	312	345
		Inside Custom Bound Area	218		190			228		
		Bykampady	273		260			312		
2.	Marshaling Yard	Kulai	297	297	334	334	246	401	401	401
		Bykampady Meenakaliya Road	218		-			401		
3.	Commercial Yard	Panambur Along NH-66	218	297	190	190	304	228	228	304
		Padukody	297		114			137		
4.	Tannirbavi	Tannirbavi	187	187	-	-	-	-	-	187
5.	Kudupu	Kudupu	267	267	130	321	-	156	385	385
		Padavu	225		321			385		
6.	Bondel	Mudushudde	124	248	69	267	-	83	320	320
		Padushedde	99		107			128		
		Pachanady	138		250			300		
		Marakada	223		267			320		
		Thiruvail	248		132			158		

(iii). For the Financial Year 2015-2016:

(VALUE IN ₹ IN LACS PER ACRE)										
Sr. No.	Zone	Port Vicinity/ Villages	GOVERNMENT READY RECKONER		HIGHEST RATE OF ACTUAL TRANSACTION REGISTERED IN PORT VICINITY		LAND RATE AS PER HIGHEST TENDER CUM AUCTION	LAND RATE AS PER INCOME TAX RULE		HIGHEST VALUE RECOMMENDED
			INDIVIDUAL HIGHEST	HIGHEST	INDIVIDUAL HIGH EST	HIGHEST		INDIVIDUAL HIGH EST	HIGHEST	
1	2	3	4	5	6	7	8	9	10	11
1.	Panambur	Panambur colony	250	340	200	216	352	240	259	352
		Inside Custom Bound Area	250		200			240		
		Bykampady	340		216			259		
2.	Marshaling Yard	Kulai	348	348	150	200	251	180	240	348
		Bykampady Meenakaliya Road	165		200			240		
3.	Commercial Yard	Panambur Along NH-66	250	388	200	225	310	240	270	388
		Padukody	388		225			270		
4.	Tannirbavi	Tannirbavi	235	235	85	85	-	102	-	235
5.	Kudupu	Kudupu	335	335	358	358	-	430	430	430
		Padavu	-		320			384		
6.	Bondel	Mudushudde	146	312	200	200	-	240	240	312
		Padushedde	113		88			106		
		Pachanady	174		200			240		
		Marakada	292		174			209		
		Thiruvail	312		145			174		

(b). A summary position of the highest market value of land arrived by the approved valuer for each of the three years considered by the Land Allotment Committee and the recommendation of the market value of land based on the highest of the market value of land is tabulated below:

Sr. No.	Zone	Value in ₹ in Lakhs Per Acre			Highest market value of land recommended
		2013-14	2014-15	2015-16	
1.	Panambur	402	345	352	402
2.	Marshaling Yard	390	401	348	401
3.	Commercial Yard	315	304	388	388
4.	Tannirbavi	225	187	235	235
5.	Kudupu	416	385	430	430
6.	Bondel	324	320	312	324

- (viii). (a). Thus, the LAC recommended the highest land valuation arrived by the approved valuer for the six zones and arrived at lease rental at 6% of the market value, except for commercial yard. For Commercial yard, the lease rent, based on the highest market value of land arrived by the approved value as per the above table comes to ₹47.94/sq mtr/month (i.e. ₹388 lakhs *1,00,000/4046.86 *6%/12months). The LAC, however, proposed lease rent at ₹81.32 per sq.mt per month based on highest tender rate of land leased to M/s.Ambuja Cements Ltd., which was valid upto 21 August 2017.
- (b). The land valuation considered by LAC for open area and lease rent recommended by LAC at 6% of the market value of land is tabulated below:

Sr. No.	Location	For Open Area				Lease Rent Proposed (₹/sqm. /month)
		Land value in lakhs / acre	Land value in ₹ / acre	Land value ₹ / Sqm.	6% of Land value	
A	B	C	D = C x 100000	E = D / 4046.86	F = 6% of E	G = F/12
1.	Panambur	402	4,02,00,000	9933.63	596.02	49.67
2.	Marshalling Yard	401	4,01,00,000	9908.92	594.54	49.54
3.	Commercial Yards	Based on highest tender rate of ₹81.32				81.32
4.	Tannirbavi	235	2,35,00,000	5806.97	348.42	29.03
5.	Kudupu	430	4,30,00,000	10625.52	637.53	53.13
6.	Bondel	324	3,24,00,000	8006.21	480.37	40.03

- (c). Apart from the open area, the LAC also recommended lease rental for paved and covered space based on the lease rental of open area. There is no specific methodology prescribed in the amended Land Policy Guidelines for structures like paved area and covered area. The port has arrived at lease rent for paved area and covered area following the methodology adopted by the NMPT in the last revision which was approved by this Authority in May 2014 Order. From the detailed working furnished by NMPT to arrive at the lease rentals for the paved areas and covered area, it is seen that the NMPT has considered the lease rent for the land component for respective zones as arrived for open area. Then, the rental considered for structures i.e. paved or covered area, as the case may be, in the last tariff Order was escalated by 2% to arrive at the rental component of structure as on 19 February 2017. On that the NMPT has applied 45% of the percentage increase in lease rent of land. The lease rent for paved area and covered area is thus arrived by NMPT by summing up the lease rent for land for open area and the rental of structures as explained above for each zones. In this regard, it is relevant here to state that during the last revision of lease rent of port land, the NMPT had considered 40% of the percentage increase in the lease rent of open area to arrive at lease rent of structure i.e. paved area and covered area. As against that, in the current proposal the NMPT has applied 45% of the percentage increase in lease rent of open area citing that it is based on 2% annual enhancement of development cost on base percentage value of 40%. Applying 2% annual escalation on 40% works out to 43.29% (40% x 1.02 x 1.02 x 1.02 x 1.02). The NMPT was, therefore, requested to examine this point. The NMPT was also requested to confirm there is no duplication on account of the approach adopted by NMPT of again applying 2% escalation on 40% and increasing it to 45% for structures. The NMPT has clarified that during the last revision, for arriving at lease rent for covered and open area, the then lease rent component for these

structures were taken as the base and 40% of percentage increase in the lease rent of open area was applied to arrive at lease rent component of structures. In the current proposal, Port has clarified that it has applied 45% of percentage increase in lease rent of open area on the ground that it is based on 2% enhancement of development cost on base percentage value of 40% comes which to 43.29% but it is rounded off next to 45%. The Port has confirmed that there is no duplication in approach adopted by it in arriving at the lease rent for covered area and paved area. Relying on the clarification furnished by the NMPT and recognizing that the approach adopted by the NMPT is recommended by the LAC and has the approval of the NMPT Board and is based on the approach adopted for arriving at lease rent in the last revision which was accepted by this Authority earlier, this Authority is inclined to go with the approach adopted by the NMPT during the current exercise also for arriving at the lease rent for paved area and covered area.

It is relevant here to state that the MOPT in its proposal for fixation of lease rent for structures had got the valuation of structures done through an approved valuer considering the cost of construction of the building and suitably discounted it for various factors. The lease rent for MOPT structures was approved by this Authority vide Order No.TAMP/32/2015-MOPT dated 27 February 2016. The NMPT may, therefore, consider to get the valuation of structures owned and constructed by NMPT done by engaging an approved valuer and following the broad methodology prescribed in the Land Policy Guidelines during the next revision instead of arriving at the rates linked to percentage increase in the lease rent of open area.

- (d). As stated earlier, the Board of Trustees of the NMPT while approving the proposal of revision of lease rent based on recommendations of the LAC, has bifurcated Panambur zone into 3 zones i.e. Custom Bound area zone including KIOCL area, the area from KIOCL junction to IOC Terminal outside the Custom bound area and remaining area as Panambur zone. For the new rezoned custom bound area including KIOCL area, the Board of Trustees of NMPT has proposed lease rent/ license fee of ₹24.83/ sq. mtr./ month for open area for storage of EXIM cargo on vessel to vessel basis.

- (e). As regards the area from KIOCL junction to IOCL terminal outside custom bound, the Board of Trustees of NMPT has included it under Tannirbavi and has approved the lease rent at ₹49.67/ sq. mtr. as proposed for the Panambur in its original proposal. The market value of land for Panambur is ₹402 lakhs per acre. Whereas, the market value of land assessed for Tannirbavi is ₹235 lakhs per acre. To a specific clarification sought citing the above position to whether the proposal of the port proposing lease rent of Panambur to Tannirbavi area is representative of market value of land of Tannirbavi in terms of layout, facilities, development, commercial utility and proximity, the NMPT has clarified that the market value of land in Panambur at ₹402 lakhs/ acre proposed is proposed to be applied for Tannirbavi zone based on the approval of its Board.

It is relevant here to state that the lease rent proposed by NMPT to this Authority for Tannirbavi zone in its original proposal dated 4 May 2017 is at ₹49.67 per sq. mtr. per month for open area, (₹76.62 per sq. mtr. per month for pave area and 134.35 per sq. mtr. per month for covered area) based on the approval of its Board of Trustees of the NMPT dated 27 March 2017. The Board of Trustees of the NMPT has approved for bifurcation of existing Panambur Zone to three segments i.e. (a). Custom Bound area zone (including KIOCL area), (b). the area from KIOCL junction to IOC Terminal outside the Custom bound area and (c). remaining area as Panambur zone. The rezoning proposed by NMPT includes classifying the area from KIOCL junction to IOC terminal outside the custom bound area from Panambur zone as part of Tannirbavi zone. The NMPT has confirmed that the proposed rezoning is as per Land Use Plan of the Port and complies with clause 8 of the amended Land Policy

Guidelines, 2014. The Board of Trustees of the NMPT has discussed the recommendation of the Sub Committee of the Trustees and has approved to extend the rate proposed for the Panambur zone at ₹49.67 per sq. mtr. per month for open area, ₹76.62 per sq. mtr. per month for paved area and ₹134.35 per sq. mtr. per month for covered area in the original proposal to the revised Tannirbavi zone in the Board meeting on 27 March 2017 based on which the port has filed its original proposal of May 2017.

Users/ user associations, like Sri Ganesh Shipping Agency, Association of New Mangalore Port Stevedores citing that steep increase proposed by the port in lease rent will result in diversion of general cargo to other neighbouring ports and that the aim of the port should be to attract cargo to the port, requested the port to consider ₹24.83/ sq. mtr./ month proposed by NMPT for storage of EXIM cargo in Panambur area and Custom Bound area for all areas for storage of EXIM cargo. They requested NMPT to consider 17.06% increase in the lease rent proposed for Custom bound zone in Panambur area for all the zones as against steep increase proposed by the port. The MCHAA, IFFCO, ANMPS, IPL, KBL and NMPCFAA have also made similar request to the port.

The NMPT has clarified that the lease rent have to be fixed as per terms and conditions stipulated in the Land Policy Guidelines, 2014. The NMPT has stated that the approved valuer, who is expert in their field have assessed the market value of land for each zones after considering various important factors affecting land valuation. The LAC has gone through the report of the approved valuer and recommended the land valuation which is also approved by the Board.

However, in view of the objection raised by most of the users/ user associations and in view of the advice rendered by us at the joint hearing, the NMPT had a meeting with the trade where the users/ user associations again raised their concern and objection on steep increase proposed by the port. Trustees representing other interest said that levying commercial rate for EXIM cargo would make handling unviable, resulting in diversion of cargo, loss of throughput and income to the port and requested for reduction in lease rentals for EXIM cargo. In view of various representation submitted by trade requesting for concession in lease rent for Exim cargo requesting for concession in lease rent for all the areas where EXIM cargo is stored, the NMPT Board formed a sub-committee of Trustees and the sub-committee had submitted its report.

The NMPT constituted a Committee consisting of Senior Officials of NMPT as directed by the Board to study the report of the Sub-Committee constituted and submit their recommendations. The matter was again deliberated by the NMPT Board in the Board of Trustees Meeting held on 9 October 2017. The Board of Trustees of the NMPT in its Board meeting held on 9 October 2017 has noted that during the joint hearing almost all the users have objected the revision proposed by the port and requested for concession in lease rent for all the areas where EXIM cargo is stored. The Board of Trustees of the NMPT has noted that port users requested for 50% concession in the proposed rate for Exim cargo vide their various representations during the processing of the proposal by TAMP and that reduction in the rate would make the transaction cost competitive and that would bring additional throughput and maximize lease rental and also give additional income in form of wharfage as committed by the trade. The concession in the rate now approved on 9 October 2017 works out to 40% to 50%. Though the minutes of the Board states that at the revised lease rent the increase is around 15% to 20%, it is found to be higher than 15% to 20% as per the comparison done by us and tabulated in the subsequent paragraphs.

The Board of Trustees of the NMPT in its Meeting held on 9 October 2017, after deliberation, has approved reduction in the lease rent approved by the Board earlier for open area, covered area and paved area in Panambur zone excluding lease rental for storage of EXIM cargo on vessel to vessel basis and for Marshalling yard in all the three areas by 40% from the lease rent proposed by the NMPT based on the earlier

approval of the Board of Trustees of the NMPT. The Board of Trustees of NMPT has also approved reduction in lease rent for Paved Area and covered space in in custom bound area by 40% from the lease proposed by the NMPT based on the earlier approval of the Board of Trustees of the NMPT.

For open area in the custom bound zone, commercial yard, Kudupu, Bondel and Tannirbavi, the Board of Trustees of NMPT has approved the lease rent at the level approved by it earlier and proposed by NMPT in the original proposal. Further, the Board of Trustees of NMPT has approved the lease rent approved for open area for EXIM cargo in custom bound areas, for areas leased in Commercial yard where EXIM cargo is stored on vessel to vessel basis, till areas are leased out on Commercial basis. The NMPT has incorporated one note to this effect in the draft Scale of Rates. A suitable note is incorporated in the revised Scale of Rates in line with the approval accorded by the Board of Trustees of NMPT and proposed by NMPT. As regards the point made by trade for concession in lease rent in custom house, the Board has decided that as regards to reduction in lease rent of custom house the matter has to be taken up separately with the Ministry of Shipping. Based on the approval of the Board of Trustees in its meeting on 9 October 2017, the NMPT has filed a revised proposal dated 16 October 2017.

Thus, it can be seen that considering that there are various representations from trade and based on the meeting held with the trade and to retain existing traffic and attract traffic to the Port, the Board of Trustees of NMPT has reduced the lease rent approved by the Board earlier for certain specified zones and areas as explained in the preceding paragraph. A comparative statement of rates proposed by NMPT in its Original proposal dated 4 May 2017 and Revised Proposal dated 16 October 2017 based on the approval of the Board of Trustees of NMPT is tabulated below:

(in ₹ per sq mtr/ month)

Location	For Open area			For Paved areas			For Covered space		
	Original Proposal Dt.4.5.17	Revised Proposal Dt.16.10.17	% Reduction over the original proposal	Original Proposal Dt.4.5.17	Revised Proposal Dt.16.10.17	% Reduction over the original proposal	Original Proposal Dt.4.5.17	Revised Proposal Dt.16.10.17	% Reduction over the original proposal
Panambur	49.67	29.802	40%						
	24.83 (For storage of EXIM cargo on license basis vessel to vessel)	24.83 (For storage of EXIM cargo on license basis vessel to vessel)	-	76.62	45.972	40%	134.35	80.61	40%
Custom Bound Area	24.83	24.83	-	76.62	45.972	40%	134.35	80.61	40%
Marshalling yard	49.54	29.724	40%	76.37	45.822	40%	133.86	80.316	40%
Commercial yard	81.32	81.32	-	117.31	117.31 (*)	-	194.41	194.41 (*)	-
Tannirbavi	49.67	49.67	-	76.62	76.62	-	134.35	134.35	-
Kudupu	53.13	53.13	-	90.93	90.93	-	171.92	171.92	-
Bondel	40.03	40.03	-	66.28	66.28	-	122.53	122.53	-

* A sample calculation in respect of Commercial Yard for lease rent arrived by NMPT for covered space in above table as furnished by NMPT is given below:

Working for Lease Rentals at Commercial Yard				
Sl. No.	Particulars			(₹/ 100 Sqm / month 20-02-2017)
I	Rent for Open Space			8132
II	Rent for Paved area			11731 (i.e. ₹117.31 per sq mtr/ month)
	Working	Duly escalated Rental as per existing SOR as on 19.02.2017	% increase in Land value by 197.34% and % increase in Structure i.e. paying 88.8% (i.e. 45% of 197.34%)	
	(i). Land Component	2734.90	8131.95	
	(ii). Structure (i.e. Paving)	1906.08	3598.68	
	(iii). Rental for paved area (i) + (ii)	4640.98	11730.63	
III	Rent for Covered area			19441 (i.e. ₹194.41 per sq mtr/ month)
	Working	Duly escalated Rental as per existing SOR as on 19.02.2017	% increase in Land value by 197.34% and % increase in Structure i.e. paying 88.808% (i.e. 45% of 197.34%)	
	(i). Land Component	2739.90	8131.95	

	(ii). Super Structure	5989.74	11308.63	
	(iii). Rental for covered area (i) + (ii)	8724.64	19440.58	
Note: Development cost for paved and covered area is considered 45% of increase in the lease rent for the open space.				

The working of revised lease rent for all the six locations (except custom bond area) for open area, paved stack yards and covered space as furnished by the NMPT in its original proposal dated 4 May 2017 and columns inserted by us therein to indicate the revised reduced rate proposed by NMPT by reducing the lease rent proposed by the port in its original proposal by 40% for some of the zones/ areas in its revised proposal dated 16 October 2017 is attached as **Annex - I (a) to (f)**. As regards Custom bond area, the NMPT has proposed rate at par with Panambur village and hence has not furnished any separate working. A comparative position as regards the lease rent as on 19 February 2017 for six zones after duly escalating the lease approved by this Authority in the Order dated 20 May 2014, the lease rent proposed by the port as per the revised proposal and the percentage increase from the existing lease rent in respect of open area, paved area and covered space for all the zones is tabulated below:

(Rate in ₹ per sq.mt per month)

Location	For Open Area				For Paved Area				For Covered Space			
	Approved vide Order dated 20 May 2014 as on 20 Feb 2012	Lease Rental as on 19 Feb 2017 after applying 2% annual escalation	Proposed lease Rental as per revised proposal dated 16.10.2017	% increase over lease rent as on 19.02.2017	Approved vide Order dated 20 May 2014 as on 20 Feb 2012	Lease Rental as on 19 Feb 2017 after applying 2% annual escalation	Proposed Lease Rental as per revised proposal dated 16.10.2017	% increase over lease rent as on 19.02.2017	Approved vide Order dated 20 May 2014 as on 20 Feb 2012	Lease Rental as on 19 Feb 2017 after applying 2% annual escalation	Proposed Lease Rental as per revised proposal dated 16.10.2017	% increase over lease rent as on 19.02.2017
Panambur	19.21	20.79	29.802	43.35%	34.53	37.38	45.972	23.00%	67.36	72.91	80.61	10.56%
Panambur Exim Cargo (new entry)	-	-	24.83	-	-	-	-	-	-	-	-	-
Custom Bond Area (new entry)	-	-	24.83	-	-	-	-	-	-	-	-	-
Marshalling Yard	19.58	21.19	29.724	40.27%	35.06	37.95	45.822	20.74%	68.22	73.84	80.316	8.77%
Commercial Yard	25.27	27.35	81.32	197.33%	42.88	46.41	117.31	152.77%	80.60	87.24	194.41	122.85%
Tannirbavi	18.10	19.59	49.67	153.55%	31.79	34.41	76.62	122.67%	61.12	66.16	134.35	103.07%
Kudupu	11.11	12.03	53.13	341.65%	24.89	26.94	90.93	237.53%	54.39	58.87	171.92	192.03%
Bondel	11.74	12.71	40.03	214.95%	24.06	26.04	66.28	154.53%	50.47	54.63	122.53	124.29%

It is seen from the above Table that as per the revised proposal filed by the NMPT based on the approval of its Board for the reasons recorded in writing, the increase originally proposed in the lease rent for certain zones, areas have been reduced in view of the concerns of the users/ user association/ lessees. The Board has also approved to consider the rate proposed for open space for EXIM Cargo in custom bound area for areas leased in the commercial zone where EXIM cargo is stored, on vessel to vessel basis, till the areas lease out for commercial purposes.

The Board of Trustees of the NMPT, on review, has not proposed any change in the lease rent approved by it earlier for commercial yard, Tannirbavi, Kudupu and Bondel locations which was based on the recommendation of the LAC at 6% of the market value of the land.

In the revised proposal submitted vide its letter dated 16 October 2017, it is seen that the NMPT has, based on approval of its Board, proposed reduction in the lease rent for Panambur (excluding lease rent for Storage of EXIM) by 40% i.e. ₹29.802 per sq. mtr. per month for open area (excluding storage of EXIM), ₹45.972 per sq. mtr. per month for paved area and ₹80.61 per sq. mtr. per month for covered space. However, in the revised proposal dated 16 October 2017, the lease rent proposed by NMPT for Tannirbhavi is maintained at ₹49.67 per sq. mtr. per month for open area at par with lease rent proposed for Panambur (excluding storage of EXIM), ₹76.62 per sq. mtr. per month for paved area and ₹134.35 per sq. mtr. per month for covered space as in the original proposal. The rates for Tannirbhavi are not proposed at par with reduction proposed in the lease rent for Panambur in the revised proposed by NMPT.

In view of the above position, the NMPT was requested to explain reasons that when the rate for Panambur was reduced to ₹29.802 per sq. mtr. per

month for open area (excluding storage of EXIM) , ₹45.972 per sq. mtr. per month for paved area and ₹80.61 per sq. mtr. per month for covered space in its revised proposal dated 16 October 2017, the reasons for continuing to propose lease rent for Tannirbhavi at ₹49.67 per sq. mtr. per month for open area (excluding storage of EXIM) , ₹76.62 per sq. mtr. per month for paved area and ₹134.35 per sq. mtr. per month for covered space as in its original proposal. The NMPT was also requested to explain the reasons for not extending the reduced rates of Panambur for Tannirbhavi to have the rates for Tannirbhavi at par with the rates proposed for Panambur in line with its original proposal.

In this regards, the port has clarified that, proposed rates for Panambur Zone (EXIM cargo), Marshalling yard zone have been revised as recommended by the Sub committee report. However, the rates for Tannirbhavi, Kudupu and Bondel are unchanged. Hence the rate for Tannirbhavi of ₹49.67/sqm/month given in the proposal dated 4 May 2017 is retained in the revised proposal given on 16 October 2017 also. The NMPT has justified its proposal stating that the Tannirbhavi zone is a prime area of port where a separate corridor has been earmarked for laying pipelines and liquid cargo storage tank terminals and is in proximity to jetties handling liquid cargo. As such reduced rates of Panambur are not extended to the rates proposed for Tannirbhavi zone and it is not treated at par with the rates proposed for Panambur zone. The port has submitted that, based on the approval of the Board on 9 October 2017 after considering the Sub committee recommendations, the revised proposal was submitted to TAMP for consideration.

In view of the above position clarified by the NMPT and most importantly recognizing that the revised proposal filed by NMPT is with the approval of the Board of Trustees of the NMPT, this Authority approves the proposal of the port in this regard.

The clause 13(a) of amended Land Policy Guidelines, 2014 allows the Board of Trustees to recommend lease rent other than the lease rent at 6% on the highest market valuation. The Board of Trustees has recorded the reasons in writing for recommending reduction in lease rent in specified zones and areas.

Since the proposal filed by the NMPT is found to be in line the provisions of the amended Land Policy Guidelines 2014, and the reduced lease rent proposed by the NMPT in the revised proposal flows from the demand of the users/ user associations/ lessees to reduce the rates and has been approved by the Board of Trustees of the NMPT for the reasons cited by the Board, this Authority is inclined to approve the lease rent as proposed by the NMPT in its revised proposal as given below for the 7 new zones:

Sr.No.	Location	For open areas	For paved areas	For covered space
1.	Panambur	29.802 24.83 [For Storage of EXIM cargo on License basis, Vessel to Vessel]	45.972	80.61
2.	Custom Bound Area	24.83	45.972	80.61
3.	Marshalling Yard	29.724	45.822	80.316
4.	Commercial Yard	81.32*	117.31	194.41
5.	Tannirbhavi	49.67	76.62	134.35
6.	Kudupu	53.13	90.93	171.92
7.	Bondel	40.03	66.28	122.53

* The rate proposed for open space for EXIM Cargo in custom bound area shall be applicable for areas leased in the commercial zone where EXIM cargo is stored, on vessel to vessel basis, till the areas lease out for commercial purposes.

- (ix). BASF India Limited has stated that it has already paid non-refundable upfront premium on 885 sq. mtrs. of land allotted to them by NMPT and hence, they should be exempted from the current revision. In this regard, the NMPT has confirmed that the proposed revision of lease is not applicable to the BASF as land is lease out to them on upfront mode. Only the nominal rent of Re.1/- p.a. will be applicable till expiry of lease period in case of leases on payment of rentals on upfront mode. This clarification of the NMPT addresses the concern of the BASF.

- (x). The GSA has stated that the port has converted some part of land as commercial area. On account of this, increase in lease rent at proposed rate is exorbitant. The GSA has sought to argue that the Sub-Committee headed by Chairman formed by earlier Board recommended no increase in lease rent except increase of 2% annum. The GSA has requested that earlier recommendation of sub-committee should be considered. The increase should be minimum so that trade does not suffer.

In this regard, the NMPT has stated that the rates proposed are as per methodology of Land Policy Guidelines 2014 and Land Use Plan. As far as the recommendation of the Sub-Committee formed by earlier Board, NMPT has stated that the said Sub-Committee report is not in line with Land Policy Guidelines, 2014. It is relevant here to state that constitution of Sub-Committee by the NMPT is an internal matter of the NMPT. The amended Land Policy Guidelines, 2014 does not require this Authority to go by the report of the sub-committee constituted by the NMPT.

As per Clause 11.2. of the amended Land Policy Guidelines, 2014, the port has to constitute Land Allotment Committee head by Dy. Chairman of the Port, and Heads of Departments of Finance, Estate and Traffic. As stated earlier, the port has constituted the Land Allotment Committee complying with the provisions of the said guidelines. As per Clause 13(a) of the amended Land Policy Guidelines of 2014, the LAC shall determine the market value of land taking into account highest of the five factors and give its recommendation of the port. As brought out earlier, the LAC has given the report giving the market value of the land under the land under the four out of five factors following the provisions of the amended Land Policy Guidelines, 2014. The amended Land Policy Guidelines, 2014 prescribes broad guidelines for determination of lease rental based on the market value of land based on the factors prescribed in the guidelines which has also been complied by the port. The proposal of NMPT is also based on the approval of its Board. As stated earlier, in view of objection from trade to the steep increase proposed by NMPT earlier, the port has again placed the matter before its Board. The Board after deliberation has reduced the lease rent approved by it earlier by 40% in some of the zones and areas. The NMPT has thus moderated the increase proposed by it earlier in its final revised proposal based on the approval of its Board. The proposal filed by the NMPT which is based on the recommendation of the LAC and approval of the Board of Trustees complies with the amended Land Policy Guidelines, 2014 and this Authority is bound to consider it.

- (xi). Mangalore Custom House Agents Association Customs Brokers (MCHAA), Indian Farmers Fertiliser Cooperative Limited (IFFCO), Association of New Mangalore Port Stevedores (ANMPS), Indian Potash Ltd. (IPL), Krishak Bharati Co-op Ltd (KBL) and New Mangalore Port Clearing & Forwarding Agents Association (NMPCFAA) has welcomed the proposal of NMPT of delinking Short term allotments of land for storage of EXIM cargo from the long term allotments. They have stated that the port has proposed separate reduced rate for storage of EXIM cargo on license basis vessel to vessel for selected zone i.e. Panambur. The MCHAA, IFFCO, ANMPS, IPL, KBL and NMPCFAA have further stated that all storage spaces earmarked in the Port Land Usage Plan has to be uniformly dealt with and the rate fixed for EXIM Cargo Storage should be extended to all locations / zones and for all the three categories of storage spaces (open areas, paved areas and covered space).

The NMPT has clarified that only the allotment of unpaved land area (i.e. open area) in Panambur Village Zone, on Short term License, on vessel to vessel basis has been delinked from the long term allotments to industries and commercial establishment. The provision is made only to decrease the Vessel detention time. The port has stated that these are monthly allotments for a maximum period of 4 months only on vessel to vessel basis without following the Tender cum Auction process as per the exceptional criteria prescribed in the Land Policy Guidelines. The exception clause mentioned by the NMPT is at Clause 10 (a) of the amended LPG 2014 which prescribes provision relating of Fresh allotment of land in custom bond area. In the said clause it is stated that the land inside custom bond area, which is required on an immediate basis, shall be given on licence basis only and

no lease may be permitted. Wherever feasible, such licence shall be issued only by inviting competitive tenders. In cases, where the tender- cum-auction is not possible, land can be allocated on licence basis at the latest SoR which would be the value notified under para-13 (c). However, allotment of land by not resorting to tender-cum- auction methodology should be exercised as an exception.

The NMPT has stated that each type of Exim cargo demands different type of spaces for storage. Hence, depending upon the development cost and land cost, different lease rent for open areas, paved areas and covered areas are arrived at. The NMPT has confirmed that lease rent arrived by the port is as per Land Policy Guidelines 2014.

- (xii). The Kudremukh Iron Ore Company Limited has stated that presently one year lease rent is kept as security deposit. Now, port has proposed two years lease rent as security deposit. Apart from that, lease rent has to be paid for full year in advance. The NMPT has clarified that the collection of security deposit from lessee is as per Clause 11.2(d) of the amended Land Policy Guidelines, 2014 which stipulates 2 years security deposit for fresh lease. As rightly stated by NMPT, clause 11.2 (d) empowers the port to keep security deposit equivalent to two years rentals. The provision relating to security deposit is in line with the amended Land Policy Guidelines, 2014 which is binding on the port.
- (xiii). Delta Infralogistics (Worldwide) Limited (DIL) has requested to reduce license fee while allotting the Port land at Marshalling Yard on license basis for storage of EXIM Cargo on Vessel to Vessel basis. The NMPT has stated that the port authority after acquiring the Land from the Government has made huge investments in development of the Port. Apart from the Capital investment, they are also incurring recurring Operation and Maintenance Cost. The land is a well-developed land of great demand. It is relevant here to state that in the revised proposal with the approval of its Board of Trustees, the NMPT has reduced the lease rental for marshalling yard location by 40% as compared to its original proposal. As against 133.71%, 101.24% and 81.28% increase proposed for Marshalling yard for open area, paved area and covered area respectively over the lease rent as on 19.2.2017 in its original proposal, the increase proposed by NMPT for Marshalling yard zone has been reduced in the revised proposal which works out to 40.25%, 20.74% and 8.77% for corresponding areas.
- (xiv). KIOCL Limited has stated that the NMPT has proposed for revision of land for open area from ₹19.21 in 2012 to ₹49.67 in 2017 per Sq. Mtr. per month. This shows an increase of 2.59 times in 5 year i.e.159% increase. Around 32% hike per year is abnormal and guidelines need to be reviewed to improve the business of the port land user. KIOCL has requested this Authority to look into this abnormal hike proposed by NMPT. In this regard, the NMPT has stated that the revision of lease once in 5 years is as per prevailing Land Policy Guidelines for Major Ports 2014. The NMPT has thus contended that said revision of lease rent is applicable to all Port users / Lessees / Licensees of NMPT and also applicable to KIOCL.
- It is relevant to state here that this Authority approves lease rent/ license fee for the Port trusts land following the applicable Land Policy Guidelines issued by the Government from time to time for port land as a whole and not for individual lessees/ allottee. As stated earlier, in view of objections raised by users, the NMPT has conducted meeting with the trade and come up with the revised proposal, reducing the lease rental proposed by it in original proposal by 40% for some of the zones/ areas.
- (xv). (a). The Raftaar Terminal Private Limited (RTPL) has pointed out that they are new customer having a bulk liquid storage tank terminal at Thannirubavi and being port user and holding major portion of NMPT land at Thannirubavi location was neither informed nor invited and not given a chance to represent and lodge our grievances before the TAMP during joint hearing. The RTPL has stated that NMPT has re-valued and recommended revision for land lease rentals for Thannirubavi location with a hike of 153.5% as against the previous recommended revision of

48.17%. The proposed increase is almost 1.5 times more than the current lease rentals at one shot which would severely affect financial viability of the project. Since, RTPL is yet to commence business and has invested huge cost to build up terminal, it has requested not to increase the rental for Tannirbavi location as any additional levy may have serious consequences on their business and requested to continue the lease rental for existing rates for Thannirubavi area.

As regards the point made by RTPL regarding non-consultation of RTPL on the subject proposal, as already brought out in the earlier paragraphs, the RTPL being a new user, its name is not found in the records of this Authority. Further, while acknowledging the receipt of the proposal vide our letter dated 12 May 2017, NMPT was specifically requested to let us know if there are any other major users/ organisations/ lessees (with their contact details alongwith mailing address) who may be consulted in this case. We did not hear from the NMPT in this regard. In any case, the objection of RTPL was brought to the notice of NMPT and the NMPT has responded as brought out below.

As regards the point made by RTPL about NMPT having revalued and recommended revision for land lease rentals for Tannirbavi location with a hike of 153.5% (from ₹19.59 to ₹49.67 per sq. mtr./ month), against the previous recommended revision of 48.17% (from ₹19.59 to ₹29.03 per sq. mtr./ month), it is to state that the 48% increase referred by the RTPL is with reference to the rate recommended by the LAC for Tannirbavi zone at ₹29.03 per sq. mtr. per month for open area.

As stated earlier, the lease rent proposed by NMPT to this Authority for Tannirbavi zone in its original proposal dated 4 May 2017 is at ₹49.67 per sq. mtr. per month for open area, (₹76.62 per sq. mtr. per month for paved area and 134.35 per sq. mtr. per month for covered area) based on the approval of its Board of Trustees of the NMPT dated 27 March 2017. The rate of ₹29.03 was not the proposal filed before this Authority. The Board of Trustees of the NMPT has approved for bifurcation of existing Panambur Zone to three segments i.e. (a). Custom Bound area zone (including KIOCL area), (b). the area from KIOCL junction to IOC Terminal outside the Custom bound area and (c). remaining area as Panambur zone. The rezoning proposed by NMPT includes classifying the area from KIOCL junction to IOC terminal outside the custom bound area from Panambur zone as part of Tannirbavi zone. The NMPT has confirmed that the proposed rezoning is as per Land Use Plan of the Port and complies with clause 8 of the amended Land Policy Guidelines, 2014. The Board of Trustees of the NMPT has discussed the recommendation of the Sub Committee of the Trustees and has approved to extend the rate proposed for the Panambur zone at 49.67 per sq. mtr. per month for open area, ₹76.62 per sq. mtr. per month for pave area and 134.35 per sq. mtr. per month for covered area in the original proposal to the revised Tannirbavi zone in the Board meeting on 27 March 2017 based on which the port has filed its original proposal of May 2017. The reasons cited by the Board of Trustees for applying the Panambur rate to Tannirbavi zone is because of suitability of the area for development of the tank farm and other infrastructure due to suitability of the area on account of Gurpur river on one side and away from habitation. In the revised proposal dated 16 October 2017, the rate proposed for Tannirbavi zone in the original proposal has been retained by NMPT. The NMPT has clarified that the Tannirbhavi zone is a prime area of port where a separate corridor has been earmarked for laying pipelines and liquid cargo storage tank terminals and is in proximity to jetties handling liquid cargo and it is based on the approval of the Board of Trustees of the NMPT on 9 October 2017 after considering the Sub-committee recommendations. The NMPT has not accepted the request made by the RTPL not to increase lease rent for Tannirbavi zone. For the reasons cited above, the NMPT has categorically stated that lease rent for Tannirbavi given in the proposal dated 4 May 2017 is retained in revised proposal of NMPT 16 October 2017. The justification given by NMPT is considered.

As stated in earlier paragraphs, the NMPT has, based on the approval of its Board of Trustees in the current proposal, proposed for bifurcation of existing Panambur Zone to three segments i.e. (a). Custom Bound area zone (including KIOCL area), (b). the area from KIOCL junction to IOC Terminal outside the Custom bound area and (c). remaining area as Panambur zone. The rezoning proposed by NMPT includes classifying the area from KIOCL junction to IOC terminal outside the custom bound area from Panambur zone as part of Thannirubavi zone. The NMPT has confirmed that the proposed rezoning is as per Land Use Plan of the Port and complies with clause 8 of the amended Land Policy Guidelines, 2014. It is relevant here to state that even in the original proposal, the lease rent proposed by NMPT for Tannirbavi is ₹49.67 per sq mtr/ month the lease rent. The Board of Trustees of the NMPT has discussed the recommendation of the Committee of the Board and extended the rate proposed by the land allotment committee for the Panambur zone at ₹49.67 per sq. mtr per month in the original proposal to the revised Thannirubavi zone because of suitability of the area for development of the tank farm and other infrastructure due to suitability of the area on account of Gurpur river on one side and away from habitation. In the revised proposal dated 16 October 2017, the rate proposed for Thannirubavi zone in the original proposal has been retained by NMPT for reasons elaborated in the earlier paragraphs.

The NMPT has justified its proposal stating that the Tannirbhavi zone is a prime area of port where a separate corridor has been earmarked for laying pipelines and liquid cargo storage tank terminals and is in proximity to jetties handling liquid cargo and it is based on the approval of the Board of Trustees of the NMPT on 9 October 2017 after considering the Sub committee recommendations. As stated earlier, the NMPT has not accepted the request made by the RTPL not to increase lease rent for Tannirbavi zone.

- (b). The Delta Infralogistics (worldwide) Ltd. (DIL) has stated that the Amended Land Policy Guidelines, 2014, is formulated as per the provisions contained in sub section (1) of Section 34 of the Major Port Trusts Act, 1963, i.e., for leasing out land for 30 years, whereas tariff fixation for land required for Vessel and Cargo related activities, the governing directions are under section 49 sub section (1). Both these sections are catering to different sections of land users, wherein land licensing under section 49 is a mandated service of the Port, whereas section 34 concerns the contracts which are long term. Merging both these activities and fixing a common land tariff has already created total confusion leading to avoidable litigations. The DIL has suggested that the Authority may call for separate proposals from NMPT for land tariff under section 49 and section 34. the DIL has viewed that land tariff under section 49 should be combined with the general SOR for Vessel & Cargo related activities of the Port and land tariff under section 34 should follow the Amended Land Policy guidelines 2014. The DIL has also requested that land rents under section 49 be limited to an annual increase of 2% and there should not be any separate revision every 5 years in order that the EXIM trade can afford and absorb the tariff increase gradually.

It is relevant here to state that this Authority is mandated under Section 49 (1) of the Major Port Trust Act 1963 to fix Scale of Rates and conditionalities for Port properties. Section 34 (1) referred by the DIL relates to the mode of executing contracts on behalf of the Board; and, Section 34 governs allotment of land for a specified period and is not relevant for fixation of Scale of Rates of port land.

The Ministry of Shipping (MOS) issues Land Policy Guidelines for Major Port Trusts from time to time and the current applicable guidelines in this regard issued by the MOS is the amended Land Policy Guidelines for Major Port Trusts, 2014 which prescribes the methodology for fixation of lease rent for port lands. The question of this Authority calling for a separate proposal under Section 34 to fix rental does not arise. For fixation of lease rental for Port properties, the Authority is governed by

Clause 13 (c) of the amended Land Policy Guidelines 2014. The point made by DIL to limit annual increase in lease rent by 2% and the point that there should not be any separate revision every 5 years is not found to be in line with the amended Land Policy Guidelines, 2014 issued by the MOS which is binding on both the Authority and Major Port Trusts.

- (xvi). The MCHAA, IFFCO, ANMPS, IPL, KBL and NMPCFAA have stated that apart from lease rental NMPT collects surcharge of 10% over and above the rentals for land allotted within the security wall and 5% service charges for land allotted outside the wall. These charges may be withdrawn in the new tariff order. It is relevant to state that this Authority while approving the lease rental in the last revision vide Order No.TAMP/60/2012-NMPT dated 20 May 2014 at para 10 (ix) has elaborately dealt with this issue. During last revision some of the users like the MRPL Ltd. and IMC Ltd. had raised objection on surcharge of 10% of the proposed lease rental proposed by the NMPT for allotment of land inside the security wall. Their argument was that the land policy guidelines then issued by the Government did not provide for levy of surcharge. In this regard, the NMPT during the last revision had clarified that the area inside the security wall which is a Custom notified is guarded by CISF personnel round the clock. 10% of licence fee is levied as surcharge for land inside wharf area in view of surveillance provided by the port round the clock and is already prescribed in the existing Schedule of lease rent as well. The Land Policy Guidelines prescribe broad guidelines for determination of lease rental based on the market value of land based on the factors prescribed in the guidelines. Based on the clarification furnished by the NMPT this Authority in the last revision has approved the note as proposed by the NMPT which prescribed levy of 10% surcharge on the lease rent prescribed in the schedule for allotment of land inside the security wall. The NMPT has proposed to retain the existing note relating to levy of 10% surcharge for allotment of land inside the security wall. As observed by this Authority during the last revision, levy of 10% over the prescribed lease rent inside the security wall prevails right from over a decade i.e. in the Order No.TAMP/33/2003-NMPT dated 20 January 2005 and also in the last revision Order passed on 20 May 2014. Based on the clarification furnished by NMPT in the last revision of lease rent and recognising that it is an existing note this Authority allows to continue with the existing note as proposed by NMPT. As regards the point made by the MCHAA, IFFCO, ANMPS, IPL, KBL and NMPCFAA about the port collecting 5% Service Charges for allotment of land outside the wall, it is relevant to state that this Authority while approving the lease rental in the last revision vide Order No. TAMP/60/2012-NMPT dated 20 May 2014 at para 10 (ix) has dealt with this issue. During the last revision it was not clear from the point made by these associations for what services this charge was collected by the port. The port had not pointedly made any comment on this point during the last revision. This Authority has already held in the last revision that the Rent Schedule then approved by this Authority does not prescribe any tariff under the name "service charge" in the schedule of lease rent of NMPT. In the current revision as well, the port has not pointedly made any comments on the specific point raised by the user associations. As stated in the last revision of lease rental, it is reiterated that the Rent Schedule approved by this Authority do not prescribe any tariff under the name "service charge" in the schedule of lease rent for NMPT.
- (xvii). The MCFL has prayed before this Authority to fix the base price on reasonable and non-discriminatory basis treating MCFL on par with any new bidder. The lease rent/ license fee approved by this Authority is for port land as a whole for various zones as proposed by NMPT following the Land Policy Guidelines, 2014. The lease rent is not fixed by this Authority for individual allottees. Therefore, question of discrimination in rate in a particular zone does not arise. As regards the request of MCFL to categorise them under Panambur instead of commercial yard along NH66 for tendering purpose, it is stated that this matter falls under the domain of NMPT.
- (xviii). (a). The NMPT has proposed a note stating that all the conditions/ notes prescribed in the Estate rental chapter shall apply to the extent they are not inconsistent with the conditions prescribed in the Land Policy

guidelines announced by the Government in January 2014 and amended in July 2015. In case of disagreement, the conditions prescribed by the Government in the Land Policy Guidelines shall prevail. The proposed note is approved.

- (b). The existing Schedule of Rent at note (viii) states that persons requiring allotment of land/space for storage of their goods outside the security compound wall or within the security compound wall of New Mangalore Port Trust (NMPT) on monthly license basis may apply in writing to NMPT for a license in the form prescribed by the NMPT from time to time. But it shall be at the discretion of the NMPT to allot or refuse to allot such space/land no subletting of the licensed premises shall be allowed. The port has, in the draft SOR, proposed to retain the existing note at note (b) to the General notes. The said note relates to allotment of land and is not related to fixation of tariff. The NMPT was, therefore, requested to review whether the said note needs to be included in the Schedule of rent. The port has not responded to the specific point raised. Since the proposed note is already approved in the last approved Order dated May 2014 and is an existing note, the same is allowed to continue as proposed by the NMPT.
- (c). The existing Schedule of Rent at note (ix), under the head Licensee's Responsibility and note (xiii) prescribes levy of penal license fee in three slabs viz. two times, four times and ten times of the normal license fee for land occupied by goods upto 3 months, 3 to 7 months and beyond seven months respectively, if licensee fails to remove the goods for unauthorized occupation and the goods are removed elsewhere by the NMPT at the risk and cost of the licensee. The port has proposed the existing notes at (c) and (d)(iv) to the general notes under the draft proposed SOR with modification in the existing slab structures by proposing uniform slab for levy of penal license fee at three times the normal license fee instead of three slab rates in the existing lease rent schedule. Clause 12(F) of amended Land Policy Guidelines 2014 states that after the expiry/termination of lease or forfeiture of lease on account of change of user assignment etc., if lessee continued to occupy it unauthorized the lessee shall be liable to pay compensation for wrongful use and occupation at three times the annual rent till vacant possession is obtained. The notes proposed by NMPT are in line with the amended Land Policy Guidelines 2014, hence this Authority approved the note as proposed by the NMPT.
- (d). The NMPT has proposed to retain the existing notes (x), (xi),(xvii), (xviii), (xix), (xx), (xxi) as note d(i), (ii),(viii) to (xii) in the proposed SOR. These conditions appear to be more related to terms and conditions to be incorporated by port in the letter of allotment/ lease agreement. The NMPT was, therefore, requested to justify and give reasons for insertion of these conditionalities and clarify as to how they are relevant to the lease rent for which approval is sought. The NMPT has clarified that the above proposed notes are general condition followed in past and more over they are preventive measures of the Port. As the above conditions are general in nature, to protect the interest of NMPT and to have more clarity and also recognising that they have been prescribed by this Authority in the last revision of lease rent, this Authority prescribes the notes as proposed by the NMPT.
- (e). The NMPT has also proposed to introduce a new condition stating that, where a doubt arises as to the interpretation of any of these rules, the matter shall be referred to the Board or Sub-Committee of the Board who shall decide the same. The note proposed to be introduced by the NMPT as regards interpretation is beyond the mandate of this Authority to fix Scale of Rates and conditions governing the Scale of Rates. That being so, this Authority is not in a position to prescribe it as a condition in the Schedule of Rent. Therefore, proposed note is not approved.

- (f). Existing note (xv) and proposed note d (vi):
The existing note (xv) states that no licensee shall convert the space allotted to him / them into private bonded areas except with the written permission of the NMPT. For failure to obtain the prior written permission from the NMPT, penalty is prescribed in 3 slabs viz. two times, four times and ten times of the normal license fee upto 3 months, 3 to 7 months and beyond seven months respectively.
The port has retained the said note at note d(v) with slight modification. The modification proposed by the port is that in case of failure to obtain the prior written permission from the NMPT has proposed for levy of penalty as per prevailing guidelines time to time. The amended Land Policy Guidelines, 2014 do not prescribe any provision for penalty for the proposed condition. On being pointed out, the NMPT has clarified that as per clause 12(G) read with Clause 12(F) of amended Land Policy Guideline 2014 there is a provision for such a Clause. Clause 12(F) of amended Land Policy Guidelines 2014 prescribes penalty at three times the normal license fee for unauthorized occupation of the land after the expiry/termination of lease or forfeiture of lease on account of change of user assignment etc. Clause 12 (G) authorises the Board of Trustees to impose appropriate penalty on lessee or cancel the lease depending upon the nature/ magnitude of breach/violation after giving reasonable opportunity to the lessee to present his case.
Based on the clarification furnished by the NMPT and recognising the proposed note is found to be in general in line with the amended Land Policy Guidelines 2014 and has been approved by the Board of Trustees of the NMPT, the note proposed by NMPT is approved.
- (g). The port has proposed to retain the existing note (xii) at proposed note d(iii) subject to modification in the penal rate of interest for delay in payment of license fee. As against the existing provision prescribed 13% penal interest rate, the port has proposed penal interest at SBI Marginal Cost of Fund based Lending Rate (MCLR) + 2% per annum as revised from time to time by the Competent Authority. The proposed note is approved as proposed by the port as it is an existing provision with only modification in the penal interest rate proposed by the port to apply the updated MCLR rate of the SBI.
- (h). The existing note (xiv) stipulates that the permit shall lapse automatically at the expiry of the calendar month for which it has been issued. The license shall be up to a maximum period of eleven (11) months and license fee is levied as per the notified schedule of Rates. Each renewal of license shall be treated as fresh license. The said note also prescribes penal interest at 13% in case of failure to renew seven days prior to expiry.
As against the said existing note, the proposed note d(v) states that permit shall lapse automatically at the expiry of the calendar month for which it has been issued. The license shall be up to a maximum period of Four (4) months on vessel to vessel basis for storage of EXIM Cargo (both inside & outside Security Compound wall) and Six (6) months for coastal movement of cargo and license fee is levied as per the notified schedule of Rates. The proposed note further states that there shall be no provision for renewal of licence. The occupation of land premises exceeding 4 months without subsequent allotment shall be treated as unauthorized occupation and compensation 3 times the normal license fee shall be paid by the occupant and charges will attract the lease/ license deed/ allotment orders on accumulated arrears and shall be paid in addition to the license fee. In any case the license fee should not accumulate for more than 15 days from the date when advance license fee become payable. Penal interest is proposed to be subject change as per the guidelines issued from time to time by Competent Authority.
As per the amended LPG, 2014 licence may be granted by Major Ports upto a maximum period of 11 months. The amended LPG prescribes a cap for license period. The NMPT in the said note has proposed the

license up to a maximum period of Four (4) months on vessel to vessel basis for storage of EXIM Cargo (both inside & outside Security Compound wall) and Six (6) months for coastal movement of cargo. As stated earlier, the NMPT has clarified that only for unpaved land area (i.e. open area) in Panambur Village Zone, on Short term License, the port has proposed allotment of land on vessel to vessel basis and the said provision is made only to decrease the Vessel detention time. In view of the above provision, the proposed note is approved subject to slight modification. In the said the note while stating on authorised occupation, the note states 4 months but does not mention about 6 months license for coastal movement of cargo which is proposed in the earlier part of the said note of the port. The same is incorporated later as well to avoid any ambiguity.

- (i). Existing note (xvi) (a),(b) and (c) and note (v) and proposed notes d (vii) (a) and (b) under General notes and note (v) under the schedule of rent.

The existing note (xvi) (a) relating to security deposit states that security deposit equivalent to 1 month license fee shall be applicable at the time of allotment for license up to 11 months and 3 months license fee for license up to 3 years. The note (b) therein prescribes refundable Security Deposit of equivalent to one year lease rental in case of lease of land other than (a). The existing note (xvi) (c) states that in in case, the security deposit is not refunded within 20 days from the date when land / space is finally vacated and production of documents by the licensee, the NMPT shall pay penal interest at the rate of 13% per annum on such delayed refunds. A separate note is prescribed at note (v) on similar lines and in brief.

In the proposed SOR, the port has under general note at d(vii) proposed Security deposit equivalent to one month's license fee for vessel to vessel basis. The NMPT has requested to delete the words "Plot wise benefit" proposed by it in its original proposal which is accepted. At note (iv) under the proposed rent schedule also, the NMPT has proposed a note on security deposit which states Security Deposit equivalent to one month's licence fee shall be applicable at the time of allotment for license upto 4 or 6 months. In case of lease of land, refundable Security Deposit of equivalent to two years lease rental will be applicable. It further states that the Security Deposit shall be refunded without interest after the land is vacated fully after adjusting any amount that may be due to the NMPT.

As per Clause 11.2. of the amended Land Policy Guidelines port shall keep two years security deposit for fresh lease. There is no specific provision on security deposit for allotment of land on license for 4 to 6 months on vessel to vessel basis. Since the proposed provision at d(vii) is more to protect the interest of the port and recognising that it flows from the existing provision approved by this Authority in the last estate revision Order, the notes relating to Security Deposit proposed by the NMPT is approved by this Authority.

The note proposed by NMPT states Security Deposit shall be refunded without interest after the land is vacated fully after adjusting any amount that may be due to the NMPT. The existing note under the lease rent is silent about interest on security deposit. The amended LPG 2014 do not prescribe about interest on security deposit. In the lease rent of the Kolkatta Port Trust, the port had proposed non interest security deposit which has been approved by this Authority. Since the draft proposed SOR with the proposed notes have been approved by the NMPT Board and in view the position obtained at the KOPT, this Authority approves the modification proposed by NMPT about non- interest security deposit.

There appears to be slight difference in two provisions at note (iv) under the proposed rent schedule and note d(vii). Hence the NMPT was requested to confirm which of the provisions is to be retained in the SOR. In this regard, the NMPT has clarified that note proposed at d(vii) under General and not (iv) under schedule of lease rent are all same. The NMPT has stated that the former only gives a general note about Security Deposit and the later note specifically gives details about that Security deposit, which shall be refunded "without interest". So the NMPT has

requested that both may be retained in the SOR. In view of the port insisting to retain the note (iv) under the schedule of Rent as well as the general notes at d(vii), the same is allowed. Even in the existing SOR, two similar notes on security deposits are prescribed at note (v) and note (xvi). However, to avoid any ambiguity between the two notes, the words "license upto 4 or 6 months" are added in note d (vii)(a) in line with the note proposed at (iv). Further, a new note is added as d(vii)(c) to state that Security deposit without interest shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT in line with note (iv) under the schedule of Rent. These two modifications are done to avoid any ambiguity.

It is seen that the NMPT has proposed for deletion of existing conditionality (xvi)(c) which states that in case the security deposit is not refunded within 20 days from the date when land/space is finally vacated and production of documents by the licensee, the NMPT shall pay penal interest @ 13% p.a. on such delayed refunds. When sought reasons for deletion of the said existing note (xvi) (c) and the remedy to the allottee in case there is delay in refund by the port if the note is deleted, the port has stated in a general way that Security Deposit refunds are processed in electronic mode, so there is no such cause of action and hence, the said existing note is proposed for deletion by the NMPT. It is relevant to state here that the amended LPG do not prescribe any interest for delayed refund of Security deposit by the Port Trust. Though the port has stated that the refund are processed in electronic mode, it may not be unreasonable to retain the existing provision relating to penal interest on delayed refunds of security deposit by the port subject to slight modification. The NMPT has proposed to levy penal interest from the allottees on delayed payment at SBI Marginal Cost of Fund based Lending Rate (MCLR) + 2% per annum revised from time to time. The same may be made applicable for delayed refund of Security Deposit by the port. The existing note on penal interest for delayed refund of Security deposit by the port is, therefore, proposed to be retained subject to above modification at note d(vii)(d).

- (j). The existing note (vi) relates to way leave charges for laying of pipelines. The said note prescribes levy of way leave charges at the rate for open area as applicable to the location given in the table above for the area occupied by the pipelines/ service conduits. The port has proposed to retain the said provision at schedule B which is approved.
- In the current lease rent schedule, a note is prescribed therein prescribing the method of calculating the area occupied by single pipe line, multi-layer pipelines, underground pipeline, etc. The exiting note states that for the purpose of way leave charges, the area occupied by single pipelines should be calculated based on the diameter and length of those pipelines. In case of multi-layer pipeline stacks, the physical area occupied by the multilayer pipeline stacks should be considered and the respective users should be billed for pro-rata area on the basis of the diameter and length of their pipelines passing through that area. With respect to the area shared with road, rails, jetties etc. the respective users should be billed pro-rate for 50% of concerned area assuming that they do not have exclusive possession of land and what they have is only 'Right of Way'. As far as underground pipelines are concerned, if the users establish that the possession of surface area above the underground cross-country pipelines is not physical with them, the area occupied by such pipelines should be counted 50% of the diameter and length, for the purpose of levy of way leave charges. The existing note is found to be in line with note 4 under Broad Terms and Conditions for issuance of Right of way Permission for laying Pipelines/conveyors attached to the amended LPG, 2014. The port has not proposed to retain the said note under the way leave charges. The port has proposed a general note that the policy for Right of Way will be as per the policy formulated by NMPT in line with the amended LPG 2014. Referring to clause 14 of the amended Land Policy Guidelines, 2014 the NMPT was requested to consider to incorporate the

provisions as per the amended Land Policy Guidelines, 2014. The port has, however, remained silent on this point.

It is proposed to retain the existing note about computing the area of pipe line which is found to be in line with the amended LPG 2014 so that there is transparency on the said matter. The note proposed by the NMPT is also proposed to be incorporated with slight modification to state the terms of conditionalities for issuance of Right of way Permission for laying Pipelines/ conveyors etc., will be governed by the amended LPG 2014 issued by the MOS and as amended from time to time.

- (xix). The port has also proposed water front charges at 50% of the license fee for the land abutting to the waterfront for construction of jetties, submarine pipeline, etc. and will be charged as a way leave permission. As per the amended LPG 2014, Licence fee for water area shall be 50% of licence fee of abutting land. The proposed water front charges is recommended by the LAC and approved by the Board of Trustees of the NMPT and is found to be in line with the amended LPG 2014 and hence is approved.
- (xx). Clause 13(c) of the amended Land Policy Guidelines 2014 gives flexibility to Ports to fix rate of annual escalation which should not be less than 2% with the approval of the Port Trust Board. The port has proposed a note that lease rent shall bear an escalation @ 2% (compoundable) per annum till such time the rate of escalation is revised by the Competent Authority. Since the annual escalation in lease rent at 2% is recommended by the LAC and approved by the Board and is found to be in line with the amended Land Policy Guidelines, 2014, the proposed note is approved as proposed by NMPT with slight modification to state that the lease rent shall bear an escalation @ 2% (compoundable) per annum from 20 February 2018 till 19 February 2021.
- (xxi). (a). The proposal of the NMPT seeks approval of revised lease rent with retrospective effect from 20 February 2017. Most of the users/ user associations/ lessees like, Ganesh Shipping Agency, MCHAA, IFFCO, ANMPS, IPL, KBL, NMPCFAA, DIL and MCF have requested to approve the revised lease rent with prospective effect. The users have stated that retrospective revision causes great hardship on cargo handling agent as they cannot collect the rates revised retrospectively from the principal. As regards the said point made by the users/ user associations/ lessees the NMPT was specifically requested to discuss with the trade and respond. The NMPT on the said matter while responding to the comments of the Delta Infralogistics (Worldwide) Limited (DIL) has stated that as far as raising the demand prospectively is concerned it is to mention that, the revision of rates is under process and is due from 20.02.2017. The NMPT has stated that notification of revised lease rent will be communicated by this Authority. The NMPT has categorically stated that revision of licence fee with prospective effect does not arise.
Significantly, Section 49 of the Major Port Trusts Act, 1963 calls for fixation of rates from time to time. For fixation of lease rent, this Authority is bound by the Land Policy guidelines issued by the Government for arriving at the lease rental for Major Port Trusts land. Clause 13(c) of the Amended Land Policy Guidelines of 2014 stipulates that the Scale of Rates will be revised every five years.
The last tariff Order of May 2014 passed by this Authority clearly mentions that the rates are effective from 20 February 2012 till 19 February 2017. The position that the lease rentals for the lands of NMPT will be reviewed after expiry of five years i.e. from 20 February 2017 is in the knowledge of all the stakeholders. As regards the request of users/ user associations for prospective effect of revision of lease rent, the NMPT in the revised proposal, after discussion with trade, has categorically sought approval to the revised rates retrospectively w.e.f. 20 February 2017 for the quinquennium 2017-22. The proposal of NMPT is thus not for giving prospective effect to the revised lease rent. This Authority on its own is not in a position to approve revision in lease rent with prospective effect when the proposal of NMPT categorically seeks for retrospective revision.

Since the proposal of NMPT is for retrospective revision of lease rent, this Authority based on the proposal of the NMPT, approves revision of lease rents at NMPT retrospectively as proposed by the port. The revised rates will be effective from 20 February 2017 as proposed by NMPT and shall remain valid till 19 February 2022. A suitable note is, therefore, inserted to this effect in the rent schedule.

In fact, it is relevant to mention here that this approach is being followed not only in the case of the NMPT but also in the other Major Port Trusts. In the case of the V.O. Chidambaranar Port Trust (VOCPT), the lease rent approved by this Authority vide Order No.TAMP/6/2012-VOCPT dated 4 April 2014 for the two quinquennium 2007-2012 and 2013-2017 was given retrospective effect from 1 July 2007 and 1 July 2012 for the two quinquennium respectively as proposed by the VOCPT following the applicable land policy guidelines.

The lease rental approved in the case of Vishakhapatnam Port Trust vide Order No.TAMP/80/2015-VPT dated 17 November 2016 was also given retrospective effect from 1 April 2013 as proposed by the VPT following the applicable land policy guidelines.

- (b). It is also made abundantly clear that the revised rates approved by this Authority with retrospective effect from 20 February 2017 based on the revised proposal filed by the NMPT shall be applicable in the existing leases/ licensees subject to provision for periodic revision of rents agreed in the surviving lease agreements and in those cases of renewal/ allotment only if respective lease agreement or letter of allotment, if no lease deed is still executed, explicitly provides for revision of lease rental during the currency of the lease period.

15. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the revised lease rentals for Lands at various locations of NMPT alongwith the conditionalities attached as **Annex - II** effective from 20 February 2017 till 19 February 2022.

16. The NMPT is directed to accordingly amend the Schedule of Lease Rent.

(T.S. Balasubramanian)
Member (Finance)

PANAMBUR VILLAGE

Annex -I (a)

Working for Panambur village as per original proposal dated 4 May 2017				Rate proposed by NMPT in its original proposal dated 4.5.2017 (Rs. / sq/month)	Revised rate proposed by NMPT vide its letter dated 16.10.2017 proposing 40% reduction over the rates proposed in the original proposal (Rs. / sq/month)
Particulars	Duly escalated rental as per existing SOR as on 19.02.2017	% increase in Land value by 138.85% and % increase in structure i.e. paving 62.48%	(Rs. / 100 sq. mtrs. / month) 20.02.2017		
Rent for open space			4967	49.67	29.80
Rent for paved area			7662	76.62	45.972
(i). Land component	2079.59	4967.10			
(ii). Structure (i.e. Paving)	1658.51	2694.73			
(iii). Rental for paved area	3738.09	7661.83			
Rent for covered area					
			13435	134.35	80.61
(i). Land component	2079.59	4967.10			
(ii). Super Structure	5211.74	8468.04			
(iii). Rental for covered area	7291.33	13435.14			
Note: Development cost for paved and covered area is considered 45% of 138.85%					

Marshalling yard along NH-17

Annex -I (b)

<u>Working for Marshalling yard along NH-17 as per original proposal dated 4 May 2017</u>				Rate proposed by NMPT in its original proposal dated 4.5.2017 (Rs. / sq/month)	Revised rate proposed by NMPT vide its letter dated 16.10.2017 proposing 40% reduction over the rates proposed in the original proposal (Rs. / sq/month)
Particulars	Duly escalated rental as per existing SOR as on 19.02.2017	% increase in Land value by 133.71% and % increase in structure i.e. paving 60.17%	(Rs. / 100 sq. mtrs. / month) 20.02.2017		
Rent for open space			4954	49.54	29.72
Rent for paved area			7637	76.37	45.822
(i). Land component	2119.72	4954.00			
(ii). Structure (i.e. Paving)	1675.32	2683.36			
(iii). Rental for paved area	3795.04	7637.36			
Rent for covered area					
			13386	133.86	80.316
(i). Land component	2119.72	4954.00			
(ii). Super Structure	5264.64	8432.37			
(iii). Rental for covered area	7384.36	13386.37			
Note: Development cost for paved and covered area is considered 45% of 133.71%					

Commercial yard along the NH-17

Annex -I (c)

<u>Working for Commercial yard along the NH-17 as per original proposal dated 4 May 2017</u>				Rate proposed by NMPT in its original proposal dated 4.5.2017 (Rs. / sq/month)	Rate proposed by NMPT in its original proposal dated 4.5.2017 retained in the revised proposal dated 16.10.2017 (Rs. / sq/month)
Particulars	Duly escalated rental as per existing SOR as on 19.02.2017	% increase in Land value by 197.34% and % increase in structure i.e. paving 88.80%	(Rs. / 100 sq. mtrs. / month) 20.02.2017		
Rent for open space			8132	81.32	81.32
Rent for paved area			11731	117.31	117.31
(i). Land component	2734.90		8131.95		
(ii). Structure (i.e. Paving)	1906.08		3598.68		
(iii). Rental for paved area	4640.98		11730.63		
Rent for covered area					
			19441	194.41	194.41
(i). Land component	2734.90		8131.95		
(ii). Super Structure	5989.74		11308.63		
(iii). Rental for covered area	8724.65		19440.58		

Note: Development cost for paved and covered area is considered 45% of 197.34%

Tannirbavi**Annex -I (d)**

Working for Tannirbavi as per original proposal dated 4 May 2017				Rate proposed by NMPT in its original proposal dated 4.5.2017 at par with the rate proposed for Panambur	Rate proposed by NMPT in its original proposal dated 4.5.2017 retained in the revised proposal dated 16.10.2017 (Rs. / sq/month)
Particulars	Duly escalated rental as per existing SOR as on 19.02.2017	% increase in Land value by 48.17% and % increase in structure i.e. paving 21.68%	(Rs. / 100 sq. mtrs. / month) 20.02.2017		
Rent for open space			2903	49.67	49.67
Rent for paved area			4706	76.62	76.62
(i). Land component	1959.23	2902.99			
(ii). Structure (i.e. Paving)	1481.94	1803.22			
(iii). Rental for paved area	3441.17	4706.22			
Rent for covered area					
			8570	134.35	134.35
(i). Land component	1959.23	2902.99			
(ii). Super Structure	4656.92	5666.54			
(iii). Rental for covered area	6616.15	8569.53			

Note: Development cost for paved and covered area is considered 45% of 48.17%

Kudupu

Annex -I (e)

Working for Kudupu as per original proposal dated 4 May 2017				Rate proposed by NMPT in its original proposal dated 4.5.2017 (Rs. / sq/month)	Rate proposed by NMPT in its original proposal dated 4.5.2017 retained in the revised proposal dated 16.10.2017 (Rs. / sq/month)
Particulars	Duly escalated rental as per existing SOR as on 19.02.2017	% increase in Land value by 341.42% and % increase in structure i.e. paving 153.64%	(Rs. / 100 sq. mtrs. / month) 20.02.2017		
Rent for open space			5313	53.13	53.13
Rent for paved area			9093	90.93	90.93
(i). Land component	1203.62	5313.02			
(ii). Structure (i.e. Paving)	1490.44	3780.35			
(iii). Rental for paved area	2694.06	9093.37			
Rent for covered area					
			17192	171.92	171.92
(i). Land component	1203.62	5313.02			
(ii). Super Structure	4683.28	11878.68			
(iii). Rental for covered area	5886.90	17191.71			
Note: Development cost for paved and covered area is considered 45% of 341.42%					

Bondel**Annex -I (f)**

Working for Bondal as per original proposal dated 4 May 2017				Rate proposed by NMPT in its original proposal dated 4.5.2017 (Rs. / sq/month)	Rate proposed by NMPT in its original proposal dated 4.5.2017 retained in the revised proposal dated 16.10.2017 (Rs. / sq/month)
Particulars	Duly escalated rental as per existing SOR as on 19.02.2017	% increase in Land value by 215.08% and % increase in structure i.e. paving 96.79%	(Rs. / 100 sq. mtrs. / month) 20.02.2017		
Rent for open space			4003	40.03	40.03
Rent for paved area			6628	66.28	66.28
(i). Land component	1270.48	4003.03			
(ii). Structure (i.e. Paving)	1334.02	2625.22			
(iii). Rental for paved area	2604.50	6628.25			
Rent for covered area			12253	122.53	122.53
(i). Land component	1270.48	4003.03			
(ii). Super Structure	4192.06	8249.55			
(iii). Rental for covered area	5462.54	12252.58			

Note: Development cost for paved and covered area is considered 45% of 215.08%

ANNEX - II

Schedule of Lease rent for lands belonging to NMPT at various locations.

(A) Lease rent of Port lands at various location:

(₹/sq. mtr./month)

Sr. No.	Location	For open areas	For paved areas	For covered space
1.	Panambur	29.802	45.972	80.61
		24.83 [For Storage of EXIM cargo on License basis, Vessel to Vessel]		
2.	Custom Bound Area	24.83	45.972	80.61
3.	Marshalling Yard	29.724	45.822	80.316
4.	Commercial Yard	81.32*	117.31	194.41
5.	Tannirbavi	49.67	76.62	134.35
6.	Kudupu	53.13	90.93	171.92
7.	Bondel	40.03	66.28	122.53

- * The rate proposed for open space for EXIM Cargo in custom bond area will apply for areas leased in the commercial zone where EXIM cargo is stored, on vessel to vessel basis, till the areas lease out for commercial purposes.

Notes:

- (i). The rates prescribed shall be applicable with effect from 20 February 2017 till 19 February 2022 and will be reviewed / revised after five years.
- (ii). The lease rent shall bear an escalation @ 2% (compoundable) per annum from 20 February 2018 till 19 February 2022.
- (iii). For the allotment inside the Security Wall, a surcharge of 10% on the rate prescribed above will be levied.
- (iv). Security Deposit equivalent to one month's licence fee shall be applicable at the time of allotment for license upto 4 or 6 months. In case of lease of land, refundable Security Deposit of equivalent to two years lease rental will be applicable. The Security Deposit shall be refunded without interest after the land is vacated fully after adjusting any amount that may be due to the NMPT.

- (B) **Way leave charges for laying of pipelines/ service conduits** : The rate for open area as applicable to the location given in the table above for the area occupied by the pipelines / service conduits.

Note to Schedule B above:

- (i). For the purpose of way leave charges, the area occupied by single pipelines should be calculated based on the diameter and length of those pipelines. In case of multi-layer pipeline stacks, the physical area occupied by the multilayer pipeline stacks should be considered and the respective users should be billed for pro-rata area on the basis of the diameter and length of their pipelines passing through that area. With respect to the area shared with road, rails, jetties, etc., the respective users should be billed pro-rata for 50% of concerned area assuming that they do not have exclusive possession of land and what they have is only 'Right of Way'. As far as underground pipes are concerned if the users establish that the possession of surface area above the underground cross-country pipelines is not physically with them, the area occupied by such pipelines should be

counted 50% of the product of diameter and length, for the purpose of levy of way leave charges.

- (ii). The terms of conditionalities for issuance of Right of Way Permission for laying Pipelines/ conveyors etc., will be governed by the amended LPG 2014 issued by the Ministry of Shipping and as amended from time to time.

(C). Water Front Charges:

50% of the license fee for the land abutting to the waterfront for construction of jetties, submarine pipeline, etc. and will be charged as a way leave permission. For submarine pipeline, the waterfront charges will be for the area occupied by the pipeline and the area should be arrived at based on the note to (ii) under schedule B above.

General Notes:

- (i). All the conditions / notes stated herein shall apply to the extent they are not inconsistent with the conditions prescribed in the amended Land Policy guidelines 2014 by the Government of India and as amended from time to time. In case of disagreement, the conditions prescribed by the Government in the Land Policy guidelines shall prevail.

- (ii). Allotment:

Persons requiring allotment of land/ space for storage of their goods outside the security compound wall or within the security compound wall of New Mangalore Port Trust (NMPT) on monthly license basis may apply in writing to NMPT for a license in the form prescribed by the NMPT from time to time. But it shall be at the discretion of the NMPT to allot or refuse to allot such space/ land no subletting of the licensed premises shall be allowed.

- (iii). Licensee's Responsibility:

In applying for land/ space for storage of goods/ cargo, the applicants for land/ space shall accept all risks and responsibility for goods so stored/ stocked. The locking by the NMPT or sheds partly or wholly allotted to the licensees whether inside or outside the security compound wall shall not be regarded as making the NMPT a bailee of the goods so stores unless a receipt in this regard is passed by the NMPT to them. The occupation of land/ space in open or under cover shall be reproduced in the license deed/ permit/ agreement.

Encroachment or unauthorized occupation of the NMPT's land and stacking of goods/ cargo on the NMPT's Railway track, plants, equipment, approach road etc., causing obstruction to the movement of traffic by the licensee will involve a liability to pay penal rate as specified below in addition to the cost of rectifying damages caused to the NMPT's properties. If the licensee fails to remove the goods from the encroached area in spite of notice to do so, the goods will be removed elsewhere by the NMPT at the risk and the cost of the licensee and penal license fee at the following rate shall be levied on the land occupied by the goods so removed.

- (a). Three times the normal license fee till vacant possession is obtained by the port or any other Land Policy Guidelines notified by Government time to time.

- (iv). Conditions :

- (a). Goods stored under the license deed/ permit/ agreement shall be at the entire risk and responsibility of the licensees. The NMPT will not in any way take responsibility for pilferage, theft, fire or loss thereof. The licensees shall post their own watch to safeguard the goods stored at their allotted space and to prevent any unauthorized occupation of such land/ space by others.

- (b). The Licensee shall not construct or put up any permanent structure, buildings, erection or convenience or canteens on the land/ space occupied under the

license deed/ permit. The licensee shall restore the land/ space to its original condition at the time of termination of the license permit and if the licensee fails, the NMPT will arrange for such restoration at the cost risk and responsibility of the licensee.

- (c). The license fees or charges shall be paid from the date of receipt of the allotment letter by the licensee or occupation of the land/ space by the licensee, whichever is earlier, in accordance with the rates prescribed in the NMPT's Schedule of Rates. The license fee shall be remitted for each calendar month for subsequent period in advance to the NMPT i.e. before 1st of every month. In case the payment is not received before the due date, penal interest at SBI (MCLR) + 2% per annum revised from time to time on the accumulated arrears in addition to the license fee. [Penal interest is subject change as per the guidelines issued from time to time by Competent Authority] [MCLR-Marginal Cost Lending Rate].
- (d). The licensee shall vacate the land/ space occupied by them if the license permit is not renewed at the latest. In case the licensee fails to hand over the land/ space in vacant possession on the date of expiry of the license/ permit granted after removing of such structures or construction put up, the NMPT shall have the right to remove such structures and the goods stored in such land/ space to any other alternative land/ open or covered space in any part of the Port's premises at the cost and risk and responsibility of licensees and in addition, penalty license fee at the following rates shall be levied on the space occupied by the goods so removed.
 - (i). Three times the normal license fee till vacant possession is obtained by the port or any other Land Policy Guidelines notified by Government time to time.
 - (ii). Terms and conditions as stipulated in the allotment order/ lease/ license deed.
- (e). The permit shall lapse automatically at the expiry of the calendar month for which it has been issued. The license shall be up to a maximum period of Four (4) months on vessel to vessel basis for storage of EXIM Cargo (both inside & outside Security Compound wall) and Six (6) months for coastal movement of cargo and license fee is levied as per the notified schedule of Rates. There shall be no provision for renewal of licence. The occupation of land/ premises exceeding 4 months on vessel to vessel basis for storage of EXIM Cargo (both inside & outside Security Compound wall) and Six (6) months for coastal movement of cargo, without subsequent allotment shall be treated as unauthorized occupation and compensation 3 times the normal license fee shall be paid by the occupant and charges will attract penal interest at the rate of SBI (MCLR)+2% per annum (or) as per the lease/ license deed/ allotment orders. On the accumulated arrears and shall be paid in addition to the license fee. In any case the license fee should not accumulate for more than 15 days from the date when advance license fee become payable. [Penal interest subject change as per the guidelines issued from time to time by Competent Authority]
- (f). No licensee shall convert the space allotted to him/ them into private bonded areas except with the written permission of the NMPT. Failure to obtain the prior written permission from the NMPT shall attract levy of penalty as per prevailing Guidelines time to time.
- (g). (i). Security deposit equivalent to one month's license fee shall be applicable for vessel to vessel for license upto 4 or 6 months. The Security Deposit without interest shall be refunded after the land is vacated fully after adjusting any amount that may be due to the NMPT.

- (ii). In case of lease of land other than those mentioned at (a) above, refundable Security Deposit of equivalent to two years lease rental will be applicable.
- (iii). The Security Deposit shall be refunded without interest after the land is vacated fully after adjusting any amount that may be due to the NMPT.
- (iv). In case, the security deposit is not refunded within 20 days from the date when land/ space is finally vacated and production of documents by the licensee, the NMPT shall pay penal interest at SBI Marginal Cost of Fund based Lending Rate (MCLR) + 2% per annum as revised from time to time on such delayed refunds.
- (h). The NMPT shall have the right at any time to resume the possession of the land/ space wholly or partly which is required by the Port/ not occupied by the licensee, in which event the proportionate reduction in license fee will be allowed. In any case, the NMPT shall give a notice period of 7 days in case license is for less than four months for EXIM Cargo and six months for Coastal movement cargo. In case of unauthorized occupation or encroachment or on normal expiry of the license tenure, no such notice shall be issued and the port shall resume the land/ space required by the Port immediately. In case of such a resumption or possession of land, the licensee shall not be entitled to claim any compensation on account of such resumption or possession or to remove and take away improvements, if any, made by him on the land.
- (i). The licensee shall have the right to appeal against resumption of the land to the Board of Trustees of the New Mangalore Port Trust within a period of 30 days from the date of receipt of the Order appealed against and the decision of the Board of Trustees of the NMPT is final in this regard.
- (j). The licensee / allottee shall agree to comply with all rules or directions issued by the NMPT from time to time. Should the licensee neglect to comply with the rules or directions, the NMPT may terminate the license.
- (k). The licensee / allottee shall agree that all payments and expenses of whatever sort due to the Port in respect of land/ space allotted to the licensee, shall be recoverable at the rates prescribed in the Scale of Rates of NMPT.
- (l). The licensee / allottee shall comply with all rules and regulations that may from time to time be issued by the local authorities or the inspector of Explosives, the Department of Explosive, Commissioner of Customs and Government of India or whosoever concerned in relation to the storage of goods under the license/ permit.

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / USER ORGANISATIONS / LESSEES AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No.TAMP/43/2017 - NMPT - Proposal from the New Mangalore Port Trust for revision of lease rentals of port land allotted on long term/short term basis for the period from 20 February 2017 to 19 February 2022.

A summary of comments received from users/ user organisations/ lessees and the comments of New Mangalore Port Trust (NMPT) thereon are tabulated below:

Sl. No.	Comments of users/ user organisations/ lessees	Reply furnished by NMPT																																												
1.	BASF India Limited																																													
(i).	We have taken 885 sq. mtrs. of land from NMPT for laying our treated effluent discharge pipeline on long term lease basis for a period of 23 years with effect from 01 May 2003 to 30 April 2026 on payment of negotiated upfront premium of ₹26,56,000/- and nominal lease rentals of ₹1/- per annum. Except the aforesaid lease land, we have not taken any other land from NMPT. Since we have already paid upfront premium and nominal lease rent till the expiry of lease period i.e. 30 April 2026, we will not come under the purview of aforesaid revision of lease rentals	As per lease deed doc. No.1299/2005-06, for M/s.BASF lease rent is at the upfront premium of ₹26,56,000 for lease period from 01 May 2003 to 30 April 2026 and nominal lease rents of ₹1 per annum shall be applicable. So the revision of lease rentals not applicable for this land.																																												
2.	Indian Oil Corporation Limited																																													
(i).	There is huge increase between the present rate and proposed rate. Comparative statement of existing and proposed rate for the land leased to us is as under: (rate/sqm./month) <table border="1"> <thead> <tr> <th colspan="9">Comparative statement of existing lease rent and proposed lease rent</th> </tr> <tr> <th rowspan="2">Location</th> <th colspan="3">For open area</th> <th colspan="3">For paved area</th> <th colspan="2">For covered area</th> </tr> <tr> <th>2012-17</th> <th>2017-22</th> <th>%</th> <th>2012-17</th> <th>2017-22</th> <th>%</th> <th>2012-17</th> <th>2017-22</th> </tr> </thead> <tbody> <tr> <td>Panambur</td> <td>20.80</td> <td>49.67</td> <td>138.85</td> <td>37.38</td> <td>76.62</td> <td>104.97</td> <td>72.9133</td> <td>134.35</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>84.26</td> </tr> </tbody> </table>	Comparative statement of existing lease rent and proposed lease rent									Location	For open area			For paved area			For covered area		2012-17	2017-22	%	2012-17	2017-22	%	2012-17	2017-22	Panambur	20.80	49.67	138.85	37.38	76.62	104.97	72.9133	134.35									84.26	The rates arrived are as per the Land Policy Guideline for Major Ports 2014. Hence proposed rate for the land leased is higher compared to the existing rate.
Comparative statement of existing lease rent and proposed lease rent																																														
Location	For open area			For paved area			For covered area																																							
	2012-17	2017-22	%	2012-17	2017-22	%	2012-17	2017-22																																						
Panambur	20.80	49.67	138.85	37.38	76.62	104.97	72.9133	134.35																																						
								84.26																																						
(ii).	The percentage increase over existing rate is very high as compared to similar percentage increase done for the last revision: (rate per 100 q. mtr. /month) <table border="1"> <thead> <tr> <th colspan="9">Comparative statement of existing lease rent and proposed lease rent</th> </tr> <tr> <th rowspan="2">Location</th> <th colspan="3">For open area</th> <th colspan="3">For paved area</th> <th colspan="2">For covered area</th> </tr> <tr> <th>2007-12</th> <th>2012-17</th> <th>%</th> <th>2007-12</th> <th>2012-17</th> <th>%</th> <th>2007-12</th> <th>2012-17</th> </tr> </thead> <tbody> <tr> <td>Panambur village</td> <td>1538.85</td> <td>1921.22</td> <td>24.85</td> <td>2947.58</td> <td>3582.41</td> <td>21.54</td> <td>5965.69</td> <td>7141.43</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>19.71</td> </tr> </tbody> </table>	Comparative statement of existing lease rent and proposed lease rent									Location	For open area			For paved area			For covered area		2007-12	2012-17	%	2007-12	2012-17	%	2007-12	2012-17	Panambur village	1538.85	1921.22	24.85	2947.58	3582.41	21.54	5965.69	7141.43									19.71	The percentage increase over existing rate is arrived at based on TAMP and Land Policy Guidelines and is based on the ready reckoner of land values available with sub register, highest rate of actual relevant transaction registered during the last three years etc. as at that time.
Comparative statement of existing lease rent and proposed lease rent																																														
Location	For open area			For paved area			For covered area																																							
	2007-12	2012-17	%	2007-12	2012-17	%	2007-12	2012-17																																						
Panambur village	1538.85	1921.22	24.85	2947.58	3582.41	21.54	5965.69	7141.43																																						
								19.71																																						
(iii).	While arriving at the rate for Panambur village the highest rate of actual relevant transactions registered in the last 3 years for Baikampady is considered which is totally a different area	The rate for Panambur village is as per the prevailing Land Policy Guidelines. The Panambur zone consists of port colony, Customs bond area and Bykampady village. Since there is no transactions registered in the port colony, custom bond area during the last three years, highest transactions registered in the Bykampady village which is adjacent to Panambur village is considered during the last three years which is part of Panambur zone only.																																												
(iv).	The proposed rates are very high and it will have a significant impact on our operating margins. By virtue of this letter we humbly request you to consider not making such huge increase in rentals	No comments offered by Port.																																												
(v).	We request to kindly consider reducing the revision in rates to a more workable cost so that the operating costs are optimized and we can bring in more coastal parcels for movement to upcountry locations which																																													

	will be mutually beneficial as the port would have a better income through increase in wharfage	
3.	Mangalore Refinery and Petrochemicals Limited	
(i).	Mangalore Refinery and Petrochemicals Limited, Mangalore is presently paying lease rentals to NMPT that is in line with current rates and hence any revision of lease rentals of port allotted land on long term/ short term may not be undertaken.	Such revision of SOR is applicable to all Port users / Lessees / Licensees. Hence the revised SOR is applicable to M/s. MRPL also.
4.	KIOCL Limited	
(i).	NMPT proposal is for revision of lease rental of Port land allotted on long term / Short term basis for the period from 20-2-2017 to 19-2-2022. NMPT has proposed for revision of open area land tariff from ₹19.21 in 2012 to ₹49.67 in 2017 per Sq. Mtr. per month. This shows an increase of 2.59 times in 5 year i.e.159 % increase. Around 32 % hike per year is abnormal and guidelines need to be reviewed to improve the business of the port land user. We request the TAMP to look into this abnormal hike proposal from NMPT and average law of growth to be considered. KIOCL is objecting to this very high increase in land lease tariff which will affect on the cost of production. TAMP may look into our request and suitable hike may be arrived in the interest of both NMPT and Port user.	It is to mention that, the subject revision of SOR once in 5 years is as per prevailing Land Policy Guidelines for Major Ports 2014. The said revision of SOR is applicable to all Port users / Lessees / Licensees of NMPT. Accordingly, the subject revision of SOR is also applicable to M/s. KIOCL.
5.	Sri Ganesh Shipping Agency (GSA)	
(i).	The general cargo handling at New Mangalore Port are drastically reducing year by year except pipeline cargo, bulk cargo (Coal) and containers.	No Comments offered by the port.
(ii).	To attract more general cargo i.e. more than 5 to 7% (present) of the total cargo handled at New Mangalore Port per year, we are (all the Port users) making sincere efforts to reduce the cost and giving all the facilities of infrastructure and best logistics and connectivity as this Port is one of the best, clean, Port and gateway of the Karnataka state.	
(iii).	In recent years the lease rentals on Port land for usage of EXIM cargo has drastically increased year by year and most of the land Port is planning to convert into commercial land charging more than 200% lease rent which resulted in heavy burden on Importers/ Exporters and they are all planning to divert the cargo to other southern Indian major Ports.	The rates proposed to TAMP are as per methodology of Land Policy Guidelines 2014 and Land Use Plan.
(iv).	The heavy investment on consignment, plus import duty, newly added GST (18%) and handling charges especially land rent is a main cause for losing our regular business, which was handled in this Port from last 3 decades.	
(v).	Recently, the Karnataka State Timber Import association met personally in port office and were assured that up to 2020, they won't be disturbed from the present arrangements they are having since 1985.	The terms and conditions stipulated in the Land Policy Guidelines, 2014 prevail.
(vi).	The earlier Board also has a sub-committee which recommended to the Land committee headed by Dy. Chairman, New Mangalore Port, wherein they recommend the increase of only 2% from the present rate of lease rentals.	The lease rentals are proposed as per Land Policy Guidelines issued by the Government. The said Sub Committee report is not in line with Land Policy Guidelines, 2014.

(vii).	Finally, in the interest of Trade and Common man 'as a whole' we request you kindly consider the above facts and decide accordingly by convincing Tariff Authority for Major Ports, Mumbai so that the main vision of this Port when started in 1975 to assist and handle the general cargo by helping to the Trade and Commerce of Karnataka State is met.	Shall be placed before the TAMP.
(viii).	We are also, along with the all, the association concerned are meeting the Honourable Minister, Ministry of Shipping and Transport, Government of India, New Delhi at the earliest in this matter.	No Comments offered by the port.
(ix).	We are trying to convince the Honourable Minister, Ministry of Shipping and Transport, Government of India, New Delhi not to charge lease rentals of Port land, retrospectively as practiced by the New Mangalore Port from last 5-7 years.	
6.	Mangalore Custom House Agents Association Customs Brokers (MCHAA), Indian Farmers Fertiliser Cooperative Limited (IFFCO), Association of New Mangalore Port Stevedores, Indian Potash Ltd., Krishak Bharati Co-op Ltd. and New Mangalore Port Clearing & Forwarding Agents Association	
(i).	We welcome the delinking of Short term allotments of land for storage of EXIM cargo from the long term allotments to Industries and Commercial Establishment for their business purposes. However, we do not understand why this delinking proposal is restricted to selected zones / locations and unpaved open area only. This does not appears to be logical. Our request is that a re-thought be given to this aspect.	It is clarified that only the allotment of unpaved land area in Panambur Village Zone, on Short term License, on vessel to vessel basis has been delinked from the long term allotments to industries and commercial establishment. The provision is made only to decrease the Vessel detention time. It may please be noted that these are monthly allotments for a maximum period of <u>4 months only on vessel to vessel basis</u> without following the Tender cum Auction process as per the exceptional criteria prescribed in the Land Policy Guidelines.
(ii).	Providing storage spaces is a mandated function of the Port as per the Major Port Trust Act, 1963. Fixing different rates for open areas, paved areas and covered areas are just and reasonable in view of the development costs incurred by the Port. However all these are storage spaces essential for EXIM cargo handling at the Port and should not be differentiated while fixing tariff on location / zone basis. All storage spaces earmarked in the Port Land Usage Plan has to be uniformly dealt with and the rate fixed for EXIM Cargo Storage should be extended to all locations / zones and for all the three categories of storage spaces (open areas, paved areas and covered space).	Each type of Exim cargo demands different type of spaces for storage. Hence depending upon the development cost and Land cost different rates for open areas, paved areas and covered areas are fixed. The rates arrived are as per Land Policy Guidelines 2014.
(iii).	We were always against artificially jacking up the Land rentals for storage of EXIM cargoes based on unconnected and irrelevant private urban land commercial buy / sell transactions outside the Port area in the city of Mangalore. The lands of the Port have not been obtained from any commercial buying transaction but have been acquired from the general public by government at less than ₹2000/- per acre (41170 sq. ft.) for Port infrastructure purposes which	The Authority, after acquiring the Land from the Private and Government, has made huge investments in development of the Port. Apart from the Capital investment, port is also recurring Operation and Maintenance Cost. The undeveloped land acquired from the Private and Government is a well-developed land of great demand.

	included storage facilities for EXIM cargoes. Land thus acquired for public utility should not become a tool for profiteering.																																			
(iv).	In the present commercial scenario when input costs of all commodities Import / Export are reflected in the final competitive costs to the consumers, any trend to artificially jack up costs should be avoided. The very reason for making available to the Port Trust, strategic prime land at very low value is only to ensure that Import & Export costs of commodities is maintained at reasonable levels, which the consumer can bear. Profiteering by responsible public sector is not justifiable. The Port is already making huge profits every year.	The ports developmental, operational and maintenance Cost has to be met from the resources by the Port. With huge investments, the Authority has developed the undeveloped land of low value to a prime land of very high value and demand. The Port is arriving the rentals on the Land Policy Guidelines issued by Ministry.																																		
(v).	The Export – Import Trade from hinterland cannot bear such exorbitant and artificially jacked up rentals nor is there any justification to hurt the very people who gave their lands for making this port at minimal costs.																																			
(vi).	The proposed increase in general rentals is now between 138% to 197% in the Port areas which is in addition to the yearly fixed increase in rentals of 2%.	The proposed rentals have been arrived as per the methodology prescribed in the Land Policy Guidelines, 2014.																																		
(vii).	With all the above exorbitant increases already made & additional increase proposed now, NMPT collects surcharge of 10% over and above the rentals for within the security wall & 5% service charges for outside the wall. These charges may be withdrawn in the new tariff order.	The proposed rentals have been arrived as per the methodology prescribed in the Land Policy Guidelines, 2014.																																		
(viii).	It is our earnest request that the NMPT proposed the rate of ₹24.83 per Sq. Mtr. for unpaved area is acceptable to us inspite of huge increase 17.06% along with 2% increase very year. And on this basis we propose ₹44.6/- per Sq. Mtrs. for paved area & ₹87.06/- per sq. mtrs for covered area/ godown for storage of all EXIM cargoes on License basis may be fixed for all areas irrespective of zones/ inside 7 outside perimeter wall of NMPT locations, which is only fair.	Please refer Sl. No.(i) above.																																		
(ix).	We proposed that the said increase of 17.06% be extended to paved area as well as covered areas inside and outside the perimeter wall as per table below for EXIM cargo only:- We also request, as is only fair, that any order of TAMP should be only prospective and not retrospective. Retrospective application of rights puts the entire Port EXIM cargo handling Agents in a quandary again. <table border="1" data-bbox="279 1608 906 1765"> <thead> <tr> <th rowspan="2">Location Zone</th> <th colspan="2">UNPAVED AREA</th> <th colspan="2">PAVED AREA</th> <th colspan="2">COVERED AREA</th> </tr> <tr> <th>Existing</th> <th>Our proposal</th> <th>Existing</th> <th>Our proposal</th> <th>Existing</th> <th>Our proposal</th> </tr> </thead> <tbody> <tr> <td>Panambur</td> <td>21.21</td> <td>24.83</td> <td>38.12</td> <td>44.62</td> <td>74.37</td> <td>87.06</td> </tr> <tr> <td>Marshalling Yard</td> <td>21.62</td> <td>25.31</td> <td>38.71</td> <td>45.31</td> <td>75.32</td> <td>88.17</td> </tr> <tr> <td>Commercial Yard</td> <td>27.90</td> <td>32.66</td> <td>47.34</td> <td>55.42</td> <td>88.99</td> <td>107.17</td> </tr> </tbody> </table>	Location Zone	UNPAVED AREA		PAVED AREA		COVERED AREA		Existing	Our proposal	Existing	Our proposal	Existing	Our proposal	Panambur	21.21	24.83	38.12	44.62	74.37	87.06	Marshalling Yard	21.62	25.31	38.71	45.31	75.32	88.17	Commercial Yard	27.90	32.66	47.34	55.42	88.99	107.17	Not acceptable. The rates shall be as per terms and conditions stipulated in the Land Policy Guidelines, 2014.
Location Zone	UNPAVED AREA		PAVED AREA		COVERED AREA																															
	Existing	Our proposal	Existing	Our proposal	Existing	Our proposal																														
Panambur	21.21	24.83	38.12	44.62	74.37	87.06																														
Marshalling Yard	21.62	25.31	38.71	45.31	75.32	88.17																														
Commercial Yard	27.90	32.66	47.34	55.42	88.99	107.17																														
(x).	We propose that the all yards of the Port including the “Commercials yard” be utilized for EXIM cargoes and charged as proposed in no.ix above.	The Commercial yard is the Prime Port land, which cannot be allotted to stack EXIM Cargo on vessel basis as per the approved Land use Plan of the Port.																																		

2. The joint hearing in this case was held on 14 July 2017 at the New Mangalore Port Trust (NMPT) premises. The NMPT made a power point presentation of its proposal. At the joint hearing, NMPT and the concerned users/ organization bodies have made the following submissions:

New Mangalore Port Trust

- (i). Lease rent last revised by TAMP was for the period 20.02.2012 to 19.02.2017. Current proposal is for revision of lease rent from 20.02.2017 to 19.02.2022.
- (ii). As per clause 13(c) of amended Land Policy Guidelines, lease rent need to be revised every 5 years.
- (iii). Rates have been recommended by Land Allotment Committee (LAC) following Land Policy Guidelines, 2014 for open area, paved area and covered area.
- (iv). NMPT Board in its meeting held on 27 March 2017 resolved to bifurcate Panambur zones to 3 segments.
- (v). The Board has approved lease rent ₹24.83/ sq.m./ month for open area in custom bound zone and KIOCL area a new category under Panambur area for Exim cargo on license basis and vessel to vessel basis. The Board has approved to extend the lease rent recommended by LAC for Panambur at ₹49.67 sq.m./ month to Thanirbhavi area also. Other than this, Board has approved the lease rent as recommended by LAC.

Sri Ganesh Shipping Agency

- (i). The port land was marshy. We have developed the land. Port has not spent anything except recently put a compound wall.
- (ii). Port is not a company to make profit.
- (iii). General cargo handled in this port is 5% to 7% of total cargo. Remaining cargo is handled by pipeline.
- (iv). 90% of general cargo of Karnataka goes through Kandla, Tuticorin, Chennai port and other neighbouring private ports like Krishnapatnam due to high rates at the port. Users are not interested to come to this port due to exorbitant rates at the port.
- (v). We should be attracting general cargo. Aim of the port should be to improve export and import from this port to attract general cargo.
- (vi). There cannot be sudden exorbitant increase in lease rent by 100% to 200%.
- (vii). Port has converted some part of land as commercial area. On account of this increase in lease rent at proposed rate is exorbitant.
- (viii). Sub-Committee headed by Chairman formed by earlier Board recommended no increase in lease rent except increase of 2% annum. Whatever recommended by earlier sub-committee should be considered.
- (ix). Port has already started collecting proposed rate.
- (x). Rates should not be fixed retrospectively. Six months are already over from the original date of revision from 20 February 2017.
- (xi). Increase should be minimum so that trade does not suffer.

Association of New Mangalore Port Stevedores

- (i). Land Policy does not mandate tariff revision every five years. It is optional.
- (ii). Lease rent proposed are exorbitant.
- (iii). Why separate lower lease rent for storage of cargo is done for only specific zone i.e. Panambur only? Why not apply it uniformly for all zones for land allotted for storage of cargo? All storage space should be uniformly dealt with.
- (iv). Any trend to artificially jack up the lease rent should be avoided.
- (v). Profiteering by responsible public sector is not justifiable.
- (vi). Apart from lease rent, port collects surcharge at 10% within security wall and 5% outside security wall. This should be withdrawn.
- (vii). We suggest that 17.06% increase in lease rent proposed for Custom bound zone in Panambur area be extended to all yards i.e. paved and covered and for all zones for land utilised for EXIM cargo.
- (viii). Rate revision should be prospective not retrospective. Retrospective revision caused great hardship on cargo handling agent as they cannot collect the rates revised retrospectively from the principal.
- (ix). We surrendered our land for development of the port.

Delta Infralogistics

- (i). Any proposal for change in land use plan is to be with consultation with stakeholders as per the Land Policy Guidelines. The NMPT has not consulted stake holders on the change in land use plan.
- (ii). We are hit hard due to retrospective revision granted on last occasion. We cannot claim bills from users retrospectively.
- (iii). We request for prospective revision.
- (iv). We do not deny lease rent should not be increased. Increase should be minimum.
- (v). Private land is very less near port area. We have to depend on the port for land. We have to pay 28% due to new GST regime at entry point.
- (vi). In view of proposed increase, the cargo will move to other ports.

Sri Ganesh Shipping Agency

- (i). Custom Authorities have suggested us to convert land allotted to us by the port into bonded warehouses. If we convert our land to bonded warehouse, tariff increase will come to 300%.
- (ii). The sub-committee has recommended no increase in lease rent inside the custom bond area.

Delta Infralogistics

- (i). There should be distinction between long term/ short term.
- (ii). If cargo is for import/ export, whether it is inside or outside the custom bond area, lease rent should be the same.

New Mangalore Port Trust

- (i). As per Land Policy Guidelines, land has to be optimally used.
- (ii). Based on Land Policy Guidelines, the land valuation was done. The port went to Board with LAC report. Board referred it to the sub-committee. The sub-committee recommended to reduce lease rent for some area in Panambur and for custom bond area.
- (iii). Trade is aware that revision in lease rent is due from 20 February 2017.

[Sri Ganesh Shipping Agency: Then port should have completed the entire exercise and got the notification of the revised lease rent before that date.]

Mangalore Custom House Agents Association Custom Brokers (MCHAA)

- (i). We have to know on what basis and what revised lease rent will be applicable. We have to communicate to our users.

New Mangalore Port Trust

- (i). We will discuss with Chairman the points made by various users.

Kudremukh Iron Ore Company Limited

- (i). We are keeping 1 year lease rent as security deposit. Now, port has proposed 2 years security deposit. Apart from that we have to pay lease rent for full year in advance.

[NMPT: This is as per the Land Policy Guidelines, 2014. Clause 11.2(d) stipulates 2 years security deposit for fresh lease.]

[Member (Finance): Port may keep in view the purpose of use of the land. Once general cargo moves out of the port, it will be difficult to attract cargo back. Port may see the proposal for revision of lease rent by COPT which has been approved by the Authority. Port may take a holistic view. Port may discuss the proposal with trade also.]

New Mangalore Port Trust

- (i). We will discuss with Trade.

3. A summary of the written submissions made by Central Warehousing Corporation (CWC) at the joint hearing and comments of other users / user organisations / lessees furnished subsequent to the joint hearing and the comments furnished by NMPT thereon are tabulated below:

Sl. No.	Comments of users / user organisations	Comments of NMPT
1.	Central Warehousing Corporation (CWC)	
(i).	We are in possession of 7408 Sq. Mtr. of land in plot No.11 & 12 and 7532 Sq. Mtr. of land on plot No. 15 & 16 at Panambur on long term lease and constructed godowns to provide scientific storage facilities to different depositors at very nominal storage charges.	The Port after acquiring the Land from the general public and Government has made huge investments in development of the Port. Apart from the Capital investment, there are also recurring Operation and Maintenance Cost.
(ii).	A comparative statement of lease rent applicable for our above lands during 2012..2017 and the lease rent proposed for the period from 2017-2022 is shown below, as per which the proposed lease rent after enhancement is 133.68% more than the existing lease rent.	

	<p>For 2012 to 2017 Existing rate /m2 per month = ₹21.20 For 2017 to 2022 Proposed rate / m2 per month = ₹49.54 Area of Plot no.11 & 12 = 7408 m2 Area of plot no.15 & 16 = 7532 m2 Actual total area in possession of CWC at panambur = 14940 m2</p> <table border="1" data-bbox="343 398 965 577"> <thead> <tr> <th>Sr. No.</th> <th>For the year</th> <th>Rate /m2 / month (in ₹)</th> <th>Rate /m2 / yr (in ₹)</th> <th>Premiu m / yr (in ₹)</th> <th>Total rate / m2 / yr (in ₹)</th> <th>Total Amount (in ₹)</th> </tr> </thead> <tbody> <tr> <td>(i).</td> <td>2012-17</td> <td>21.20</td> <td>254.40</td> <td>65</td> <td>319.40</td> <td>47,71,836 (319.40*14940)</td> </tr> <tr> <td>(ii).</td> <td>2017-22</td> <td>49.54 (proposed)</td> <td>259.48</td> <td>65</td> <td>659.48</td> <td>98,52,631 (659.48*14940)</td> </tr> <tr> <td colspan="6">Increase in amount of lease rent</td> <td>50,80,795</td> </tr> </tbody> </table> <p>*Rates are given excluding all taxes.</p>	Sr. No.	For the year	Rate /m2 / month (in ₹)	Rate /m2 / yr (in ₹)	Premiu m / yr (in ₹)	Total rate / m2 / yr (in ₹)	Total Amount (in ₹)	(i).	2012-17	21.20	254.40	65	319.40	47,71,836 (319.40*14940)	(ii).	2017-22	49.54 (proposed)	259.48	65	659.48	98,52,631 (659.48*14940)	Increase in amount of lease rent						50,80,795	<p>As such the proposed rentals have been arrived as per the methodology prescribed in the Land Policy Guidelines 2014.</p>
Sr. No.	For the year	Rate /m2 / month (in ₹)	Rate /m2 / yr (in ₹)	Premiu m / yr (in ₹)	Total rate / m2 / yr (in ₹)	Total Amount (in ₹)																								
(i).	2012-17	21.20	254.40	65	319.40	47,71,836 (319.40*14940)																								
(ii).	2017-22	49.54 (proposed)	259.48	65	659.48	98,52,631 (659.48*14940)																								
Increase in amount of lease rent						50,80,795																								
(iii).	<p>As we are providing warehousing facility at a nominal rate of storages charges and operating with small margin of profit after investing huge amount towards cost of construction and other operating expenses, any higher revision in lease rent will have its adverse effect on the financial position of the centre and make the warehousing activities unviable.</p>	<p>No comments offered by port.</p>																												
(iv).	<p>In view of the above, it is requested not to enhance the lease rent of land at Panambur during 2017-2022 for CWC as we have also facilitate the growth of NMPT by proving warehousing infrastructure at NMPT from 1980 and retain the existing lease rent for continuation of warehousing services to esteemed customers.</p>	<p>No comments offered by port.</p>																												
2.	Kudremukh Iron Ore Company Limited (KIOCL)																													
(i).	<p>Security Deposit proposed by NMPT in the revision is equal to 2 years lease rent which does not carry any interest.</p>																													
(ii).	<p>All these years NMPT is collecting only one year lease rent as Security deposit. Earlier, NMPT has exempted the Security deposit for KIOCL Ltd being a PSU for most of the land. Nowadays, NMPT is not exempting SD amount for Govt. PSUs. This will result in KIOCL Ltd to pay a sum of Rs.23 Crores to NMPT as Security deposit for its 386168 Sq Mtr (95.4 Acres) land taken on lease during the forthcoming renewal of lease. This will be a huge amount and KIOCL Ltd cannot afford at present. The additional revenue generated on account of security deposit is not reflected in their total earning from land on lease basis. The additional cash deposit towards security deposit will affect the port user's cash flow.</p> <p>Example calculation of additional revenue to NMPT on land is given below:</p> <ol style="list-style-type: none"> For 10 Acres of land at prevailing market land value of Rs.4 Crore (Max) per Acre, NMPT lease rent works out to Rs.2.40 Crores as per their guidelines of 6 % return. NMPT collects 2 years lease rent and one year advance lease rent before allotting the land. This will works out to Rs.7.20 Crores. 	<p>The Ports developmental, operational and maintenance Cost has to be met from the resources of the Port. Further, the Port is demanding the <u>Lease rent and Security deposit</u> as per the methodology prescribed in the Land Policy Guidelines 2014 issued by Ministry.</p>																												

	<p>3. Considering 10 % interest (NMPT Charges 13%), NMPT gets Rs.0.72 Crores as interest.</p> <p>4. Total earning on land to NMPT will be ₹3.12 Crores. (2.4 + 0.72).</p> <p>5. In view of the above, NMPT earns 30 % extra on land to their guidelines this additional hidden profit may please passed on to users suitably by reducing from 6 % return to 4.5 % on land value. In view of the above explained facts, we request TAMP to consider and approve</p> <p>A. Exempt Security deposit payment to Government PSU / organisations.</p> <p>B. Keep the Security deposit amount payment to one year tease rent only as in practice.</p>	
3.	Delta Infralogistics (Worldwide) Limited (DIL)	
(i).	<p>Request to consider the recommendations of the Sub Committee of the Board and NMPT Authorities:</p> <p>It is an welcome move that the NMPT Authorities constituted a Sub Committee, took their recommendations and resolved in the Meeting held on 02/12/2016 and accordingly recommended to TAMP to consider the revised lease rentals for the period 20/02/2017 to 19/02/2022 in respect of Port land allotted in (1) Custom bond area at Rs.24.83 per square meter per month and (2) Panambur Zone for open area at Rs.24.83 per square meter per month for storage of EXIM cargo on license basis, Vessel to Vessel and (3) Panambur Village for open area for storage other cargo (not EXIM cargo) at Rs.49.67 per square meter per month. We request you to consider these recommendations.</p>	No comments offered by port.
(ii).	<p>Need to reduce license fee while allotting the Port land at Marshalling Yard on license basis for storage of EXIM Cargo on Vessel to Vessel basis:-</p> <p>During 2012-2017, for open area in Panambur Zone the existing lease rent was Rs.20.80 per square meter per month and for Marshalling Yard at Rs.21.20 per square meter per month. Only an increase of Rs.0.40 per square meter per month. Whereas the present recommendations are to increase the lease rent for Marshalling Yard for the year 2017-2022 to Rs.49.54 per month from the existing rate of Rs.21.20 per square meter per month, an increase of Rs.28.34 over Rs.21.20 (an increase of 134%). This is too high. As such, with a view to support EXIM Trade our suggestion is that the same rate at Rs.24.83 for open area per square meter per month for storage of EXIM Cargo on license basis be considered for storage of EXIM Cargo in Marshalling Yard on Vessel to Vessel basis. Also as per the Minutes of the Sub-Committee constituted by the Board in the Meeting held on 02/12/2016, the proposed land rent rate for the Panambur Zone may be extended to the Port</p>	The Authority after acquiring the Land from the Private and Government has made huge investments in development of the Port. Apart from the Capital investment there are also recurring Operations and Maintenance Cost. The underdeveloped land acquired from the Private and Government is a well-developed land of great demand.

	land in Tannirbhavi village also for storage of EXIM Cargo on Vessel to Vessel basis.	
(iii).	<p>Need to reduce the rentals in case of paved and covered areas allotted on license basis for storage of EXIM Cargo on Vessel to Vessel basis:</p> <p>(a). Earlier policies 2010 etc. issued by the Ministry of Shipping, there used to be stipulations like SOR will be revised in every 5 years (Para 6.3 (d) Page-11 of Land for Major Ports 2010). The Amended Land Policy Guidelines 2014 does not stipulate this. It does not stipulate that the SOR for Port Land will be revised every 5 years. It only stipulates at Page 3 Para 1.8 that "Land use plan for Major Ports shall be reviewed by the Board at least once in 5 years. As such the NMPT statement in Para 1 of their letter No. 2/33/2017/ EBL-2 dt.02-04-2017 to TAMP that "the revision of rental is due from 20-02-2017", does not appear to be correct.</p> <p>Here we find that the Ministry of Shipping has rightly deleted the stipulation on revision of schedule of Rates of Land in 5 years in the latest Land Policy Guidelines 2014. <u>Otherwise, if a mandatory revision is made necessary in every 5 years, the Land rentals may go on increasing spiral high, without any cap and it will be detrimental to the interest of EXIM business and the support service providers etc.</u> We request that this aspect be given credence and if yourselves find it suitable the proposed license fee for the years 2017-2022 for paved and covered areas in Panambur Zone and Marshalling Yard for storage of EXIM Cargo be considered at the existing license fee as at end of February 2017, with 2% increase every year. This is most essential & appropriate, in the interests of EXIM trade. If Land rent is reduced for paved and covered areas as suggested by us, the Port is likely to get additional business and it can bring additional income to the Port in the form of Wharfage, marine charges etc.</p> <p>(b). Any increase in the land rent would adversely affect the volume and also the bottom line of the Port because of diversion of cargo to the East Coast Ports especially Krishnpatnam, where the land is leveraged to attract Cargo instead of maxim. Also it is unfortunate that the Cargo originated from hinterland in Karnataka is also being diverted to neighbouring Ports due to high handling cost at this Port. As a result, the quantity of the general Cargo volume handled at this Port is declining. It is high time, that the TAMP and Port Authorities take note of this loss of traffic and take necessary corrective measures to improve the general Cargo traffic. As such, we request you to take decision to reduce the license fee, as requested above.</p>	<p>Each type of EXIM cargo demands different type of space for storage. Hence, depending upon the development cost and Land cost, different rates for open areas, paved areas and covered areas are fixed. The rates arrived are as per Land Policy Guidelines 2014.</p> <p>Clause No 13 (c) of Land Policy Guidelines 2014 states that, The Port Trust would make a proposal to TAMP for fixing the latest SoR of the land. The TAMP would notify the latest SoR of the land after following due process of consultation with stake holders within 45 days of receipt of the proposal. The Port Trust Board will fix a rate of annual escalation which would not be less than 2% SOR would be refixed once in every 5 years by TAMP".</p>

(iv).	<p>Request to have the revision in license fee for the years from 2017 - 2022 only with prospective effect:</p> <p>The existing Land lease rentals as per the earlier Notification G. No.193 dt: 01.07.2014 was upto the period ending 19.02.2017. By now, already around 5½ months have passed. By the time the next revision is finalised and notification is issued it may take another 1 month. Already there has been serious problems due to revision of land rent during 2007 and 2012 after a period 3 years 3 months and 2 years and 4 months respectively and making it applicable with retrospective effect. Further, the NMPT Authorities raising demands on Stevedores who had facilitated allotment of Port Land on short term license basis for short term for storage of EXIM cargo vessel to vessel was inappropriate. Our request is to look into the various issues involved and to make the Land rent revision for the years 2017-2022 applicable in case of short term allotment of Port lands for storage of EXIM Cargo vessel to vessel with <u>prospective effect</u>, only.</p>	<p>As far as raising the demand prospectively is concerned it is to mention that, the revision of rates is under process and is due from 20 February 2017. The notification of TAMP will be communicated. As such the revision of license fee with prospective effect does not arise.</p>
(v).	<p>Allotment of Port land on Lease & license basis:</p> <p>Kind reference is made to the amended Land Policy Guidance for Major Ports issued 2014 by the Ministry of Shipping. Here a clear definition as to allotting the Port land on license basis, and renting out the Port land on lease basis and for what purpose Port land inside the custom bond area is to be allotted and at what rate it is to be allotted and for what period generally the Port land inside the Custom bound area can be allotted etc. has been clearly spelt out (Page 3 Para 9.2,9.1 etc.). What we have seen is that in the notifications revising the land rent issued, at times, the phrases “License” , “Lease”, “License fee”, lease rent etc. are not appropriately used. This has lead to confusion. In case of short time allotments of Port land like 2 to 4 months etc., it shall be specifically mentioned as on “License basis”. Otherwise the outsiders read the notifications they will not get the required clarity. Our request is that, this aspect be looked into and appropriate words be used while finalising the notifications on revision of land rent. This is only a humble suggestion.</p>	<p>No comments furnished by port.</p>
4.	Mangalore Chemicals & Fertilisers Limited (MCFL)	
(i).	<p>Mangalore Chemicals and Fertilizers Limited (MCFL) is the only Fertilizer manufacturing company in Karnataka, located opposite to New Mangalore Port (NMPT) at Panambur, manufacturing since 1976. The major raw material required for the production of Urea, DAP and complex fertilizers such as Naphtha, furnace oil, Ammonia, Phosphoric acid, Sulphuric acid and other imported Fertilizers and Chemicals such as MAP, MOP, Urea, Naphthalene, etc., and also the capital goods are being imported through New Mangalore Port since last 40 years.</p>	<p>The land is being allotted on tender cum auction basis as per the methodology prescribed in Land Policy Guideline 2014 issued by Ministry. The base rate has been fixed based on the highest tendered rate in the vicinity as the subject land allotted to MCF falls under Commercial zone of NMPT.</p>

(ii).	<p>MCFL had taken land admeasuring 12306 sqm in 1982 on long term from NMPT for a period of 10 years, for the construction of storage tanks to store imported raw materials such as ammonia and phosphoric acid. The lease rentals are charged as per the approved TAMP rate applicable for Panambur village. The lease was renewed from time to time for a period of 10 years each time until 2012. Thereafter, the lease for the long term leasehold land is being renewed on yearly basis on payment of annual lease rent in advance instead renewal for 10 years as has been until 2012. In July 2014, NMPT intimated that the said land will be leased by way of tender cum auction process is stipulated under Land Policy Guidelines for Major Ports, 2014 and notified the TAMP rates (lease rent rates) for the block period 2012 to 2017. But to our surprise, in the four tender notifications issued between the period December 2015 to June 2016, the base price was indicated pertaining to commercial yard along NH 66 (i.e., ₹26.81280/27.34906/sqm/month) instead of Panambur village (i.e., 20.38814/20.79590 which was being paid for the last 30 years) with a discriminatory condition that if MCFL the existing lessee, is successful bidder, shall pay the lease rent at the revised rates from November 2012. All these 4 tenders were cancelled or withdrawn for the best reasons known only to NMPT, despite MCFL being the sole bidder in all the tenders. To our further surprise, NMPT floated another tender (tender 5) in January 2017, where in the base rate has been drastically increased from ₹27.34906 to ₹73.66 per sqm per month without any justifiable reasons to such steep increase, along with an arbitrary & discriminatory condition that MCFL, the existing lessee, on successful bidding, has to pay the lease rent at revised base rate of ₹73.66 per sqm per month from November 2012 i.e., from the date of expiry of previous lease which is discriminatory vis-à-vis new bidder</p>	
(iii).	<p>In light of above points of discriminatory treatment by NMPT, we request TAMP to kindly consider the following:</p> <p>(a). MCFL being the only Fertilizer Company has been manufacturing fertilizers since 1976, and the production, pricing etc. for the fertilizers are controlled by Govt. of India under the Essential Commodities Act, RPS, NBS policy. The imports of Fertilizers are also controlled by Govt. of India. Hence, any increase in the cost of production due to increase in input cost including leasehold land price, etc. passes on to the ultimate consumers of fertilizers, i.e. on to the farmers.</p> <p>(b). MCFL is utilizing the Port land on lease basis for storage of imported raw materials. The storage tanks for Ammonia, Phosphoric acid are built in 1984 with huge capital investment</p>	

	<p>in the leasehold land. The lease rent for the leasehold land was fixed at that time was for the Panambur village which was continued for more than 30 years. Only in 2015, the base rate fixing system was suddenly changed to commercial yard rate along NH 66. This change is unfair and burdensome to MCFL is not in any commercial operation of the leasehold land but only for handling & storage of imported cargo.</p> <p>(c). The base price indicated in last tender-5 issued in January 2017, is increased 3 fold compared to the base prices indicated in earlier four tenders, with retrospective effect, which is unreasonable and causes tremendous hardship on MCFL.</p>	
(iv).	Hence, we request to fix the base price on reasonable and non-discriminatory basis treating MCFL also on par with any new bidder without arbitrarily discriminating MCFL with other bidders by prescribing the new base rate only prospectively. We also request to kindly treat the location of the leased land used for storage of imported raw materials as Panambur village and not as Commercial yard along NH 66.	
5.	Mangalore Steamer Agents Association (MSAA) Kanara Chamber of Commerce & Industry (KCCI)	
(i).	As a facilitator, the port authority should ensure that the required land is allotted to the exporter or importer at a nominal rent.	Each type of Exim cargo demands different type of space for storage. Hence, depending upon the development cost and Land cost, different rates for open areas, paved areas and covered areas are fixed. The rate arrived are as per Land Policy Guidelines, 2014.
(ii).	NMPT is already being branded as an oil port due to lack of general cargo share at this port. The percentage of general cargo handled at this port is abysmal. It is very unfortunate that cargo originated from our hinterland in Karnataka is being diverted to our neighbouring ports. No amount of trade facilitation would help to improve the traffic if costs are not kept competitive.	The Port after acquiring the Land from the Private and Government has made huge investments in development of the Port. Apart from the Capital investment, there are also recurring Operation and Maintenance Cost. The undeveloped land acquired from the Private and Government is a well-developed land of great demand.
(iii).	It is a proven fact that once the cargo is diverted to any neighbouring port, no amount of inducement will help regain the lost traffic. In today's competitive world, it is very important to retain the existing customers. In the bargain, the users stand to lose more on account of possible diversion of cargo than the port itself.	The Port developmental, operational and maintenance Cost has to be met from the resources of the Port. With huge investments, the Port has developed the undeveloped land of low value to a prime land of very high value and demand. The Port is arriving the rentals on the Land Policy Guidelines issued by Ministry.
(iv).	There are certain factors of expenditure in the handling costs such as freight, transportation by rail/road etc. which are governed by the prevailing market conditions and there is very little port authority can do anything on this. Whereas, the port	The proposed rentals have been arrived as per the methodology prescribed in the Land Policy Guidelines, 2014.

	authority can certainly influence the costs such as land rental, wharfage, vessel/cargo related tariff etc. to keep the handling costs competitive.																																																													
(v).	<p>NMPT authority had an opportunity to induce more general cargo traffic by maintaining the prevailing rate. Instead, NMPT opted for enhancement between the range of 81% to 197%. Please see below the comparable statement:</p> <table border="1"> <thead> <tr> <th colspan="4">Unpaved Area</th> </tr> <tr> <th>Location</th> <th>Existing rate</th> <th>NMPT proposal</th> <th>Increase</th> </tr> </thead> <tbody> <tr> <td>Panambur</td> <td>₹20.80</td> <td>₹49.67</td> <td>138.85%</td> </tr> <tr> <td>Marshalling Yard</td> <td>₹21.20</td> <td>₹49.54</td> <td>133.71%</td> </tr> <tr> <td>Commercial Yard</td> <td>₹27.35</td> <td>₹81.32</td> <td>197.34%</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th colspan="4">Paved Area</th> </tr> <tr> <th>Location</th> <th>Existing rate</th> <th>NMPT proposal</th> <th>Increase</th> </tr> </thead> <tbody> <tr> <td>Panambur</td> <td>₹37.38</td> <td>₹76.62</td> <td>104.97%</td> </tr> <tr> <td>Marshalling Yard</td> <td>₹37.95</td> <td>₹76.37</td> <td>101.24%</td> </tr> <tr> <td>Commercial Yard</td> <td>₹46.41</td> <td>₹117.31</td> <td>152.77%</td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th colspan="4">Covered Area</th> </tr> <tr> <th>Location</th> <th>Existing rate</th> <th>NMPT proposal</th> <th>Increase</th> </tr> </thead> <tbody> <tr> <td>Panambur</td> <td>₹72.91</td> <td>₹134.35</td> <td>84.26%</td> </tr> <tr> <td>Marshalling Yard</td> <td>₹73.84</td> <td>₹133.86</td> <td>81.28%</td> </tr> <tr> <td>Commercial Yard</td> <td>₹87.25</td> <td>₹194.41</td> <td>122.83%</td> </tr> </tbody> </table>	Unpaved Area				Location	Existing rate	NMPT proposal	Increase	Panambur	₹20.80	₹49.67	138.85%	Marshalling Yard	₹21.20	₹49.54	133.71%	Commercial Yard	₹27.35	₹81.32	197.34%	Paved Area				Location	Existing rate	NMPT proposal	Increase	Panambur	₹37.38	₹76.62	104.97%	Marshalling Yard	₹37.95	₹76.37	101.24%	Commercial Yard	₹46.41	₹117.31	152.77%	Covered Area				Location	Existing rate	NMPT proposal	Increase	Panambur	₹72.91	₹134.35	84.26%	Marshalling Yard	₹73.84	₹133.86	81.28%	Commercial Yard	₹87.25	₹194.41	122.83%	No comments furnished by port.
Unpaved Area																																																														
Location	Existing rate	NMPT proposal	Increase																																																											
Panambur	₹20.80	₹49.67	138.85%																																																											
Marshalling Yard	₹21.20	₹49.54	133.71%																																																											
Commercial Yard	₹27.35	₹81.32	197.34%																																																											
Paved Area																																																														
Location	Existing rate	NMPT proposal	Increase																																																											
Panambur	₹37.38	₹76.62	104.97%																																																											
Marshalling Yard	₹37.95	₹76.37	101.24%																																																											
Commercial Yard	₹46.41	₹117.31	152.77%																																																											
Covered Area																																																														
Location	Existing rate	NMPT proposal	Increase																																																											
Panambur	₹72.91	₹134.35	84.26%																																																											
Marshalling Yard	₹73.84	₹133.86	81.28%																																																											
Commercial Yard	₹87.25	₹194.41	122.83%																																																											
(vi).	All the existing lands of the port have not been bought from commercial buying transactions. These lands were acquired from the general public by paying nominal rate prescribed by the Government for port related activities. Over the years, the same lands were developed by the users to safeguard their cargo being stored in these lands. With such background, the attempt to profiteer from the land which was originally acquired to facilitate exim trade, is not acceptable.																																																													
(vii).	The tariff process is already delayed by more than five months. If any user had taken land on 'short term' allotments basis during this period, he would have already surrendered the land by paying the prevailing rates. In order to protect such users, it is imperative to apply principle of natural justice and finalise tariff on prospective basis only.																																																													
(viii).	<p>When an Exporter / Importer finds the port competitive, a lot of productivity is generated in a chain reaction. Commerce of the region grows and above all revenues for the Government as well as Port grows indirectly. The berth occupancy of bulk berth Nos.1, 2, 3, 7, 8 and 14 mentioned below speaks about the reason why the productivity is low. With higher productivity and berth occupancy, we can look at generating more employment on all fronts.</p> <table border="1"> <thead> <tr> <th>Berth Name</th> <th>% of occupancy for 2015-16</th> <th>for 2016-17</th> </tr> </thead> <tbody> <tr> <td>Berth No.1</td> <td>19</td> <td>16</td> </tr> <tr> <td>Berth No.2</td> <td>34</td> <td>32</td> </tr> <tr> <td>Berth No.3</td> <td>40</td> <td>36</td> </tr> <tr> <td>Berth No.6</td> <td>21</td> <td>27</td> </tr> <tr> <td>Berth No.7</td> <td>16</td> <td>20</td> </tr> <tr> <td>Berth No.8</td> <td>15</td> <td>23</td> </tr> <tr> <td>Berth No.12</td> <td>64</td> <td>83</td> </tr> </tbody> </table>	Berth Name	% of occupancy for 2015-16	for 2016-17	Berth No.1	19	16	Berth No.2	34	32	Berth No.3	40	36	Berth No.6	21	27	Berth No.7	16	20	Berth No.8	15	23	Berth No.12	64	83	No comments furnished by port.																																				
Berth Name	% of occupancy for 2015-16	for 2016-17																																																												
Berth No.1	19	16																																																												
Berth No.2	34	32																																																												
Berth No.3	40	36																																																												
Berth No.6	21	27																																																												
Berth No.7	16	20																																																												
Berth No.8	15	23																																																												
Berth No.12	64	83																																																												

[The proposal of NMPT is for retrospective revision of lease rent from

	<p>In order to attract more general cargoes to this port, the KCCI requests you to instruct the port authority to send a revised proposal after considering above aspects. Further, the users already have a huge liability on account of retrospective tariff awarded in earlier cases and hapless users have exercised legal remedy to safeguard their interest. The present proposal is for the period from 20.02.2017 to 19.02.2022 and tariff fixation process is still in the initial stages.</p> <p>In order to avoid further legal tangle with numerous agencies, the KCCI requests you to award the present tariff on prospective basis only.</p>	20.02.2017. <i>The proposal of NMPT is not for prospective effect.</i>]
6.	Association of New Mangalore Port Stevedores (ANMPS)	
(i).	We have convinced with evidence to TAMP that the Port Users request not to increase huge rentals proposed by NMPT will affect the NMPT cargo traffic. Hence, honourable TAMP advised the Port to convene a meeting with Port Users and discuss all the issues referred in the TAMP joint hearing and suggest a reasonable increase where in Port, Port Users and Exim-Trade can transact shipments at ease at NMPT.	No comments furnished by port.
(ii).	Proposal of huge increase, on receiving grievances / complaints from Port Users and EXIM Trade we understand that NMPT Board has constituted a sub-committee of Trustees to re-look into Port proposal to TAMP on Land Rentals on open, paved and covered sheds and zoning issues based on appeal from Port Users, Exim-Trade. Understand Port Trustees sub-committee met again and submitted their report on this issue on 22.08.2017 to NMPT. After the Port Trust Board meeting on 06.09.2017 and deliberation about this sub-committee Report presented, Port will inform TAMP about its proposal.	
(iii).	The Chairman of Port had convened a meeting at NMPT on 22.08.2017 at 11.00 hours with Port Users in which Port Users pleaded for a maximum increase of 17.06% for on all category / zones for handling Import / Export cargo in all the Port land open yard / paved yard covered sheds.	
(iv).	The reports may be reviewed before finalizing revision of lease rentals of Port Land allotted for handling Import / Export cargo on short term basis for the period from 20.02.2017 to 19.02.2022 prospectively from the date of TAMP Order issued.	

4. A Summary of comments furnished by Delta Infralogistics (worldwide) Ltd. vide letter dated 18 January 2018 and Raafatar Terminal Private Limited vide letter dated 12 January 2018 subsequently comments of NMPT thereon furnished vide its email dated 14 February 2018 are summarized below:

Sl. No.	Comments of Users	Comments of NMPT
I.	Delta Infralogistics (worldwide) Ltd.	
	The Amended Land Policy Guidelines, 2014, is formulated as per the provisions contained in sub section (1) of Section 34 of the Major	With reference to the additional comments furnished by Delta Infralogistics (worldwide) Ltd. (DIL) vide

	<p>Port Trusts Act, 1963, i.e., for leasing out land for 30 years, whereas tariff fixation for land required for Vessel and Cargo related activities, the governing directions are under section 49 sub section (1). Both these sections are catering to different sections of land users, wherein land licensing under section 49 is a mandated service of the Port, whereas section 34 concerns the contracts which are long term.</p> <p>Merging both these activities and fixing a common land tariff has already created total confusion leading to avoidable litigations.</p> <p>The DIL has humbly suggested at this stage that TAMP may call for separate proposals from NMPT for land tariff under section 49 and section 34. Land tariff under section 49 should be combined with the general SOR for Vessel & Cargo related activities of the Port and land tariff under section 34 should follow the Amended Land Policy guidelines 2014. In fact the said guideline specifies Section 34 as its background.</p> <p>DIL has requested that land rents under section 49 be limited to an annual increase of 2% and there should not be any separate revision every 5 years in order that the EXIM trade can afford and absorb the tariff increase gradually.</p>	<p>their email dated 18 January 2018 forwarded to NMPT, the NMPT has stated that it has already furnished vide its letter dated 5 October 2017 as given below:</p> <p>(a). The Authority after acquiring the Land from the Private and Government has made huge investments in development of the Port. Apart from the Capital investment there are also recurring Operations and Maintenance Cost. The underdeveloped land acquired from the Private and Government is a well-developed land of great demand.</p> <p>(b). Each type of EXIM cargo demands different type of space for storage. Hence, depending upon the development cost and Land cost, different rates for open areas, paved areas and covered areas are fixed. The rates arrived are as per Land Policy Guidelines 2014.</p> <p>(c). Clause No 13 (c) of Land Policy Guidelines 2014 states that, The Port Trust would make a proposal to TAMP for fixing the latest SoR of the land. The TAMP would notify the latest SoR of the land after following due process of consultation with stake holders within 45 days of receipt of the proposal. The Port Trust Board will fix a rate of annual escalation which would not be less than 2% SoR would be refixed once in every 5 years by TAMP.</p> <p>(d). As far as raising the demand prospectively is concerned it is to mention that, the revision of rates is under process and is due from 20 February 2017. The notification of TAMP will be communicated. As such the revision of license fee with prospective effect does not arise.</p>
II.	Raftaar Terminal Private Limited	
	<p>RTPL is new customer having a bulk liquid storage tank terminal at Thannirubavi.</p> <p>RTPL has been allotted 10294 Sq. M land by NMPT for laying pipelines to connect from Berth No.12 to its terminal. Being one of the stakeholders of NMPT, RTPL will play a very important role by attracting maximum throughput and significant revenue to the port.</p>	<p>As per the revised proposal for notification of revision of rates w.e.f 20 February 2017, methodology prescribed in the Land Policy Guidelines 2014 and the same is to be adopted by the port. In view of this, the request of RTPL not to increase the rental for Thannirbhavi location is not acceptable.</p>

<p>The NMPT has proposed revision of land lease rentals for the period from 20.02.2017 to 19.02.2022 to TAMP for approval.</p> <p>It was since Nov 2016, NMPT has initiated for revision of land lease rentals for the period from 20.02.2017 to 19.02.2022 and vide NMPT letter No. CE/SE(C-II)/ESTATE / VALUER / 63 / 2016 dated 29.11.2016, rates for Thannirubavi location have been proposed 48% hike from the previous revision. These rates had been finalized based on State Govt. Ready Reckoner, valuation done by Govt. approved valuer and approved by the Land Allotment Committee of NMPT. The proceeding of LAC recommendation had been uploaded in NMPT website seeking comments / suggestion from stakeholders / public. Considering rates proposed for Thannirubavi location being reasonable hike, we did not object / commented. But now to our surprise, NMPT has re-valued and recommended revision for land lease rentals for Thannirubavi location with a hike of 153.5% against the previous recommended revision of 48.17%</p> <p>Based on the recommendations of proposed fixation of tariffs by NMPT, TAMP had conducted joint hearing with all stakeholder / port users / user organisations / lessees of NMPT to put forward their views / comments. Being port user and holding major portion of NMPT land at Thannirubavi location was neither informed nor invited and not given a chance to represent and lodge our grievances before the TAMP during joint hearing.</p> <p>We strongly object and oppose the proposed increase of land lease rentals for Thannirubavi location. The proposed increase is almost 1.5 times more than the current lease rentals at one shot which would severely affect our financial viability of our project. Since, it is yet to commence our business and invested huge cost to build up terminal, it is requested you not to increase the rental for Thannirubavi location as any additional levy may have serious consequences on our business.</p> <p>RTPL has requested to continue the lease rental for existing rates for Thannirubavi area.</p>	
---	--