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**REGULATORY AND LAND USE PLANNING FRAMEWORK OF  
THE SPECIAL BORDER ECONOMIC ZONE (SBEZ) IN  
MALAYSIA: A CASE STUDY OF SBEZ BUKIT KAYU HITAM**



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**UUM**  
Universiti Utara Malaysia

**DOCTOR OF PHILOSOPHY  
UNIVERSITI UTARA MALAYSIA  
2025**

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**A thesis submitted to the Ghazalie Shafie Graduate School of Government in  
fulfilment of the requirement for the Doctor of Philosophy  
Universiti Utara Malaysia**



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## ABSTRACT

Economic growth and technological advancement in developing countries rely on Foreign Direct Investment (FDI). Special Economic Zones (SEZs) are established to attract investment by offering attractive benefits. Malaysia entered the SEZ arena in 1980s with the creation of a Free Zone in Penang. In 2018, Malaysia proposed the establishment of the Special Border Economic Zone (SBEZ) in Bukit Kayu Hitam. However, its implementation has faced several challenges, particularly the absence of a specialised land use planning law. Inadequate legal provisions could hinder the SBEZs smooth development. This study addresses these issues by examining land use planning laws. The study uses doctrinal legal research combined with a case study approach. It analyses legal documents, qualitative interviews with relevant stakeholders, and primary and secondary data sources. Additionally, the research adopts a socio-legal research by examining the relationship between land use planning laws and their practical implementation. A pivotal part of the study involves identifying issues within the SBEZ and comparing them to similar SEZs in Malaysia (such as Johor and Penang) and internationally (notably in the United Kingdom and Singapore). This comparative analysis aims to derive insights and propose solutions for the challenges faced by SBEZ. The study highlights significant legal challenges and underscores the urgency of reforms, particularly in enforcing development plans, planning controls, and land administration procedures. It advocates for a dedicated land use planning legal framework tailored to SBEZs. The findings suggest that the success of Bukit Kayu Hitam's SBEZ depends on legal refinement and comprehensive land use planning, similar to the Local Development Order in the UK, alongside stronger public-private partnerships. The study calls for a bespoke legal framework that aligns land use planning with economic objectives, serving as a vital reference for policymakers. The proposed legal reforms are expected to enhance SBEZ governance, strengthen Malaysia's role in global SEZ development, and support economic growth in northern peninsular Malaysia, as emphasised in the Malaysia Plans and national development blueprints.

**Kata Kunci:** Ekonomi Sempadan Khas, Zon Ekonomi Khas, Perancangan Guna Tanah, Rangka Kerja Kawal Selia

## ABSTRAK

Pertumbuhan ekonomi dan kemajuan teknologi negara-negara membangun bergantung pada Pelaburan Langsung Asing (FDI). Zon Ekonomi Khas (SEZ) ditubuhkan bagi menarik pelaburan dengan menawarkan manfaat yang menarik. Di Malaysia, SEZ bermula pada tahun 1980-an dengan pembentukan Zon Bebas di Pulau Pinang. Pada tahun 2018, Malaysia telah mencadangkan penubuhan Zon Ekonomi Khas Sempadan (SBEZ) di Bukit Kayu Hitam. Namun, pelaksanaan SBEZ menghadapi beberapa cabaran, terutamanya kekurangan rangka kerja undang-undang perancangan guna tanah yang khusus. Kekurangan peruntukan undang-undang boleh menghalang pertumbuhan pembangunan SBEZ. Oleh yang demikian, kajian berkenaan kerangka undang-undang guna tanah telah dijalankan bagi menangani isu-isu perancangan guna tanah. Penyelidikan ini menggunakan pendekatan doktrinal yang digabungkan dengan kajian kes, melibatkan analisis dokumen undang-undang, wawancara kualitatif dengan pihak berkepentingan, serta sumber daripada data primer dan sekunder. Selain itu, kajian ini turut menggunakan pendekatan sosio-legal bagi meneliti hubungan antara amalan perancangan guna tanah secara praktikal dan peruntukan undang-undang. Salah satu bahagian penting dalam kajian ialah mengenalpasti isu-isu dalam SBEZ dan membandingkannya dengan amalan terbaik SEZ di Malaysia (contohnya Johor dan Pulau Pinang) manakala di peringkat antarabangsa, kajian membandingkan praktis di United Kingdom dan Singapura. Analisis perbandingan ini bertujuan untuk mendapatkan pandangan dan mencadangkan penyelesaian yang berpotensi bagi menangani cabaran dalam SBEZ. Kajian ini menekankan cabaran undang-undang yang ketara dan keperluan mendesak untuk penambahbaikan, khususnya dalam penguatkuasaan rancangan pembangunan, kawalan perancangan, dan prosedur pentadbiran tanah. Ia juga Ia menyokong rangka kerja undang-undang perancangan guna tanah khas yang khusus dan mencukupi bagi SBEZ. Penyelidikan ini mencadangkan bahawa kejayaan SBEZ Bukit Kayu Hitam bergantung pada penambahbaikan undang-undang dan perancangan guna tanah pembangunan yang lebih terperinci, sepertimana strategi Perintah Pembangunan Tempatan di UK, serta pengukuhan kerjasama awam-swasta. Kajian ini menyokong rangka kerja undang-undang yang khusus yang memenuhi keperluan unik SBEZ dan menyelaraskan perancangan guna tanah dengan matlamat ekonomi dan berfungsi sebagai rujukan penting untuk pembuat dasar. Pembaharuan undang-undang yang dicadangkan diyakini dapat meningkatkan tadbir urus yang berkesan dan pertumbuhan mampan SBEZ, mengukuhkan peranan Malaysia dalam pembangunan SEZ global, dan menyokong pertumbuhan ekonomi di utara Semenanjung Malaysia, seperti yang ditekankan dalam Rancangan Malaysia dan pelan tindakan pembangunan nasional.

**Keywords:** Special Economic Zone, Special Border Economic Zone, Land Use Planning, Regulatory Framework



## ACKNOWLEDGEMENT

Alhamdulillah. All praises to Allah SWT and His beloved Prophet Muhammad SAW, whose mercy, guidance, and blessings have carried me through and enabled me to complete this dissertation.

With all my heart, I am truly grateful to my beloved parents, Hj. Najimudin Esa and Hj. Huzaipah Mat Husin. Your du'a, love, and sacrifices have been my strength. You understood my struggles, lifted me when I felt lost, and reminded me to trust Allah. You never doubted me, even when I doubted myself. This achievement is yours as much as it is mine.

To my wonderful siblings and in-laws, thank you for your constant support and quiet reminders that *"you've got this."* From unexpected help in my bank account to the love you gave my daughters when I couldn't be there and you've lifted me more than words can say. To my dear parents-in-law, Hj. Mohd Ahmad and Hj. Hasnah Elias, and all in the family, thank you for your patience, support, and understanding, especially when I couldn't visit as often as I should have. Your kindness and prayers mean the world to me.

I am truly grateful to my supervisor, Prof. Dr. Nuarrual Hilal Md Dahlan, whose guidance, wisdom, and patience have shaped this dissertation in ways I could not have imagined. His insights, critical feedback, and corrections were key in refining my work. My heartfelt thanks also go to my co-supervisor, Assoc. Prof. Dr. Mohd Zakhiri Md Nor, for his support and contributions, always sharing practical tips and advice that guided me throughout the journey. My sincere thanks to Assoc. Prof. Dr. Yusramizza, Prof. Sharifah Zubaidah, and Assoc. Prof. Dr. Haslinda for their valuable comments and feedback that helped strengthen this dissertation.

To my dear friends, Syahira, Hamizah, Atiqah, Izul, Asyraf, Dr. Kimi, Dr. Alif, Dr. Tan, Dr. Rafy, Dr. Diyana and my PhD mates Amir, Dr. Fatihah, Zeeshan, Keita, and all in GSGSG, thank you for the support, laughs, and memories. Your presence made this journey lighter and more meaningful. And to Prof. Dr. Hairul Nizam, the one who opened the door to this PhD journey and supported me throughout, thank you for believing in me from the start. Though the path took a different turn than expected, your guidance and encouragement remain deeply appreciated.

My deepest gratitude goes to my precious daughters, 'Aisyah and Maryam. Your presence in my life gave me the strength and motivation to push through, even during the most challenging moments. You are my greatest joy and my biggest inspiration.

And to the love of my life, my soulmate, my best friend, and unwavering support, Dr. Nur Shuhadah Mohd—I could not have done this without you. You've been my anchor, my light, and my strength. Through every late night, every moment of stress and doubt, you stood by me with patience, love, and faith. I am forever grateful, and I love you deeply.

Finally, thank you to everyone who contributed in any way to this dissertation. Your support meant a lot, and I am truly grateful. May Allah bless you all.

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Free Zones Act 1990 (Act 438)  
Iskandar Regional Development Authority Act 2007 (Act 664)  
Kedah Regional Development Authority Act 1981 (Act 249)  
Land Acquisition Act 1960 (Act 486)  
Land Conservation Act 1960 (Act 438)  
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Planning and Compulsory Purchase Act 2004

Town and Country Planning (Local Planning) (England) Regulations 2012

Town and Country Planning Act 1947

Town and Country Planning Act 1971

Town and Country Planning Act 1990



## LIST OF ABBREVIATIONS

|              |                                            |
|--------------|--------------------------------------------|
| BPEN         | Bahagian Perancang Ekonomi Negeri          |
| CLMV         | Cambodia, Laos, Myanmar, and Vietnam       |
| CLQ          | Centralised Labour Quarters                |
| DFTZ         | Digital Free Trade Zone                    |
| ECER         | East Coast Economic Region                 |
| FTPA         | Federal Territory (Planning) Act           |
| FTZ          | Free Trade Zone                            |
| FZA          | Free Zone Act                              |
| GVC          | Global Value Chains                        |
| IRDA         | Iskandar Region Development Authority      |
| KEDA         | Kedah Regional Development Authority       |
| KEJORA       | Southeast Johor Development Authority      |
| KETENGAH     | Central Terengganu Development Authority   |
| KESEDAR      | South Kelantan Development Authority       |
| LEP          | Local Enterprise Partnership               |
| LLDC         | Landlocked Developing Countries            |
| LPA          | Local Planning Authority                   |
| MBIP         | Majlis Bandaraya Iskandar Puteri           |
| MBPG         | Majlis Bandaraya Pasir Gudang              |
| MBPP         | Majlis Bandaraya Pulau Pinang              |
| MBSP         | Majlis Bandaraya Seberang Perai            |
| MRT          | Mass Rapid Transit                         |
| MSC          | Multimedia Super Corridor                  |
| NCER         | Northern Corridor Economic Region          |
| NCIA         | Northern Corridor Implementation Authority |
| NLC          | National Land Code                         |
| NPPC         | National Physical Planning Council         |
| NPP          | National Physical Plan                     |
| PDC          | Penang Development Corporation             |
| PERDA        | Penang Regional Development Authority      |
| PLANMALAYSIA | Department of Town and Country Planning    |
| PPP          | Public Private Partnership                 |
| RECODA       | Regional Corridors Development Authority   |
| SA           | State Authority                            |
| SAP          | Special Area Plan                          |
| SBEZ         | Special Border Economic Zone               |
| SCORE        | Sarawak Corridor of Renewable Energy       |
| SDC          | Sabah Development Corridor                 |
| SEZ          | Special Economic Zone                      |
| SPAD         | Land Public Transport Commission           |
| SPC          | State Planning Committee                   |
| TCPA         | Town and Country Planning Act              |

# **CHAPTER ONE**

## **INTRODUCTION**

### **1.1 Introduction**

This chapter introduces Special Economic Zones (SEZs) and their connection to land use planning. It examines the relationship between economic development and Foreign Direct Investment (FDI), and how FDI influences SEZs, which in turn impact land use planning. Additionally, global issues concerning SEZs are discussed. The chapter also identifies the problem statement, guides the research questions, and defines the research objectives. A literature review is conducted to identify knowledge gaps in the current study, and to explore the state of current research that relates to this study.

Furthermore, this chapter explains the research methodology employed in this study. It examines and analyses legal statutes and case law related to land use planning and land matters associated with SEZ development. Clearly outlining the scope and limitations is crucial for achieving the research objectives. Therefore, a research framework is outlined to define and illustrate the flow of the research.

### **1.2 Research Background**

Economic development is a key pillar for nations, making them heavily reliant on strong economic growth. The role of both domestic and foreign investors is pivotal in this regard, especially in developing countries where investment is crucial in building

a stronger economy. FDI is a significant catalyst for economic growth. FDI not only aids in a country's economic progression but also results in technology transfer between foreign entities within the nation.<sup>1</sup> To attract FDI, various incentives such as tax breaks, economic zones, and subsidies are employed, each governed by specific policies ensuring investor security and smooth investment operations.

Creating an inviting legal framework is essential for attracting and retaining foreign investors, thereby boosting economic growth, and enabling technology spillovers.<sup>2</sup> Policymakers must look beyond domestic economic factors, focusing on attracting more FDI to their countries. Realising that investors seek a stable and favourable legal environment, the development of effective policies and legislation governing FDI is crucial. Addressing investors' main concerns through these means establishes a conducive investment climate, essential for economic advancement.

Among the crucial policy mechanisms employed by many countries to attract investments, particularly for industrial development, are SEZs. SEZs are generally defined as “geographically delimited areas within a country's borders, where distinct business rules and regulations diverge from those prevailing in the national territory”.<sup>3</sup>

The diverse regulations primarily cover investment frameworks, taxation, customs rules, international trade, and regulatory systems, with the objective of being

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<sup>1</sup> Andreas Johnson, The Effects of FDI Inflows on Host Country Economic Growth, *Centre of Excellence for Science and Innovation Studies*, no. 58 (2006): 1–57; Tomasz Dorożyński, Janusz Świerkocki, and Wojciech Urbaniak, The FDI Inflow to Special Economic Zones in Poland, *Contemporary Studies in Economic and Financial Analysis* 98 (2016): 135–159.

<sup>2</sup> United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*, 2019.

<sup>3</sup> Justine White, Fostering Innovation in Developing Economies through SEZs, in *Special Economic Zones: Progress, Emerging Challenges, and Future Directions*, ed. Thomas Farole and Gokhan Akinci (Washington: The World Bank, 2011), 183–202.

politically inclusive and administratively streamlined in comparison to other regions of the country.<sup>4</sup>

The 2019 World Investment Report highlights a significant increase in SEZs globally, with over 1,000 established in the last five years and an estimated 500 more expected. This sustained growth, charted from 1975 to 2018, is vividly captured in Figure 1.1. SEZs have become essential tools for driving economic growth, necessitating the creation of tailored legal frameworks. These SEZ frameworks define operational guidelines and incentives, covering tax advantages, land use, labour laws, and trade regulations. They are crucial for nurturing an environment conducive to economic expansion while aligning with national and international legal norms. The legal scaffolding not only fosters an environment conducive to economic growth but also ensures alignment with both national and international legal standards.<sup>5</sup> SEZs are a model of designated zones aimed at fostering economic growth and development. These zones operate under various names, including Free Trade Zones, Enterprise Zones, Free Zones, Specialised Zones, and Special Border Economic Zones (SBEZs). The functions and distinctions of these zones have been outlined in sub-section 1.9.3.

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<sup>4</sup> Thomas Farole and Lotta Moberg, *Special Economic Zones in Africa: Comparing Performance and Learning from Global Experience*, *The International Bank for Reconstruction and Development / The World Bank* (Washington: The International Bank for Reconstruction and Development / The World Bank, 2017).

<sup>5</sup> Jin Wang, The Economic Impact of Special Economic Zones: Evidence from Chinese Municipalities, *Journal of Development Economics* 101, no. 1 (2013): 133–147, <http://dx.doi.org/10.1016/j.jdeveco.2012.10.009>; Organisation for Economic Co-operation and Development (OECD), *Towards Best Practice Guidelines for the Development of Economic Zones*, 2009.

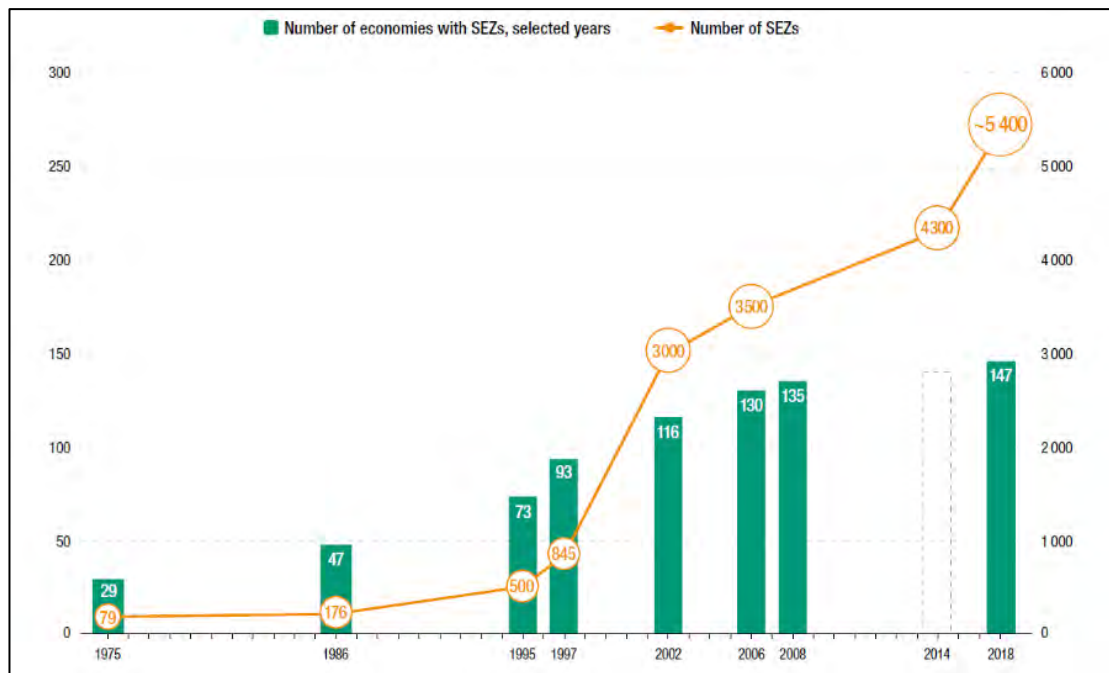


Figure 1-1 SEZs Around the Globe (Source World Investment Report 2019)<sup>6</sup>

Beyond serving purely economic objectives, SEZs also contribute to physical development, fitting well within their designation as "demarcated geographic areas within countries".<sup>7</sup> This dual focus implies that SEZs are not merely economic engines but also platforms for holistic development, affecting the physical and social fabrics of the regions they occupy. On the legal front, adherence to land use and environmental laws is crucial for sustainable growth.<sup>8</sup> Additionally, the social dynamics within SEZs are shaped by labour laws that protect workers' rights and foster fair employment practices. Therefore, the legal framework is key in balancing the diverse aspects of development – economic, physical, and social – that SEZs seek to promote.

<sup>6</sup> United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*.

<sup>7</sup> V Devadas and Vaibhav Gupta, Planning for Special Economic Zone: A Regional Perspective, *India Journal*, no. June (2011): 53–58; Thomas Farole and Gokhan Akinci, *Special Economic Zones Progress, Emerging Challenges, and Future Directions* (The World Bank, 2011).

<sup>8</sup> Douglas Zhihua Zeng, China's Special Economic Zones and Industrial Clusters: The Engines for Growth, *Journal of International Commerce, Economics and Policy* 03, no. 03 (2012): 1250016.



### 1.3 Problem Statement

The establishment of SEZs in Malaysia in the 1970s marked a strategic move to boost the national economy through regions such as Penang's Free Trade Zone and other initiatives, including the Free Commercial Zones (FCZ), the Free Industrial Zones (FIZ), and the Multimedia Super Corridor (MSC).<sup>9</sup> Among these was the Special Border Economic Zone Bukit Kayu Hitam (SBEZ BKH). It is important to clarify that while SBEZ is a subset of SEZs, they are distinct due to their strategic location along national borders, facilitating cross-border trade, investment, and regional integration. Although this study references SEZs for contextual and comparative purposes, its primary focus is on SBEZ BKH as a unique type of SEZ that presents distinct planning and regulatory challenges.

This SBEZ was conceptualised in the early 2000s but has only seen significant developmental effort since 2018. Covering nearly 12,000 acres, the SBEZ BKH has the potential to drive economic growth in Malaysia's northern region. This economic zone has been referenced in various official policy documents such as the National Physical Plan, the Malaysia 2018 Budget, the NCER Blueprint, the State Structure Plan, and the Kubang Pasu Local Plan. Despite efforts to accelerate its progress, the development of the SBEZ BKH has faced ongoing setbacks, prompting calls to enhance the efficiency and efficacy of the project.

This thesis argues that despite substantial strategic investment and policy support, SBEZ BKH's development has not been adequately assessed. While it is acknowledged that economic factors may influence the progress of SBEZs, the

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<sup>9</sup> Rajah Rasiah, *The Industrial Policy Experience of the Electronics Industry in Malaysia*, in *The Practice of Industrial Policy*, First. (Oxford Press, 2017), 211–233.

primary focus of this study is on the physical development of SBEZ BKH. Given that SEZs are inherently linked to specific geographical areas, this research aims to explore the land use planning aspects of SBEZ BKH. Land use planning is crucial because the creation of these zones requires careful allocation and utilisation of land to maximise economic potential. In the context of SEZs, land use planning involves zoning, infrastructure development, environmental impact assessments (EIA), social impact assessment (SIA) and urban integration. Effective land use planning is essential for the success of SEZs as it enhances their competitiveness, sustainability, and integration with surrounding regions.<sup>10</sup> Moreover, the success of creating a value-adding economy in SBEZ BKH is also closely tied to coordinated industrial development action plans, supported by proper fiscal incentives and financial backing from both state and federal governments. These factors play a vital role in ensuring the long-term economic viability of the zone.<sup>11</sup> This thesis will investigate these aspects to provide a comprehensive assessment of the development of SBEZ BKH.

In the Malaysian context, for land development, the two main pieces of legislation are the Town and Country Planning Act 1976 (TCPA)(Act 172) and the National Land Code (Revised 2020)(Act 828)(NLC). This study, therefore, focuses on the land use planning process within the SBEZ BKH, aiming to provide a comprehensive analysis of its planning framework and operational efficacy under these statutes. Such an evaluation is crucial, as land use planning forms the backbone of effective and sustainable SEZ development. The TCPA provides the legal basis for zoning and land

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<sup>10</sup> Tarun Dhingra, Tripti Singh, and Ambalika Sinha, Location Strategy for Competitiveness of Special Economic Zones: A Generic Framework for India, *Competitiveness Review* 19, no. 4 (2009): 272–289.

<sup>11</sup> Dani Salleh and Za'im Ahmad, The Establishment of Malaysia-Thailand Special Border Economic Zone (SBEZ): The Potential of Bukit Kayu Hitam as Northern Economic Hub, *Journal of Governance and Development (JGD)* 18, no. 1 (December 31, 2022): 89–110, <https://e-journal.uum.edu.my/index.php/jgd/article/view/18817>.

use planning, ensuring that development aligns with broader urban and regional planning goals. Meanwhile, the NLC regulates land tenure, rights, and transactions, which are essential for implementing land use plans. By examining the interplay between these two legislative frameworks, this study seeks to identify strengths and gaps in the planning and implementation processes of SBEZ BKH, ultimately contributing to more informed policy-making and better development outcomes.

The broader success factors of SEZs—such as macroeconomic stability, strategic location, cost-effectiveness, and access to skilled human resources—are often hindered by persistent legal, regulatory, and governance challenges. While SEZs have been widely implemented in various economic models, their effectiveness depends on well-structured policies, regulatory clarity, and streamlined administrative processes. Studies, including those by Wahyuni, emphasize the necessity of high-quality infrastructure, investment-friendly policies, and efficient governance mechanisms to ensure that SEZs function as intended.<sup>12</sup>

Given that SBEZs operate as a subset of SEZs, they share many of the same fundamental challenges, particularly regarding legal frameworks, land use planning, and policy enforcement. However, SBEZs introduce additional complexities, particularly in cross-border trade facilitation, intergovernmental coordination, and regulatory harmonisation with neighbouring countries. These structural and governance challenges, commonly seen in SEZ models worldwide, underscore the need for a clear and well-defined regulatory approach to ensure that SEZs and SBEZs function efficiently and achieve their intended economic impact.

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<sup>12</sup> Anom J. Wahyuni, Sari; Anoviar, Alia N.; Santoso, The Key Success Factors of Penang as the Silicon Valley of the East, *SBS Journal of Applied Business* 1 (2012): 34–47.

Through an analysis of SEZ development patterns globally, this study identifies five key challenges that are often present in SEZs and may have implications for SBEZ BKH:

1. Problematic legal and regulatory frameworks governing SEZs and SBEZs.
2. Inefficiencies of development control and land use planning.
3. The effects of environmental and socio-economic concerns in SEZs
4. The various conflicting agencies at different levels of government
5. Complexities of land utilisation in SEZs

While these challenges are not unique to SBEZ BKH, they serve as a foundation for examining its development. By assessing how these issues manifest in SBEZ BKH, this study aims to establish the relevance of these broader SEZ challenges in Malaysia's context and provide insights into the regulatory and planning improvements needed for effective SBEZ governance.

### **1.3.1 Problematic legal and regulatory frameworks governing the SEZs and SBEZ**

To ensure the effective functioning of an SEZ, it is essential for it to operate within a dedicated and clear regulatory framework. Six key elements of SEZ planning are type of zone, policy framework, incentive framework, regulatory framework, institutional framework, and physical development and management of the zone.<sup>13</sup> These will allow

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<sup>13</sup> Waqas Ahmed et al., Sustainable and Special Economic Zone Selection under Fuzzy Environment: A Case of Pakistan, *Symmetry* 12, no. 2 (February 5, 2020): 242, <https://www.mdpi.com/2073-8994/12/2/242>.

SEZs to focus on specific economic activities by providing tailored incentives and a business-friendly environment for investment.

Despite the demonstrated success of SEZs in countries such as China, India, the United States, and Europe, their development often faces significant legal and regulatory challenges. Key among these is the lack of clearly defined regulations and efficient policy implementation, which leads to inconsistency and complexity within these frameworks. Such issues can confuse businesses, complicate operations, and ultimately diminish investor confidence, undermining the effectiveness of SEZs.<sup>14</sup>

One of the significant challenges within the SEZ framework is the inefficiency of bureaucratic structures. This inefficiency can impede the effective implementation of SEZ policies. This bureaucratic process can be attributed to several factors, including the lack of technical, managerial, and social skill sets among bureaucrats, often leading to poorly designed policies and ineffective implementation strategies.<sup>15</sup> Furthermore, this inefficiency is worsened by institutional deficits, as seen in many African SEZs, where the implementation of SEZ policies has been plagued by administrative shortcomings, thereby failing to stimulate the desired economic growth.<sup>16</sup>

Furthermore, the role of governance is critical in the development of SEZs. Countries such as China, Korea, and Taiwan saw success in SEZ development due to their interventionist states with competent bureaucratic structures and the political will to

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<sup>14</sup> Douglas Zhihua Zeng, The Past, Present, and Future of Special Economic Zones and Their Impact, *Journal of International Economic Law* 24, no. 2 (2021): 259–275; Dražen Marjanac and Ana Marija Alfrević, Special Economic Zones: The Impact and Implications on Economic Growth With Reference To the Chinese Model, *Acta Economica* 18, no. 32 (2021).

<sup>15</sup> Aradhna Aggarwal, SEZs and Economic Transformation: Towards a Developmental Approach, *Transnational Corporations* 26, no. 2 (2019): 27–47.

<sup>16</sup> Susanne A. Frick, Andrés Rodríguez-Pose, and Michael D. Wong, Toward Economically Dynamic Special Economic Zones in Emerging Countries, *Economic Geography* 95, no. 1 (January 23, 2019): 30–64, <https://doi.org/10.1080/00130095.2018.1467732>.

enforce strategies.<sup>17</sup> However, less successful countries such as Bangladesh, Indonesia, and Thailand set up SEZs but lacked a proactive state system that failed to integrate SEZs into larger developmental goals. Strong developmental states with efficient bureaucratic structures can establish SEZs and promote economic development.

For example, in India, the Special Economic Zone Act 2005 (Act No. 28) was introduced by the central government to stimulate investment through simplified regulations and fiscal incentives. However, the implementation of this Act varies significantly across different Indian states, with each one having the autonomy to adjust the central guidelines to reflect local priorities and political contexts. Furthermore, foreign investors face additional hurdles, such as incorrect information about official procedures, delays in obtaining approvals, and unclear about environmental regulations. These issues not only increase operational costs but also pose ethical challenges for companies striving to maintain uniform policies across their operations. This situation is exacerbated by factors such as unappealing incentives, taxation issues, customs complexities, foreign exchange volatility, and lengthy development timelines.<sup>18</sup> These obstacles, common across SEZs globally, deter potential investors and impede the growth and effectiveness of these economic zones.<sup>19</sup>

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<sup>17</sup> Aggarwal, "SEZs and Economic Transformation: Towards a Developmental Approach."

<sup>18</sup> Irina Turgel et al., Impact of Zones with Special Status on the Environment (Experience of Russia and Kazakhstan), *Environmental and Climate Technologies* 23, no. 2 (2019): 102–113; Gokhan Akinci and James; Crittle, *Special Economic Zones: Performance, Lessons Learned, and Implications for Zone Development*, *Special Economic Zones*, 2008, [www.fias.net](http://www.fias.net); Mee Kam Ng and Wing Shing Tang, The Role of Planning in the Development of Shenzhen, China: Rhetoric and Realities, *Eurasian Geography and Economics* 45, no. 3 (2004): 190–211.

<sup>19</sup> These issues are not isolated to a particular country but have been observed in SEZs worldwide, spanning across China, the United States, Australia, Africa, and Poland. Ann Fenwick, Evaluating China's Special Economic Zones, *Berkeley Journal of International Law* 2, no. 2 (1984), <https://doi.org/10.15779/Z38S64W>.

Additionally, optimising the legislative power within SEZs and ensuring effective governance are critical yet challenging tasks. These include the need to have a clear jurisdiction of power boundaries, robust legal frameworks, and a precise scope of authority to enhance the functionality and economic impact of SEZs.<sup>20</sup> Environmental issues are among matters most pressing in developing countries, where weak regulations lead to potential negative impacts of SEZs. Similarly, in the South China Coastal Zone, SEZs have led to the loss of arable land due to rapid industrial development.<sup>21</sup> This is compounded by contradictory policies that promote land development while aiming at land conservation, resulting in inefficient land use. Moreover, the existing land disposition system faces significant challenges in effectively monitoring and managing changes in land use.

In the Malaysian context, SEZs are primarily governed by the Free Zones Act 1990 (Act 438) (FZA), which focuses mainly on taxation matters rather than a comprehensive regulatory framework. Details on the FZA have been discussed in subsection 2.4.1. Additionally, some economic zones in Malaysia operate under the Licensed Manufacturing Warehouse (LMW) concept, which shares similarities with the FZA but differs in implementation. Details of the LMW have been explored in subsection 2.4.1.3.

However, despite the presence of these regulatory instruments, Malaysia lacks a dedicated and comprehensive legal framework specifically designed for SEZ governance. This issue is particularly evident in the case of SBEZ BKH, where no

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<sup>20</sup> Mengxin Tang, The Path to Optimize the Authorized Legislative Power of Special Economic Zones, *Arts, Culture and Language* 1, no. 5 (February 19, 2024), <https://www.deanfrancispress.com/index.php/al/article/view/347>.

<sup>21</sup> C. Cartier, “Zone Fever”, the Arable Land Debate, and Real Estate Speculation: China’s Evolving Land Use Regime and Its Geographical Contradictions, *Journal of Contemporary China* 10, no. 28 (2001): 445–469.

specific regulatory framework has been established beyond the existing taxation-related provisions. While the FZA and LMW regulate certain aspects of SEZs, they do not address land development, urban planning, or the unique regulatory needs of border economic zones.

This regulatory gap presents significant challenges in terms of investment facilitation, legal clarity, and long-term SEZ development, particularly for SBEZ BKH. In the absence of a dedicated legal structure, SEZs in Malaysia operate under fragmented policies, limiting their potential to drive economic growth and strengthen regional economic integration. A more structured legal framework is necessary to ensure that SEZs, particularly border economic zones, can function effectively as strategic economic hubs.

In summary, bureaucratic challenges within the SEZ framework and policies in Malaysia remain significant and multifaceted. Inefficiencies in administrative structures, overlapping jurisdictions, and inconsistent regulations continue to hinder the effective implementation and operation of SEZs. As highlighted in the discussion, the absence of a clear and comprehensive regulatory framework has resulted in fragmented governance, making it difficult to establish a consistent and efficient SEZ policy. To enhance the functionality and economic potential of SEZs in Malaysia, it is crucial to optimise legislative authority and strengthen governance mechanisms. Overcoming these challenges requires a holistic and structured approach that integrates clear regulatory frameworks, streamlined policy implementation, and effective institutional governance. By addressing these issues, Malaysia can ensure that SEZs, including SBEZ BKH, are better positioned to attract investment, promote economic growth, and contribute meaningfully to regional development.



### 1.3.2 Inefficiency of Development Control and Land Use Planning in SEZs

Effective land use planning and development control are essential in SEZs and SBEZ, in order to translate government strategies into actionable plans while ensuring compliance with policies. These practices align development with government direction and emphasise the importance of detailed land use planning in successfully establishing these zones.

In Yinchuan City, for example, SEZs are facing critical issues. The zones are not well-integrated with the spatial planning of the city, and there is a lack of consideration for the impact of zones on adjacent areas.<sup>22</sup> This has led to fragmented urban development, resulting in imbalances and inefficiencies in the area. Relying predominantly on income generated from land leasing fees can lead local authorities to prioritize projects that yield immediate financial returns. Unfortunately, this often comes at the expense of long-term sustainable planning. Consequently, industrial developments may be approved in areas originally designated for residential use, as these projects typically provide higher short-term revenue. This shift results in housing developments being pushed to the outskirts of urban areas, increasing the distance between residential neighborhoods and workplace locations. Such misalignment not only prolongs commuting times for residents but also contributes to inefficient land use and promotes urban sprawl.

In India, SEZs face significant challenges in their land use planning process whereby some of the acquired land is not being utilised accordingly. One major issue is real

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<sup>22</sup> Meng Wang, Aleksandra Krstikj, and Hisako Koura, The Potential of Special Zone Development as a Tool in Land-Use Control - a Case Study of Yinchuan City, Western China, *Journal of Asian Architecture and Building Engineering* 00, no. 00 (2020): 1–15, <https://doi.org/10.1080/13467581.2020.1799797>.

estate speculation, where the acquired land is diverted to real estate companies instead of being used for industrial development.<sup>23</sup> Meanwhile, the lack of a comprehensive land use policy leads to haphazard development and inefficient use of land resources. Premium agricultural land, which could be used for food production, is often converted for industrial purposes, negatively impacting food security.<sup>24</sup> Additionally, some of this land is left abandoned, resulting in the loss of valuable agricultural resources.

Meanwhile, in Malaysia, there is no specific framework guiding the land use planning and development control of SEZs and SBEZs. The establishment of economic zones primarily relies on existing land use planning regulations, without any distinctive approach tailored to their unique economic functions. While these areas are identified for economic development, their planning and regulatory mechanisms largely follow general industrial development guidelines rather than a structured SEZ-specific planning framework. For instance, industrial developments within economic zones are regulated under standard industry guidelines, without any special provisions to accommodate SEZ-specific needs, such as integrated logistics, cross-border trade infrastructure, or specialised workforce housing. This lack of differentiation limits the effectiveness of SEZs in achieving their intended economic objectives and reduces their competitiveness compared to international models where customised planning frameworks guide SEZ development.

The inefficiencies in land use planning and development control are not exclusive to SEZs but also affect major economic developments in Malaysia. Urban centres like

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<sup>23</sup> Sazzad Parwez, A Study on SEZ Implicated Land Acquisition and Utilisation, *International Journal of Development and Conflict* 6, no. 2 (2016): 136–153.

<sup>24</sup> Christine Bowers, SEZ or Land Grab, *World Bank Blogs*, last modified 2006, <https://blogs.worldbank.org/psd/special-economic-zone-or-land-grab> - Prime land refers to fertile and agriculturally valuable land. However, with this land being acquired for the construction of SEZs, the availability of prime land decreases, ultimately impacting food security.

Kuala Lumpur and large-scale projects such as Forest City in Johor, while not SEZs, illustrate the consequences of poor planning and oversight. The absence of a structured urban development framework in some areas has led to environmental risks, such as flooding due to excessive urbanisation and inadequate drainage infrastructure.<sup>25</sup> Additionally, weak planning controls have contributed to the underutilisation and abandonment of major projects, as seen in Forest City, which now struggles with low occupancy rates and financial instability.<sup>26</sup> Initially positioned as a high-end international investment hub, its isolated location, high property prices, and over-reliance on foreign investors have resulted in economic stagnation.<sup>27</sup> The challenges faced by Forest City highlight the importance of a well-structured planning and regulatory framework that ensures land development aligns with long-term economic viability rather than speculative real estate ventures. Without proper development control mechanisms, SEZs in Malaysia risk encountering similar land use inefficiencies, undermining their potential as strategic economic zones.

In the context of SEZ and SBEZ development in Malaysia, there is currently no specific legal precedent within planning law that directly addresses these zones. However, land use planning and development control remain crucial elements in ensuring that SEZs are developed in a sustainable, legally sound, and strategically

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<sup>25</sup> New Straits Time, KL Flash Flood: “Smart Tunnel Mitigated Situation,” *New Straits Time Online*, last modified 2020, accessed September 19, 2020, <https://www.nst.com.my/news/nation/2020/09/623896/kl-flash-flood-smart-tunnel-mitigated-situation>; New Straits Time, Flash Floods Hit Major KL Areas, *New Straits Time Online*, last modified 2020, accessed September 19, 2020, <https://www.nst.com.my/news/nation/2020/09/623528/flash-floods-hit-major-kl-areas>.

<sup>26</sup> Amir Yusof, “Deserted Ghost Town”: Johor Country Garden Condo Residents Concerned over Unfinished Projects amid China Developer’s Debt Crisis, *Channel News Asia*, August 23, 2023, <https://www.channelnewsasia.com/asia/johor-country-garden-forest-city-property-crisis-debt-china>.

<sup>27</sup> Lawrence, “Country Garden’s Financial Woes May Hit Malaysia Projects”. The development has faced numerous challenges, including administrative roadblocks, the impact of the COVID-19 pandemic, and investment restrictions imposed by Beijing. While initially drawing interest from Chinese nationals, the waning demand, compounded by the financial difficulties of Country Garden, the developer behind the project, has cast doubts on the future of Forest City.

planned manner. A significant case that underscores the importance of development control within Malaysia's planning law is *Sunrise Garden Condominium Management Corporation v Sunway City (Penang) Sdn Bhd & Ors and another appeal* [2023] 2 MLJ 621 (Federal Court, Putrajaya).<sup>28</sup> The case questioned the validity of planning approvals granted by local authorities for residential development on hillside land. The Federal Court found that the drafting, approval, and issuance of the Special Projects Guidelines contravened the express provisions of the Town and Country Planning Act 1976 (TCPA), revealing gaps in regulatory enforcement. Such deficiencies highlight the potential for irregularities in the planning process, which could impact the governance of economic zones, including the SBEZ. Weak development control and ineffective land use planning may result in insufficient environmental considerations, posing risks to fragile ecosystems in these regions.

This case involved the designation of hill land as a "special project" under the Penang State Structure Plan 2020, which raised legal debates over whether such classification allowed for exemptions from standard development restrictions. The Federal Court's findings underscored concerns about loopholes in planning regulations that could enable unregulated development under the justification of economic or strategic importance. The ruling reaffirmed the necessity of ensuring that development approvals remain consistent with statutory planning frameworks, preventing discretionary interpretations that might undermine established controls.

While this case does not directly pertain to SEZs, it provides critical insights into regulatory oversight for future SEZ and SBEZ developments in Malaysia. The

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<sup>28</sup> *Perbadanan Pengurusan Sunrise Garden Kondominium v Sunway City ( Penang ) Sdn Bhd & Ors and Another Appeal* [ 2023 ] 2 MLJ 621 (Federal Court, Putrajaya).

classification of an area as "special" should not serve as a basis for circumventing planning regulations or allowing unregulated economic expansion. Ensuring legally compliant and environmentally responsible SEZ development requires strict adherence to planning laws and regulatory frameworks. This case reinforces the need for transparent governance, clear legal guidelines, and structured development control mechanisms, particularly in areas with environmental and economic sensitivities.

For SEZs and SBEZ, where large-scale industrial and commercial developments are expected, strict land use planning is necessary to prevent conflicts, ensure efficient infrastructure allocation, and minimise environmental impact. Without a clear and enforceable planning framework, SEZs risk becoming poorly regulated zones where ad-hoc decision-making leads to inefficient land use, legal disputes, and long-term economic instability. This case serves as a reminder that robust development control mechanisms must be in place to guide future SEZ developments, ensuring that economic expansion is balanced with legal, environmental, and social considerations.

### **1.3.3 The Effects of Environmental and Socio-Economic Concerns in SEZs and SBEZ**

Development spillover in SEZs and SBEZs refers to unintended consequences affecting areas beyond these zones, ranging from ecological to socio-economic impacts.<sup>29</sup> With SEZs often spanning vast areas, these spillover effects, including environmental challenges like pollution, land degradation, and social impacts on community well-being, become critical to sustainable development.<sup>30</sup> This discussion

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<sup>29</sup> Michael Levien, The Land Question: Special Economic Zones and the Political Economy of Dispossession in India, *Journal of Peasant Studies* 39, no. 3–4 (2012): 933–969; Meir Alkon, Do Special Economic Zones Induce Developmental Spillovers? Evidence from India's States, *World Development* 107 (2018): 396–409, <https://doi.org/10.1016/j.worlddev.2018.02.028>.

<sup>30</sup> Bhushan Vidya Rawat, Mamidi Bharath Bhushan, and Sujatha Surepally, The Impact of Special Economic Zones in India: A Case Study of Polepally SEZ, Paper Presented at the International

focuses on highlighting these impacts, vital for understanding their influence on the success and social acceptance of SEZs and SBEZ.

The impact of the industrial development from SEZs can be seen from a few examples. For instance, rapid development in Vietnam's Hai Phong SEZ has led to significant environmental issues such as pollution and biodiversity loss.<sup>31</sup> Also, flooding is another frequent challenge, illustrated by the Manhattan SEZ in Cambodia, which allegedly disrupted local water drainage systems, affecting nearby roads and rice fields.<sup>32</sup> Meanwhile, Chennai's DLF Technology Park faced severe flooding during heavy rains, necessitating employee evacuations and disrupting normal operations.<sup>33</sup> Additionally, the Tak SEZ, Thailand, presents a stark example of climate-related vulnerabilities; situated in an area already prone to seasonal water shortages and droughts, the zone also grapples with flooding during the rainy season.<sup>34</sup> Further, in Malaysia itself, incidents such as the dumping of chemical waste in Pasir Gudang's Kim-Kim River and river pollution in the Klang Valley are among the badly controlled effects of this industrial development.<sup>35</sup>

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Conference on Global Land Grabbing, 2011; Muhammad Mohiuddin et al., The SEZ as a Locomotive for Green Development in China, *Asian Social Science* 10, no. 18 (2014): 109–121.

<sup>31</sup> World Bank, *Environmental Impact Assessment : Bac Son – Nam Hai Arterial Road, Haiphong, Vietnam.*, 2010.

<sup>32</sup> Bun Sengkong and Andrew Nachemson, Svay Rieng SEZ Blockage Causing Flooding, *The Phnom Penh Post*, October 11, 2023, <https://www.phnompenhpost.com/national/svay-rieng-sez-blockage-causing-flooding-pol>.

<sup>33</sup> Mayura Akilan, Rumors Spread That Many People Were Killed in DLF Campus: Police Probed for 5 Hours, *One India Tamil*, December 11, 2015, <https://tamil.oneindia.com/news/tamilnadu/chennai-sez-still-battling-clear-22-acre-3-level-basement-242002.html>.

<sup>34</sup> Saniwan Buaban et al., International Journal of Sustainable Development and Planning Exploring the Factors Associated with Climate-Related Issues in a Special Economic Development Zone: Application of a DPSIR Framework 16, no. 8 (2021): 1529–1540.

<sup>35</sup> See Irini Ibrahim, Khor Poy Hua, and Sodiq Omoola, Corporate Environmental Responsibility in Malaysia and India: A Preliminary Analysis, *Environment-Behaviour Proceedings Journal* 4, no. 11 (2019): 195; Berita Harian, Kadar Pencemaran Sungai Kim Kim Terlalu Tinggi, *Berita Harian*, 2019, <https://www.bharian.com.my/berita/kes/2019/09/609120/kadar-pencemaran-sungai-kim-kim-terlalu-tinggi>; New Straits Time, Selangor Sultan Disappointed over Water Supply Disruptions, *New Straits Time Online*, last modified 2020, accessed October 20, 2020, <https://www.nst.com.my/news/nation/2020/10/633649/selangor-sultan-disappointed-over-water->

Beyond environmental concerns, border zones play a crucial role in shaping the impact of SEZ-led development, particularly in regions like the Pearl River Delta. Shenzhen, which borders Hong Kong, has emerged as the economic centre of the region, benefiting from cross-border trade, investment, and workforce mobility. However, this dominance has created uneven development patterns, placing neighbouring cities such as Dongguan and Huizhou under increasing pressure.<sup>36</sup> The rising demand for housing in these border areas has contributed to escalating property prices, forcing local residents out while accommodating a growing commuter workforce. At the same time, transportation networks and public services struggle to keep pace with urban expansion, leading to overburdened infrastructure and long commuting times for workers crossing municipal borders.<sup>37</sup> Although subway extensions and transit improvements have been introduced to ease congestion, the overreliance on Shenzhen's economy makes it difficult for border cities to develop independent economic identities. Without balanced regional planning, these border areas risk long-term economic disparities, as well as environmental and infrastructural strain, limiting their potential as sustainable growth centres.

These issues underline the importance of comprehensive planning in SEZs to address both immediate safety and logistical concerns, as well as long-term environmental sustainability. Md Dahlan's research on flood management underscores the importance of comprehensive input from planning authorities and technical agencies in crafting

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supply-disruptions. The case of the Kim-Kim River had a significant impact on the surrounding area, where river pollution led to water contamination. Several schools had to close, and many local residents were affected by the pollution. Meanwhile, in the Klang Valley, numerous areas faced a water supply crisis due to river pollution, resulting from the discharge of toxic waste into the river and the development of illegal factories along its banks.

<sup>36</sup> Han Bao et al., Estimation of Economic Spillover Effects under the Hierarchical Structure of Urban Agglomeration Based on Time-Series Night-Time Lights: A Case Study of the Pearl River Delta, China, *Remote Sensing* 16, no. 2 (2024): 1–18.

<sup>37</sup> Ibid.

informed decisions.<sup>38</sup> In the context of SEZs, planning cannot be confined merely to the zone itself but must extend to the broader regional implications, capturing the spillover effects that the zone generates.

To the best of the researcher's knowledge, there are no specific legal cases directly related to land development issues in SEZs and SBEZs in Malaysia. However, the case of *Bencon Development Sdn Bhd V Majlis Perbandaran Pulau Pinang & Ors* [1999] 2 MLJ 385 (High Court of Malaya, Penang) provides a close example. This case shows how local planning authorities handle the broader impacts of development projects, such as traffic congestion from high-density developments that will affect the surrounding area as well.<sup>39</sup>

The primary gap revealed by these issues is the mismatch between the economic goals of SEZs and SBEZs and their actual impact on nearby areas. These zones prioritize short-term economic gains over long-term sustainability and community well-being.<sup>40</sup> The application of laws often favours immediate development interests over regional welfare, creating a governance dilemma.<sup>41</sup> Addressing these challenges requires a shift in governance and planning models to align immediate economic benefits with long-

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<sup>38</sup> Nuarrual Hilal Md Dahlan, Flood Disasters At Housing Areas In Malaysia: A Planning Law Perspective, *INSAF - The Journal Of The Malaysian Bar* 39, no. 2 (2022): 263–290.

<sup>39</sup> *Bencon Development Sdn Bhd V Majlis Perbandaran Pulau Pinang & Ors* [1999] 2 MLJ 385 (High Court of Malaya, Penang); Ainul Jaria Maidin and Abdulkadir Bolaji Abdulkadir, Resolving Disputes Arising from Land Development and Environmental Degradation in Malaysia: Proposals for Reforms, *The Law Review* (2012): 75–117. The plaintiff sought planning permission for a multi-block development, but was required by the local authority to expand an off-site bridge on state land, leading to legal challenges. This highlights the complexities of managing infrastructural spillover effects beyond designated economic areas. The case emphasises the "duty to act fairly and reasonably" in planning decisions, particularly in the context of assessing broader societal impacts. Such decisions raise questions about the fairness of imposing additional burdens on developers for off-site infrastructure improvements.

<sup>40</sup> Fitri Rahmafitria, Heru Purboyo, and Arief Rosyidie, Agglomeration in Tourism: The Case of SEZs in Regional Development Goals, *MIMBAR : Jurnal Sosial dan Pembangunan* 35, no. 2 (2019): 342–351.

<sup>41</sup> Jiabo Xu and Xingping Wang, Reversing Uncontrolled and Unprofitable Urban Expansion in Africa through Special Economic Zones: An Evaluation of Ethiopian and Zambian Cases, *Sustainability (Switzerland)* 12, no. 21 (2020): 1–20.



term environmental and social responsibilities. Establishing robust, transparent, and sustainable governance mechanisms is crucial for the viability and acceptance of these economic zones.

#### **1.3.4 The various conflicting agencies at different levels of government**

In the governance of SEZs, the involvement of multiple regulatory bodies at federal, state, and local levels presents a complex scenario. Each agency, with its distinct jurisdictional roles and responsibilities, contributes to a multifaceted governance structure. However, this often leads to overlapping administrative functions, resulting in conflicts, misunderstandings, and a general lack of coordination.<sup>42</sup> Such inter-agency tensions significantly impair the effectiveness of SEZs, introducing inefficiencies in critical areas like land use planning, environmental management, and socio-economic development. Understanding and addressing these conflicts is crucial for the smooth operation and success of SEZs.

One of the governance issues in SEZs is the conflicting agendas of the political elites. Some of them aim to push for radical changes to spur economic growth through the establishment of SEZs while some want to preserve the existing system.<sup>43</sup> This conflict is evident in African nations attempting to emulate China's SEZ model, where the initiative has largely been unsuccessful due to these conflicting elite interests.<sup>44</sup> Such conflicts at the central level hinder effective decision-making and complicate the governance of SEZs, making it difficult to coordinate strategies across different authorities. Additionally, some policymakers might influence SEZ decisions to bolster

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<sup>42</sup> Sara Curran et al., *The Impacts of Special Economic Zones*, 2009; Farole and Moberg, *Special Economic Zones in Africa: Comparing Performance and Learning from Global Experience*.

<sup>43</sup> Lotta Moberg and Vlad Tarko, Why No Chinese Miracle in Africa? Special Economic Zones and Liberalisation Avalanches, SSRN Electronic Journal (2014).

<sup>44</sup> Ibid.

their political image or for personal gain.<sup>45</sup> Levien's study in India illustrates these conflicts across various government levels, from local to federal, complicating the development process designated for SEZs.<sup>46</sup> These dynamics highlight the challenge of aligning political objectives with the successful implementation of SEZ policies.

Further, in the Malaysian context, the development of Kedah Aerotropolis (KXP) in Kulim gives an insight into the multiple government levels and agencies, leading to potential conflicts.<sup>47</sup> This was particularly evident in Malaysia after the 14th General Election, where conflict between differing political parties at the state and federal levels, specifically in Kedah, and the federal government, led to governance misalignment. This misalignment has impeded the smooth progress of the SBEZ, with media reports highlighting stark contradictions in the development approvals for projects like the KXP. Differing political ideologies and priorities underline the necessity for a more integrated and collaborative approach to managing SBEZ development effectively.

The development of Special Economic Zones (SEZs) in Malaysia, such as the Kedah Aerotropolis (KXP) in Kulim, illustrates the complexities and conflicts that arise from the involvement of multiple government levels and agencies. These conflicts often stem from overlapping jurisdictions, political differences, and competing development priorities between federal, state, and local authorities.

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<sup>45</sup> Levien, "The Land Question: Special Economic Zones and the Political Economy of Dispossession in India."

<sup>46</sup> Ibid.

<sup>47</sup> Rarrence Tan, Martin Carvalho, and Gerard Gimino, Don't Politicise Kedah Aerotropolis Issue, Says Transport Minister, *The Star Online*, March 20, 2023, <https://www.thestar.com.my/news/nation/2023/03/20/don039t-politicise-kedah-aerotropolis-issue-says-transport-minister>.

A prominent example emerged following Malaysia's 14th General Election, where a shift in political power exposed deep-seated tensions between the Kedah state government and the federal administration. Kedah, under the leadership of a Perikatan Nasional (PN)-led state government, faced resistance from the federal government, which was under a Pakatan Harapan (PH)-Barisan Nasional (BN) coalition.<sup>48</sup> This misalignment became evident in the handling of the KXP project, with conflicting approvals and contradictory public statements reflecting the lack of coordination. For instance, while the Kedah state government championed the economic benefits of the aerotropolis, the federal government withheld project approvals, citing the need for comprehensive studies through the National Airport Strategic Plan (NASP).<sup>49</sup>

The jurisdictional overlap also extends to environmental and land use planning authorities. State agencies in Kedah have pushed forward project proposals without full alignment with national environmental bodies, such as the Department of Environment (DOE).<sup>50</sup> This resulted in environmental concerns about the potential impact on Sungai Muda, a key water source for Penang, which triggered objections from the Penang state government. The differing priorities between Kedah and Penang further highlight inter-state conflicts, complicating project timelines and creating regulatory bottlenecks.

Additionally, land acquisition processes illustrate the fragmented governance structure. Federal agencies such as the Department of Lands and Mines (JKPTG) and

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<sup>48</sup> Roslinda Hashim, Jangan Halang "The Greater Kedah," *Sinar Harian Online*, April 20, 2023, <https://www.sinarharian.com.my/article/255377/edisi/utara/jangan-halang-the-greater-kedah---sanusi>.

<sup>49</sup> Ahmad Mukhsein Mukhtar, Sanusi: Transport Ministry Statement Negates Earlier Claim That Kedah Never Submitted Application for KXP, *New Straits Times*, July 2, 2023, <https://www.nst.com.my/news/nation/2023/07/926525/sanusi-transport-ministry-statement-negates-earlier-claim-kedah-never>.

<sup>50</sup> Ibid.

the Economic Planning Unit (EPU) play pivotal roles in granting approvals, but state governments maintain control over land matters.<sup>51</sup> In the case of KXP, delays in land acquisition stemmed from bureaucratic hurdles, with the Kedah government attributing slow progress to federal-level decision-making. This tug-of-war underscores the need for clearer delineation of authority and better communication channels between state and federal agencies.

Political ideologies further exacerbate these conflicts. The Kedah government's development agenda prioritizes SEZs as a catalyst for economic growth and regional competitiveness. However, the federal government may focus on balancing national development across states, sometimes sidelining projects in opposition-led states. This politicisation of development initiatives hinders the seamless execution of large-scale SEZ projects, creating uncertainty for investors and delaying infrastructure advancements.

A notable example which highlights potential conflicts in decision-making power is the case *Perbadanan Pengurusan Sunrise Garden Kondominium v Sunway City (Penang) Sdn Bhd & Ors and another appeal* [2023] 2 MLJ 621 (Federal Court, Putrajaya), involving development in a hilly area.<sup>52</sup> Section 22(2A)(c) of the TCPA specifies that developments affecting hilltops or slopes in environmentally sensitive areas must seek advice from the National Planning Physical Council (NPPC). However, FCJ Nalini, in this case, pointed out that the intended three-tiered function,

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<sup>51</sup> Ibid.

<sup>52</sup> *Perbadanan Pengurusan Sunrise Garden Kondominium v Sunway City (Penang) Sdn Bhd & Ors and Another Appeal* [2023] 2 MLJ 621.

serving as a check and balance in the planning process, was not effectively applied in this case.

“The three-tiered process provided by the TCPA and structure plan was effectively negated and replaced with a one-step process: in the context of development affecting hill slopes, **the decision lay only with the local planning authority without any further checks and balances provided by a State- level or Federal-level body. This is evidently contrary to the provisions of the TCPA and its object and purpose of ensuring integration between Federal and State as to town and country planning,** as well as environmental protection.” (emphasis added)

To ensure the successful implementation of the SBEZ BKH, effective coordination and cooperation among related parties is very important. This collaboration is vital not only for managing the physical aspects of development but also for resolving potential conflicts due to contradictory guidance from different related entities involved. Poor interdepartmental coordination often leads to late objections and complications that can delay the process. Additionally, different interpretations of authority between different agencies can add further complexity to the development process. Effective communication and a unified vision are essential to streamline the development of SBEZ BKH, maximizing its economic potential and achieving sustainable growth and regional integration. Conflicts among political elites and decision-making challenges at the each level must be addressed to facilitate smooth implementation of SEZs and SBEZs.

### 1.3.5 Complexities of land utilisation in SEZs and SBEZ

SEZs rely on designated parcels of land for their development and success. Therefore, the allocation, management, and utilisation of these lands are crucial. This sub-section explores the complex issue of land use within SEZs globally, including challenges, complexities, and potential solutions for responsible and equitable land management. Land acquisition poses significant challenges given the extensive development needs of SEZs, often requiring multiple owners. This raises questions about its efficacy and adherence to appropriate procedures.

These challenges have been evident internationally. In India, the Nandigram SEZ in West Bengal gained notoriety for violent protests due to forced land acquisitions without local consent.<sup>53</sup> Tragically, this led to casualties during police actions in 2007. Similarly, in China, the Wukan incident highlighted disputes over inadequate compensation for seized lands, resulting in significant unrest and subsequent concessions from the government.<sup>54</sup>

Another crucial aspect of land acquisition for SEZs is the use of prime agricultural land, which can undermine food security and economic equity. For example, in India, converting approximately 200,000 acres of fertile land could potentially impact the

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<sup>53</sup> Sayoni Bose, Attachment to Place and Territoriality in Nandigram Land Struggle, India, *Human Geography*(United Kingdom) 13, no. 2 (2020): 139–153; Somini Sengupta, Indian Police Kill 11 at Protest Over Economic Zone, *The New York Times*, last modified 2007, <https://www.nytimes.com/2007/03/15/world/asia/15india.html>; Alope Banerjee, No SEZ at Nandigram Says Buddhadeb, *Hindustan Times*- In 2007, the proposed Nandigram SEZ in India, planned as a chemical hub, faced severe opposition leading to widespread protests orchestrated by the Bhumi Uchhed Pratirodh Committee (BUPC). The protesters blocked access to the area from January to March, resulting in violent clashes that tragically saw 14 fatalities due to police action. The sustained resistance forced the state government to cancel the SEZ project in early March 2007.

<sup>54</sup> Deal in China Rebel Village Wukan Welcomed, *BBC News*, <https://www.bbc.com/news/world-asia-china-16297463> - Villagers in Wukan, Guangdong, protested for months against officials they accused of selling land without fair compensation, culminating in heightened tensions after a negotiator's death in custody. The dispute led to a frozen land deal and prompted an investigation, emphasizing the need for better regulatory measures.

production of over 1 million tons of food grains. In addition, converting prime agricultural land for industrialisation does not always lead to equitable development, as farmers may not easily transition to the jobs offered within the SEZs<sup>55</sup>. This situation highlights the potential risks associated with developing SEZs on prime agricultural land and the importance of considering the implications for food production and security and employment of non-farm skills.

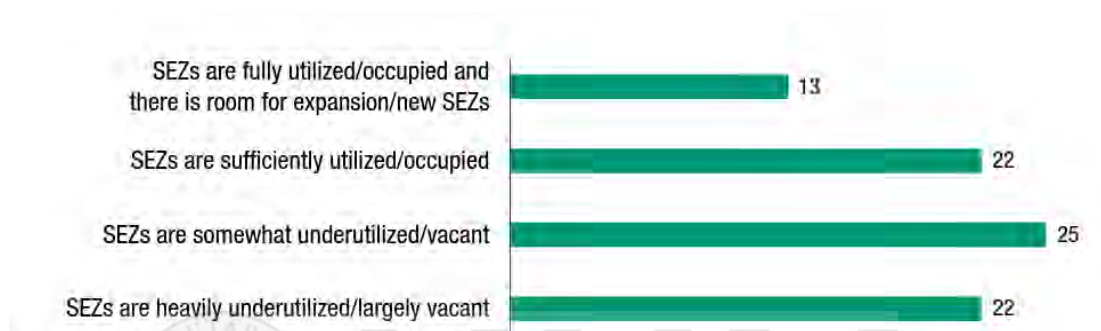


Figure 1-2 Utilisation of SEZs worldwide<sup>56</sup>

The World Investment Report 2019 as in Figure 1-2 above highlights a significant issue with over forty (40) SEZs globally being underutilised.<sup>57</sup> The data reveals that 47 SEZs are either somewhat underutilised (25) or heavily underutilised/largely vacant (22), indicating that a substantial proportion of these zones fail to achieve their intended economic objectives. Meanwhile, only 35 SEZs appear to be effectively functioning, with 22 SEZs sufficiently utilised and 13 fully occupied with room for expansion. This imbalance raises concerns about the effectiveness and sustainability of SEZs as a policy tool for economic development. For instance, in India, many SEZ projects have been abandoned, leading to wasted land, underutilised infrastructure, and

<sup>55</sup> Rawat, Bhushan, and Surepally, *The Impact of Special Economic Zones in India : A Case Study of Polepally SEZ*.

<sup>56</sup> United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*.

<sup>57</sup> Ibid.

missed economic opportunities.<sup>58</sup> The high rate of underutilisation suggests that many SEZs face structural, regulatory, or market-related challenges, making it crucial to reassess their planning, governance, and long-term viability.

Meanwhile, in Malaysia, there are land valuation issues, for example what happened in Penang.<sup>59</sup> Here, the recent sale of land in Batu Kawan Industrial Park 2 by the Penang Development Corporation (PDC) was priced at RM26.53 per square foot, significantly lower than the market value of approximately RM80 per square foot in the surrounding areas.<sup>60</sup> The state authority heavily influences PDC's decision-making,<sup>61</sup> making this undervaluation not only a loss of potential revenue for the state but also a matter that seriously erodes public trust in the regulatory frameworks surrounding SEZs. Such a lack of transparency is deeply disturbing, not just for the credibility of SEZs but also the potential breaches of regulatory oversight by states which are the governing authorities on land matters.<sup>62</sup>

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<sup>58</sup> Sazzad Parwez, A Study on SEZ Implicated Land Acquisition and Utilisation, *International Journal of Development and Conflict* 6, no. 2 (2016): 136–153. A primary reason for this is the absence of investors, often attributed to inadequate land use planning for these economic zones. Lands initially acquired for SEZs under "public purpose" are often left unused, then denotified or degazetted. Furthermore, the audit report on Indian SEZs indicates that not all acquired lands are officially designated as SEZs. A portion of this degazetted land is diverted for commercial use, allowing developers to profit from low acquisition costs by selling the land at higher market prices after development, circumventing the SEZ framework.

<sup>59</sup> MalayMail, Sunway: Market Price of BKIP2 Land Area Ranges from RM21-RM35 per Sq Ft, October 5, 2023.

<sup>60</sup> Sangeetha Amarthalingam, Suspend BKIP2 Land Sale to Sunway-Umech Indefinitely — P Ramasamy, *The Edge Malaysia*, October 10, 2023, <https://theedgemalaysia.com/node/685504>. Historical data shows that the land was valued at around RM45 per square foot ten years ago, even when it was swampy.

<sup>61</sup> Nuarrual Hilal Md Dahlan, Legal Issues in The Alienation of Lands for Housing Development Projects in Malaysia, *Malayan Law Journal* 6 (2012): 41–63 - This is similar to the case study presented by the author, where the decision-making of the State Economic Development Corporation (SEDC)—in this context, PDC—is influenced by the State Authority (State Exco) as well. The decisions or directions of the SEDC are subject to the State Authority's direction. Similarly, the actions taken by the SEDC are also bound by the directions of the Chief Minister and the Exco.

<sup>62</sup> In the context of Malaysia, the authority over land matters lies with the State Authority, as stipulated in List II (2)(a) of the Ninth Schedule of the Federal Constitution. According to Section 5 of the National Land Code, the term "State Authority" refers to the Ruler or Governor of the State. In practical terms, this means that the Ruler acts upon the recommendation of the Exco (Executive Council), which has the authority to decide land-related matters, including land alienation under the National Land Code.



Another case highlights the negligence of state authorities in the land alienation process, which was intended to attract more investment. This case underscores how state authorities, vested with the power to alienate land, can fail to exercise due diligence, leading to significant issues for private investors. The case of *Hartalega Sdn Bhd & Anor v. Kerajaan Negeri Selangor & Ors* [2022] 7 CLJ 735 (High Court of Malaya, Shah Alam) illustrates negligence in land alienation processes for private investments.<sup>63</sup> Hartalega, as the plaintiff in this case, planned to expand its rubber glove factory and obtained state approvals for constructing a pump house and water intake facility. This was later approved by the state in the spirit of attracting investment. However, it was later discovered that the said land for the said structures was already designated for a major expressway. This oversight necessitated costly relocations and rebuilding, leading to significant financial losses for Hartalega. The plaintiffs argued that the State Government and land office were negligent in their duty of care by not ensuring the land was free from conflicting uses. The High Court found the State Government and land office liable for the plaintiffs' damages, highlighting the critical need for due diligence in land allocation for private sector growth.

Hence, land-related issues are central to SEZ and SBEZ development, as they shape the physical growth of these zones. Given their large scale, land acquisition is often needed—either upfront or during expansion. The real concern is whether such acquisitions are justified and whether the land is put to proper use. Cases of idle, undeveloped land point to serious inefficiencies. In the drive to attract investment, decision-makers must carry out careful due diligence. Poorly assessed projects risk

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The State Authority possesses absolute power to carry out the land alienation process as outlined in Section 76 of the National Land Code.

<sup>63</sup> *Hartalega Sdn Bhd & Anor V. Kerajaan Negeri Selangor & Ors* [2022] 7 CLJ 735 (High Court of Malaya, Shah Alam).

financial loss, environmental harm, and eroded public trust. Responsible and equitable land governance is therefore essential.

In line with this, the thesis explores regulatory and planning challenges affecting SEZ development, focusing on how land use planning is integrated in SBEZs. It addresses zoning flexibility, land use improvement, and related issues. Drawing from local and international practices, the research aims to develop a framework that strengthens planning and management in SEZs and SBEZs, ensuring sustainability, economic soundness, and social fairness.

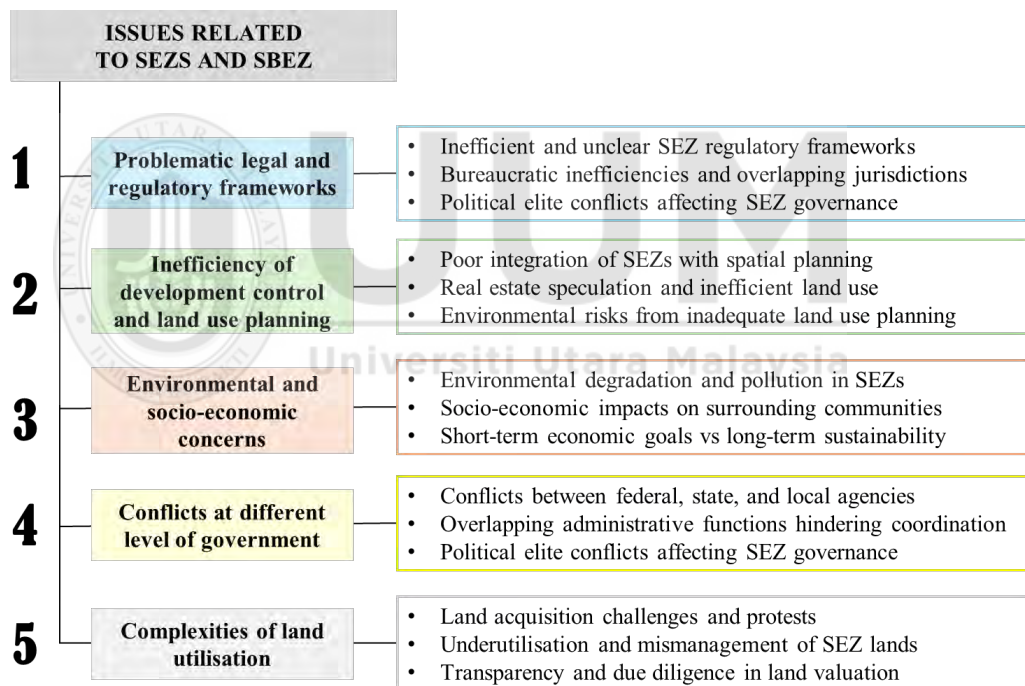


Figure 1-3 Summary of Issues Related to SEZs and SBEZ

#### **1.4 Research Questions**

The research questions below are designed to guide the investigation into the development, governance, and regulatory challenges of SEZs, with an emphasis on land use planning practices and their implications for the SBEZ BKH.

- 1) How have the historical developments and key characteristics of SEZs in Malaysia, in general, and the SBEZ, in particular, contributed to economic growth?
- 2) How do the historical, current, and potential legal issues affecting land use planning practices in Malaysia impact the development and regulation of SEZs in general, and the SBEZ in particular?
- 3) How do the governing frameworks and regulations relating to land use planning become applicable to the SBEZ BKH and what key challenges may hinder its development?
- 4) How do the land use planning and regulatory practices in SEZs in Penang and Johor, and international examples from Singapore and the UK, address the identified challenges, and what lessons can be learned?
- 5) What potential improvements and recommendations can be proposed to enhance the regulatory and land use planning framework for SEZs in Malaysia, particularly in the context of the SBEZ?

## **1.5 Research Objectives**

The following objectives have been formulated to address the research questions, guiding the exploration of land use planning and regulatory frameworks in SEZs, with a particular focus on the SBEZ BKH.

- 1) To analyse the historical developments and key characteristics of SEZs in Malaysia, with a particular focus on the SBEZ, and evaluate their contributions to economic growth.
- 2) To examine the historical, current, and potential legal issues affecting land use planning practices in Malaysia and assess their impact on the development and regulation of SEZs in general, and the SBEZ in particular.
- 3) To investigate the governing frameworks and regulations applicable to the SBEZ BKH and identify the key issues that hinder its development.
- 4) To evaluate land use planning and regulatory practices in SEZs in Penang and Johor, as well as in international examples from Singapore and the UK, and derive lessons to address the identified challenges.
- 5) To propose improvements and recommendations for enhancing the regulatory and land use planning framework for SEZs in Malaysia, particularly with regard to the SBEZ.

### **1.6 Significance of the study**

The development of Special Economic Zones (SEZs) requires a well-structured planning framework that integrates both economic and physical planning. While economic planning focuses on investment policies, financial incentives, and industrial development strategies, physical planning is concerned with land use allocation, infrastructure provision, zoning regulations, and environmental sustainability. The success of an SEZ depends on the effective coordination of these two planning dimensions. However, in many cases, including in Malaysia, SEZ policies are largely shaped by economic planning, while physical planning considerations remain underdeveloped or inconsistently applied. This disconnect can lead to inefficient land use, infrastructure deficits, regulatory ambiguities, and long-term sustainability challenges.

Inefficiencies in physical planning—such as poor land use management, inadequate infrastructure, and environmental neglect—can significantly undermine the potential of SEZs. Traffic congestion, spatial mismanagement, and resource depletion are common challenges in SEZs that lack a strong physical planning framework. Addressing these issues through reactive policy interventions can be costly and inefficient. Instead, a proactive approach that integrates clear land use regulations, development control mechanisms, and zoning strategies is crucial to ensuring the long-term functionality and sustainability of SEZs.

This study specifically examines the gaps in physical planning policies and regulatory frameworks that impact SEZs, with a particular focus on SBEZ BKH. While Malaysia's current SEZ framework prioritises economic incentives such as tax reliefs and investment benefits, it lacks a dedicated legal and planning structure for land use

governance, infrastructure planning, and environmental considerations. This absence of a comprehensive regulatory framework creates challenges in achieving coordinated and sustainable spatial development, which can result in fragmented land use, regulatory uncertainty, and inefficient allocation of economic activities within SEZs.

By analysing global best practices and identifying planning and implementation challenges, this research aims to provide policy recommendations that strengthen land use governance in SEZs. The study's findings will support improved development control mechanisms, ensuring that SBEZ BKH evolves into a well-planned, strategically structured, and functionally efficient border economic zone. These recommendations align with the Kubang Pasu Local Plan, Kedah State Structure Plan, and NCER Blueprint 2.0 (2016–2025), ensuring that land use planning for SEZs is effectively integrated within Malaysia's broader urban and economic development strategies.

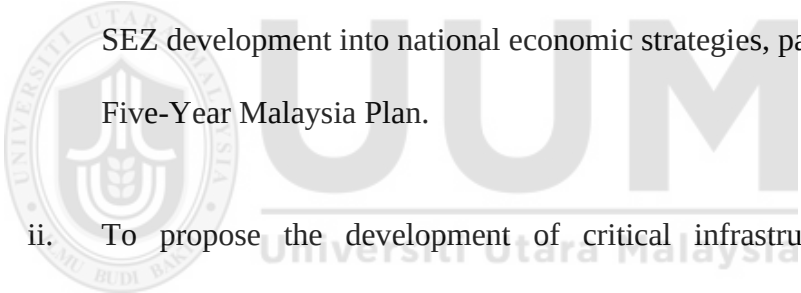
Beyond its policy and economic implications, this research has broader societal benefits. Well-planned SEZs contribute to job creation, improved infrastructure, and enhanced living conditions for local communities. Ensuring that SEZs are efficiently and sustainably developed can expand economic opportunities for businesses and residents while also reducing environmental risks and improving urban livability.

From an academic perspective, this study contributes to the body of knowledge on SEZ development, land use planning, and regulatory frameworks by offering a comparative analysis of international SEZ models to identify best practices applicable to Malaysia. By examining legal and planning challenges specific to SBEZ BKH, this research lays the foundation for future studies in spatial planning, economic

geography, and governance within SEZs. Scholars in urban planning, law, and economic development can utilise these findings to refine land use planning mechanisms, ensuring that SEZs and border zone economies remain aligned with national and global economic shifts.

The anticipated outcomes of this research will be beneficial to government agencies and industry stakeholders involved in SEZ development, particularly in land use planning and regulatory governance, as follows:

### **1) Economic Planning Unit**

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- i. To highlight the importance of integrating infrastructure planning for SEZ development into national economic strategies, particularly in the Five-Year Malaysia Plan.
  - ii. To propose the development of critical infrastructure, such as transportation networks, utilities, and digital connectivity, to support the sustainable growth of SEZs.
  - iii. To ensure that land use planning considerations are incorporated into economic planning frameworks, enabling SEZs to function efficiently as strategic economic hubs.

### **2) Malaysian Investment Development Authority**

- i. To support the creation of investor-friendly regulatory frameworks that facilitate ease of doing business through efficient land allocation, streamlined approvals, and well-planned industrial ecosystems.

- ii. To recommend investment-friendly land use policies, such as customised industrial zones, commercial clusters, and logistics hubs, that cater to high-value industries within SEZs.

### **3) PLANMalaysia**

- i. To provide technical input and policy recommendations for the establishment of SEZ-specific planning guidelines, ensuring that land use and spatial planning considerations align with national development goals.
- ii. To contribute to the National Physical Plan Council (NPPC) by integrating SEZ land use policies within the broader National Physical Plan (NPP) framework, ensuring coordinated spatial development at the national, regional, and local levels.
- iii. To strengthen development control mechanisms for SEZs by refining zoning regulations, land use classifications, and infrastructure planning in collaboration with local and regional planning authorities.

### **4) Local planning authority/Free Zone Authority/Economic Development Region Authority**

- i. To improve the efficiency and effectiveness of the existing planning system by enhancing One Stop Centres (OSCs) to streamline development approvals, land use applications, and investment-related processes for SEZs.



- ii. To ensure that SEZ-related land use policies and development requirements are effectively incorporated into Local Plans, Special Area Plans (SAPs), and Economic Corridor Blueprints, addressing infrastructure needs, environmental considerations, and spatial integration.
- iii. To facilitate better coordination between economic development agencies and planning authorities, ensuring that SEZs are developed in a way that balances investment facilitation, regulatory compliance, and sustainable urban planning.

### **1.7 Research Scope**

This study has a specific focus on the Land Use Planning Legal and Regulatory Framework within the SBEZ BKH in Malaysia, aiming to comprehensively address the research objectives. The research scope is limited to the specific aspects outlined in the research topic, with a primary emphasis on land use planning and its associated legal frameworks. Specifically, the study examines the implementation of 'Development Plans' under Part III and the regulatory activities of 'Development Control' outlined in Part IV of the Town and Country Planning Act 1976 within the context of SBEZ BKH. These planning activities are carried out by the local governments established under the Local Government Act 1976 (Act 171).

The primary objective of the research is to investigate the legal considerations related to land use planning within the SBEZ BKH. This analysis involves a thorough examination of statutory provisions and relevant planning law cases relevant to land use planning. The study is grounded in two key statutes that formed the basis for the

analysis, along with several supplementary laws. For further details on these Acts, refer to Table 1.1.

*Table 1-1*  
*Related Statutes*

| <b>Main Statute</b>                              | <b>Ancillary Statutes</b>                            |
|--------------------------------------------------|------------------------------------------------------|
| 1) Town and Country Planning Act 1976 (Act 172). | 1) Federal Constitution                              |
| 2) National Land Code 1965 (Act 56 of 1965);     | 2) Federal Territory (Planning) Act 1982 (Act 267)   |
|                                                  | 3) Local Government Act 1976 (Act 171).              |
|                                                  | 4) Street, Drainage and Building Act 1974 (Act 133). |
|                                                  | 5) Regional Development Acts                         |
|                                                  | 6) Free Zones Act 1990 (Act 438)                     |

In the Malaysian context, four SEZs have been selected for analysis, each falling under the jurisdiction of different local authorities. The selection was based on their economic significance, planning governance, and industrial roles. No other SBEZ has been chosen because no other border economic zones in Malaysia are as well-established as SBEZ BKH. However, the SEZs in Johor, particularly Iskandar Malaysia, can be considered near-border zones due to their proximity to Singapore. While these SEZs are geographically close to an international border, they do not function as formal border economic zones like SBEZ BKH, as Malaysia does not have a dedicated regulatory framework for SEZs. Despite this, Johor's SEZs still present border-related economic dynamics, making them a valuable reference for comparison.

The first SEZ selected is Iskandar Malaysia, which covers areas governed by the Iskandar Puteri City Council and Pasir Gudang City Council. Iskandar Puteri was chosen due to its involvement in the Tanjung Pelepas Port SEZ, a critical hub for maritime trade and logistics. Meanwhile, Pasir Gudang was selected for its industrial development focus, particularly the Tanjung Langsat Commercial Complex, which

operates under the jurisdiction of MBPG (Pasir Gudang City Council). MBPG has been designated as an "Exclusive Planning Authority", granting it special planning powers for managing economic development.

In Penang, two major industrial zones have been identified: the Bayan Lepas Free Industrial Zone (FIZ) and the Batu Kawan Industrial Park (BKIP). The Bayan Lepas FIZ, a leading export-oriented manufacturing hub, falls under the administration of the Penang City Council (MBPP) and has played a key role in Malaysia's industrial growth. Meanwhile, BKIP, under the Seberang Perai City Council (MBSP), is an emerging industrial zone attracting high-value manufacturing investments.

### **1.8 Study Limitations**

Some problems and limitations were encountered that can influence the research's findings. This research used a qualitative method, which can lead to challenges in collecting and analysing the data from the interviews. The respondents may not have correctly answered the interview questions and might cause time-consuming delays.<sup>64</sup> However, to mitigate this problem, the researcher prepared a thorough interview protocol to guide the interview session.<sup>65</sup> The interview protocol included clearly defined questions and structured prompts to elicit more detailed responses. It also helped guide the conversation while allowing for flexibility in exploring relevant themes that emerged during the discussions. By following this structured approach, the researcher was able to enhance the reliability and validity of the data, minimize the

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<sup>64</sup> Mark Saunders, Philip Lewis, and Adrian Thornhill, *Research Methods for Business Students*, 5th ed. (Harlow: Pearson Education Limited, 2009).

<sup>65</sup> Milagros Castillo-Montoya, Preparing for Interview Research: The Interview Protocol Refinement Framework, *Qualitative Report* 21, no. 5 (2016): 811–831.

risk of biased or incomplete responses, and maintain a systematic and transparent data collection process.

During the course of this research, several challenges were encountered, particularly concerning the confidentiality of respondents, which directly impacted their willingness to provide open and candid answers. Some interviewees expressed reservations about being fully transparent, fearing potential professional or personal repercussions due to the sensitive nature of the topics discussed. This reluctance is understandable, as planning law and land use governance often involve complex interactions between political, economic, cultural, and regulatory factors. Additionally, political agendas and institutional interests frequently shape decision-making processes, influencing the responses provided by stakeholders from different agencies.

To address these concerns and encourage honest participation, the researcher assured respondents that their identities would remain anonymous. Instead of using real names, the study only refers to their official positions, ensuring that no personally identifiable information is disclosed. This approach helped to create a more open and secure interview environment, allowing respondents to share valuable insights without fear of professional or political consequences. The experience of navigating these challenges highlights the delicate balance between transparency and discretion when conducting qualitative research in areas where legal and regulatory frameworks intersect with broader societal and governance issues.

Additionally, due to constraints in budget and time, the comparative analysis of overseas models has been conducted using secondary data. Consequently, certain

aspects of this analysis may lack detail and validity, as insights are derived solely from these secondary sources. This limitation should be considered when considering the depth, specificity and veracity of the information presented.

## **1.9 Literature Review**

This section provides a brief explanation of key terminologies used in the thesis, clarifying essential concepts related to SEZs and land use planning. Additionally, Subchapter 1.9.6 will elaborate on the research gap and the justification for this study.

### **1.9.1 Definition of Operational Terminologies**

This thesis uses certain operational terminology as follows.

**Special Economic Zones:** Defined geographic areas within a country's boundaries where business regulations differ from the national norm. These zones offer a more flexible and efficient regulatory framework, with a focus on investment, international trade, taxation, and customs.<sup>66</sup> SEZs are designed to facilitate trade by reducing customs oversight and providing various tax incentives. They support diverse economic activities including industry, agriculture, trade, tourism, and services, thereby fostering economic development within the designated areas.<sup>67</sup> SEZs offer tailored frameworks that accommodate specialised industries, enhance working environments, and provide superior infrastructure compared to other regions within the country.

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<sup>66</sup> Douglas Zhihua Zeng , “The Past, Present, and Future of Special Economic Zones and Their Impact.”

<sup>67</sup> P Pakdeenurit, N Suthikarnnarunai, and W Rattanawong, Special Economic Zone: Facts , Roles , and Opportunities of Investment, no. April 2017 (2014).

**Special Border Economic Zone (SBEZ):** Also known as Special Border Zone (SBZ) or Border Trade Zone (BTZ) can be defined as a geographic region, located between different countries' international border which designated for the bilateral project area<sup>68</sup>. This economic zone facilitates infrastructure which includes transport and logistic hub, immigration and customs services, social infrastructures and others. The BTZ, also known as Maquiladoras, has been developed along with the Mexico and United States border since 1965<sup>69</sup>. Establishment of Maquiladoras was aimed to benefit from the availability of cheap labour in Mexico and close proximity to US main and national supply networks <sup>70</sup>.

The SBEZ have much similar practises and principles as SEZs <sup>71</sup>:

- (i) investors are exempted from the duty charges for import and export activities;
- (ii) easy businesses setting up; and
- (iii) offers various taxation incentives.

Nevertheless, SBEZ commonly offers better links in term of connectivity, communication, as well as other soft infrastructure<sup>72</sup>:

- a) Governance (company rules and regulations concerning trade, investment and financial support system);
- b) Economic facilities (logistics and services, finance care and warehouse); and

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<sup>68</sup> Montague Lord and Pawat Tangtrongjita, *Scoping Study for The Special Border Economic Zone (SBEZ) In The Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT)*, 2014.

<sup>69</sup> Rudolf M Buitelaar and Ramon Padilla Perez, Maquila , Economic Reform and Corporate Strategies, *World Development* 28, no. 9 (2000): 1627–1642.

<sup>70</sup> Stephan Weiler and Becky Zerlentes, Maquila Sunrise or Sunset ? Evolutions of Regional Production Advantages, *Social Science Journal* 40 (2003): 283–297.

<sup>71</sup> Lord and Tangtrongjita, *Scoping Study for The Special Border Economic Zone (SBEZ) In The Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT)*; Abdul Rahim Anuar and Azhar Harun, Malaysia-Thailand Cross Border Trade and Cross Border Special Economic Zone Potential : A Case Study of Rantau Panjang- Sungai Kolok Cross Border Town, *Journal of International Studies Vol. 14* (2018): 119–139.

<sup>72</sup> Lord and Tangtrongjita, *Scoping Study for The Special Border Economic Zone (SBEZ) In The Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT)*.

- c) Social infrastructure (border towns, research and development institution, education, land use planning, social welfare and healthcare systems).

**Legal Framework:** Legal frameworks include a set of documents including a constitution, legislation, rules and contracts. The legal structures are, in turn, a pillar of the existence of stable SEZs and SBEZs. The governing laws and regulations implied in the establishment of SBEZs and SEZs will secure investors to be part of the businesses. It addresses all aspects of successful SEZs and SBEZs, such as land use planning, private property, investment, taxation, land management, human resources, environmental, business, trade, transport, and other elements. The legal framework is vital as it acts as the umbrella, covering all essential legal and regulatory aspects of the SEZ as well as units operating in the SEZ.<sup>73</sup>

**Land Use Planning:** Land use planning is part of the development process. The planning will take into account the physical, social, economic and environmental aspects.<sup>74</sup> Planning is a set of tools and organisational structures that form a framework for land-use change management.<sup>75</sup> The strategy for land use planning provides an objective and rational outlook of future conditions, determines what society wants to be their destiny, predicts how much improvements are to be made, measures the degree of control needed and creates a policy to take the future reforms and controls into

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<sup>73</sup> Tom W. Bell, Special Economic Zones in the United States: From Colonial Charters, to Foreign-Trade Zones, Toward USSEZs, *Buffalo Law Review* 64, no. 5 (2016): 959–1007; Kwan-yiu Wong and David K Y Chu, Export Processing Zones and Special Economic Zones as Generators of Economic Development : The Asian Experience, *Geografiska Annaler: Series B, Human Geography* ISSN: 66, no. 1 (2017): 1–16.

<sup>74</sup> Paul De Wit and Willy Verheye, Land Use Planning for Sustainable Development, in *Land Use, Land Cover and Soil Sciences - Volume III: Land Use Planning*, vol. III (Eolss Publisher Co. Ltd, 2009), 33–60.

<sup>75</sup> Anna M. Hersperger et al., Urban Land-Use Change: The Role of Strategic Spatial Planning, *Global Environmental Change* 51, no. June 2017 (2018): 32–42.

account.<sup>76</sup> Thus, land-use planning is essential to ensure that planning issues and challenges can be dealt with in establishing the SBEZ at BKH.

### **1.9.2 Foreign Direct Investment and Special Economic Zones: A Catalyst for Growth and Development**

SEZs attract FDI and promote economic growth through various benefits and incentives. These zones offer an investment-friendly environment with efficient administrative processes, favourable tax policies, and superior infrastructure.<sup>77</sup> This attracts both domestic and international investors. FDI not only brings financial resources but also supports technology transfer and job creation, enhancing competitiveness and profitability within SEZs.<sup>78</sup> These zones encourage business clustering, promoting synergies, knowledge exchange, and supply chain integration, improving the investment climate.<sup>79</sup> FDI also has broader impacts beyond SEZs, bringing in new technologies, managerial expertise, and global networks that stimulate innovation, productivity, and employment. This contributes to regional development and supports domestic industries, helping to diffuse technology and boost the host country's economic competitiveness.<sup>80</sup> Policymakers should focus on developing SEZs and implementing policies that attract and retain FDI to ensure sustainable economic progress.

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<sup>76</sup> John Ratcliffe, Michael Stubbs, and Miles Keeping, *Urban Planning and Real Estate Development*, 3rd ed. (London: Routledge, 2009).

<sup>77</sup> Ivo Gulbis, Foreign Direct Investment and Special Economic Zones in Latvia, *Baltic Journal of Real Estate Economics and Construction Management* 6, no. 1 (2018): 240–252.

<sup>78</sup> Muhamad Syafiq Salim et al., The Factors Impacted to Local Contractor from Foreign Direct Investment in Advancing Economic Hub Development in Iskandar Malaysia, *IOP Conference Series: Earth and Environmental Science* 143, no. 1 (2018).

<sup>79</sup> Sayidmurod Sattarov, Special Economic Zones as an Engine of Regional Economic Development: The Best Practices and Implications for Uzbekistan, *International Journal of Management Science and Business Administration* 4, no. 4 (2018): 48–55; Wahyuni, Astuti, and Utari, “Critical Outlook At SEZ in Asia: A Comparison Between Indonesia, Malaysia, Thailand and China.”

<sup>80</sup> Song et al., “Effects of Special Economic Zones on FDI in Emerging Economies: Does Institutional Quality Matter?”



### 1.9.3 Special Economic Zones (SEZs)

The term "Special Economic Zones" (SEZs) encompasses a conceptual framework that aims to promote increased trade by reducing customs oversight and offering various taxation schemes. However, it is important to note that SEZs can be interpreted and implemented differently across countries and regions.<sup>81</sup> SEZs go beyond being merely fenced-in areas or border regions dedicated to import and export activities. They encompass a broader scope that includes specialised industries, diverse working environments, and excellent infrastructure, all operating under a unique framework compared to other areas within the country.<sup>82</sup>

#### 1.9.3.1 Free Trade Zone

One of the widely used types of SEZ is the Free Trade Zone ("FTZ"). FTZ can be defined as a geographically fenced-in, free-of-limited-tax area that provides distribution storage/warehouse for trade, transshipment, and import-export operation, located in most ports of entry around the world import with minimal regulations.<sup>83</sup> The reduction in a regulatory environment consists of less strict customs, labour and environmental controls. FTZ usually focuses on international trade, which intends to attract labour-intensive manufacturing production of textiles, apparel, and electrical items. Colon Free Zone in Panama, Americas is one of the pioneers and trendy types of SEZ, which was established in 1948.<sup>84</sup>

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<sup>81</sup> Moberg and Tarko, "Why No Chinese Miracle in Africa? Special Economic Zones and Liberalisation Avalanches."

<sup>82</sup> Farole and Akinci, *Special Economic Zones Progress, Emerging Challenges, and Future Directions*; Devadas and Gupta, "Planning for Special Economic Zone: A Regional Perspective."

<sup>83</sup> Hao Zhang and Fernanda Ilhéu, *The Role of Special Economic Zones in African Countries' Development and the Chinese FDI*, Working Papers CEAs, WP 120/2014 (Lisbon, 2014).

<sup>84</sup> Farole and Moberg, *Special Economic Zones in Africa: Comparing Performance and Learning from Global Experience*.

### 1.9.3.2 Export Processing Zone

Another type of SEZ is the Export Processing Zone ("EPZ"). This type of zone is generally almost similar to FTZs from a perspective that covers a large area of land that will focus on foreign exports. However, the difference will be in the tax incentives offered and ease of regulation.<sup>85</sup> One of the characteristics of EPZ is that imported raw materials and components may be processed within the enclave and exported elsewhere. These zones can be beneficial to investors in that the government is providing the area without a need to reduce the tariffs, but it still can benefit from the increase of trade within the country.<sup>86</sup> In Malaysia, Pasir Gudang and Butterworth can be considered among the EPZ with a good reputation.

### 1.9.3.3 Enterprise Zone

Enterprise Zones is focusing on the production or manufacturing that attracts foreign investors, but they are also focusing on benefiting the locals with a centralised development effort. This zone can be much more similar to EPZ, but its main objective is much more on the gentrification and revitalisation of the area to improve the local's quality of life. These place-based SEZs usually offer the investor low tax incentives, investment attraction and employment, eventually enhancing the allocated zone's social and economic environment.<sup>87</sup> Thus, it can be said that this model assumes that an economic zone can be improved at the individual neighbourhood level.

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<sup>85</sup> Xavier Cirera and Rajith W. D. Lakshman, The Impact of Export Processing Zones on Employment, Wages and Labour Conditions in Developing Countries, *Journal of Development Studies* 17, no. 3 (2012): 0–34.

<sup>86</sup> Douglas Zhihua Zeng, How Do Special Economic Zones and Industrial Clusters Drive China's Rapid Development?, *World Bank Policy Research Working Paper* 5583, no. March (2011): 4–5, <http://elibrary.worldbank.org/doi/book/10.1596/1813-9450-5583>.

<sup>87</sup> Thierry Mayer, Florian Mayneris, and Loriane Py, The Impact of Urban Enterprise Zones on Establishment Location Decisions and Labor Market Outcomes: Evidence from France, *Journal of Economic Geography* 17, no. 4 (2017): 709–752.

#### 1.9.3.4 Industrial Park

Industrial Parks, also known as Industrial Zone, are not geographically delineated in which they do not have any designated zone for trade incentive. They focus on the development of the factory or enterprise can be at any allocated location. A host country usually utilises the industrial park to create a specialisation in a specific industry.<sup>88</sup> For example, the government wants a particular area to become an exclusive industrial zone that focuses on car manufacturing; thus, different types of components for a car will be within that area. In standard practice, the parks typically offer a broad set of benefits, especially in that trade-economic incentives.<sup>89</sup>

#### 1.9.3.5 Specialised Zone

Besides the Enterprise Zone, Specialise Zones focus on the industry's specific technical product services. It targeted specific sectors or economic activities. Specialised zones commonly relate to science and technology parks, logistics and warehouse parks, petrochemical zones, tourist and recreational zones, gambling zones, and many others.<sup>90</sup> The Labuan Offshore Financial Centre in Malaysia is an example of a specialised zone mainly meant for offshore financial services.<sup>91</sup>

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<sup>88</sup> Thomas Farole and Gokhan Akinci, *Special Economic Zones, Special Economic Zones*, 2011.

<sup>89</sup> Sergey Sosnovskikh, Industrial Clusters in Russia: The Development of Special Economic Zones and Industrial Parks, *Russian Journal of Economics* 3, no. 2 (2017): 174–199, <http://dx.doi.org/10.1016/j.ruje.2017.06.004>.

<sup>90</sup> Pakdeenurit, Suthikarnnarunai, and Rattanawong, “Special Economic Zone : Facts , Roles , and Opportunities of Investment”; Organisation for Economic Co-operation and Development (OECD), *Towards Best Practice Guidelines for the Development of Economic Zones*.

<sup>91</sup> International Monetary Fund, Offshore Financial Centres IMF Background Paper, last modified 2000, accessed February 17, 2020, <https://www.imf.org/external/np/mae/oshore/2000/eng/back.htm>.

### 1.9.3.6 Special Border Economic Zone

A Special **Border Economic Zone (SBEZ)**<sup>92</sup> is a designated geographical area located along an international border crossing, established as a bilateral initiative to enhance cross-border trade, infrastructure development, and investment.<sup>93</sup> These zones facilitate economic cooperation between neighbouring countries by integrating key logistical and industrial activities such as transport infrastructure, logistics hubs, and trade facilitation measures. In some instances, SBEZs involve the establishment of cross-border ‘sister cities’ to strengthen economic and social ties.

SBEZs operate under similar principles as **Special Economic Zones (SEZs)**, providing businesses with a range of incentives, including duty-free import and export privileges, exemption from exchange controls, streamlined licensing procedures, and relief from taxes such as value-added tax (VAT), corporate taxes, and local levies.<sup>94</sup> However, SBEZs extend beyond these fiscal advantages by incorporating additional structural components essential for fostering cross-border connectivity and cooperation. These components include:<sup>95</sup>

- 1) **Governance Infrastructure** – Encompassing trade regulations, investment policies, and financial systems designed to facilitate smooth economic transactions between participating countries.

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<sup>92</sup> Lord and Tangtrongjita, *Scoping Study for The Special Border Economic Zone (SBEZ)*: The terms SBEZ is similar to, and therefore interchangeable with, Special Border Zone (SBZ) and Border Trade Zone (BTZ) and Border Economic Zone (BEZ).

<sup>93</sup> United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*; Lord and Tangtrongjita, *Scoping Study for The Special Border Economic Zone (SBEZ) In The Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT)*.

<sup>94</sup> Lord and Tangtrongjita, *Scoping Study for The Special Border Economic Zone (SBEZ) In The Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT)*.

<sup>95</sup> Ibid.; Takao Tsuneishi and Tsuneishi Takao, *Development of Border Economic Zones in Thailand: Expansion of Border Trade and Formation of Border Economic Zones*, Organization, 2008.

- 2) **Economic Infrastructure** – Covering logistics networks, supply chain facilities, financial services, processing industries, and storage facilities that support seamless trade and production activities.
- 3) **Social Infrastructure** – Addressing the needs of border communities through education and research institutions, social welfare systems, and healthcare services to ensure sustainable socio-economic development.

Given the complexity of managing an SBEZ, effective coordination between the two participating governments is essential. This involves collaboration in planning and administration to regulate cross-border movement, oversee trade policies, and ensure the efficient flow of goods, services, and people. The success of an SBEZ largely depends on the integration of both hard infrastructure—such as transport and communication networks—and soft infrastructure, including institutional frameworks and regulatory harmonisation.<sup>96</sup> By facilitating a structured environment for investment and trade, SBEZs play a crucial role in regional economic development, strengthening international partnerships and enhancing the economic potential of border areas. Further details on the SBEZ will be elaborated in sub-chapter 2.2.1.

#### **1.9.4 Land Use Planning**

The concept of sustainability or sustainable development, which has emerged prominently over the past decade, is now a key objective globally. It is defined by the commitment to meet current needs without compromising the ability of future

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<sup>96</sup> Choen Krainara and Jayant K. Routray, Cross-Border Trades and Commerce between Thailand and Neighboring Countries: Policy Implications for Establishing Special Border Economic Zones, *Journal of Borderlands Studies* 30, no. 3 (2015): 345–363; United Nations, *World Investment Report 2019* (United Nations Conference on Trade and Development).

generations to meet theirs,<sup>97</sup> operating through the three interconnected pillars of economic prosperity, environmental stewardship, and social equity.<sup>98</sup> These principles are crucial in urban or town planning, reflecting through the tenets of economic growth, environmental protection, and social justice, often described as a 'planning triangle' that guides urban planning.<sup>99</sup> This approach aligns with international commitments such as the Sustainable Development Goals 11 and 15, which focus on sustainable cities and life on land.

In practical terms, concepts like "land use planning," "urban planning," and "physical planning" are part of the multifaceted process of town and country planning. This involves political and technical aspects aiming to control land use and design urban environments including transportation systems, integrating research, public participation, policy formulation, and implementation.<sup>100</sup> Modern land use practices prioritize sustainability, striving to balance economic development, social equity, and environmental protection, recognizing their interdependencies.

Land use planning is instrumental in regulating urban development, mitigating land use conflicts, and ensuring community well-being. It extends beyond mere changes in land use and population dynamics, considering community well-being and urban development activities. Land use planning ensures a fair distribution of land resources

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<sup>97</sup> United Nations, *Report of the World Commission on Environment and Development: Our Common Future*, General Assembly of the United Nations, 1987.

<sup>98</sup> Robert O. Vos, Perspective Defining Sustainability: A Conceptual Orientation, *Journal of Chemical Technology & Biotechnology* 83, no. May (2008): 1163–1169.

<sup>99</sup> This triangle serves as a comprehensive framework, guiding planners to integrate social justice, drive economic growth, and ensure environmental protection into the planning process. Scott Campbell, Green Cities, Growing Cities, Just Cities?: Urban Planning and the Contradictions of Sustainable Development, *Journal of the American Planning Association* 62, no. 3 (1996): 296–312.

<sup>100</sup> Keeble, one of the scholars in town planning defines it as "the art and science of ordering the use of land and the character and siting of building and communication routes so as to secure the maximum practicable degree of economy, convenience, and beauty". Lewis Keeble, *Principles and Practice of Town and Country Planning* (Estates Gazette, 1969).

while addressing environmental concerns.<sup>101</sup> It provides the government with a mechanism to oversee land use effectively, ensuring that developments are well-planned and conflicts are minimized. Through engaging communities, fostering dialogue, and crafting policies, this process supports a well-coordinated urban development that aligns with public interests, promoting equitable and sustainable growth.<sup>102</sup>

In conclusion, the foundational role of land use planning in fostering sustainable development is undeniable. Integrating sustainability into urban and town planning through the lenses of economic growth, environmental protection, and social equity ensures that current development needs are met without compromising future prospects. Such integration is crucial not only for adhering to international sustainability goals but also for managing the complex dynamics of urban development. The next section will focus on the interplay between land use planning and the development of SEZs.

#### **1.9.5 Land Use Planning and SEZ Development**

The intricate link between SEZs and land use planning constitutes a vital aspect of spatial planning and economic progress. According to the World Bank, SEZs represent specific geographic areas operating under distinctive administrative, fiscal, and legal rules, setting them apart from the rest of the country<sup>103</sup>. These zones aim to attract both domestic and international investment, fostering economic diversification and

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<sup>101</sup> Ibrahim Ngah, Urban Planning: A Conceptual Framework, *Jurnal Alam Bina* 1, no. 1 (1998): 1–9; Jan K. Brueckner, Urban Land Markets: Improving Land Management for Successful Urbanization, in *Urban Land Markets: Improving Land Management for Successful Urbanization* (Springer, Dordrecht, 2009), 1–408.

<sup>102</sup> John Ratcliffe, *An Introduction To Town and Country Planning*, 1st ed. (London: Hutchinson Educational Ltd, 1974).

<sup>103</sup> Farole and Akinci, *Special Economic Zones Progress, Emerging Challenges, and Future Directions*.

generating employment opportunities. Land use planning, on the other hand, is a crucial tool in public policy, allocating land for various purposes, such as residential, commercial, agricultural, and conservation needs, while considering competing interests<sup>104</sup>.

The establishment of SEZs relies heavily on well-conceived land use planning, directly influencing land resource allocation and shaping development trajectories<sup>105</sup>. A robust land use plan serves as the foundation for SEZs, offering guidelines for spatial arrangement and resource distribution, ensuring efficient economic activities within these zones. Selecting the appropriate site for SEZs, whether an industrial park, free trade zone, or technology hub, requires comprehensive analysis and strategic decision-making. Factors such as access to transportation infrastructure, proximity to markets, and availability of skilled labor are crucial considerations<sup>106</sup>. Land use planning plays a central role in this process, aiding the identification of sites with the right mix of elements, ensuring the economic viability of SEZs. Furthermore, the design and development of SEZ infrastructure must align with land use planning principles. Such alignment enhances operational efficiency while mitigating potential environmental impacts. This integration is vital to harmoniously incorporate SEZs into existing geographical and socio-economic landscapes, avoiding conflicts over land use, environmental degradation, and socio-economic imbalances.

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<sup>104</sup> Patsy Healey, The Universal and the Contingent: Some Reflections on the Transnational Flow of Planning Ideas and Practices, *Planning Theory* 11, no. 2 (2012): 188–207.

<sup>105</sup> Zeng, “The Past, Present, and Future of Special Economic Zones and Their Impact”; Johan Backholm and Kyle Farrell Fellow, Urban Redevelopment in Shenzhen, China Neoliberal Urbanism, Gentrification, and Everyday Life in Baishizhou Urban Village (2019).

<sup>106</sup> Akinci and Crittle, *Special Economic Zones: Performance, Lessons Learned, and Implications for Zone Development*.



However, challenges persist in the interplay between SEZs and land use planning, particularly in developing nations, where land acquisition for SEZs often sparks disputes and conflicts. These disputes may lead to the displacement of local communities and violations of their rights<sup>107</sup>. Additionally, the incentivised conditions offered to investors in SEZs may sometimes compromise environmental standards, resulting in environmental degradation and pollution.

Addressing these challenges requires a holistic, inclusive approach to land use planning. Striking a balance between the socio-economic benefits of SEZs and the imperative of environmental preservation and social justice is crucial. Strategies may include ensuring adequate compensation for displaced communities, enforcing stringent environmental regulations within SEZs, and engaging all stakeholders during the establishment and development of these zones.

Integrating SEZ development strategies into broader land use planning frameworks and urban development policies poses significant challenges for policymakers. Nevertheless, this integration is essential for balanced and sustainable development, ensuring economic growth does not come at the expense of environmental sustainability and social equity. By conducting thorough research, promoting inclusivity, and adopting a future-oriented perspective, land use planning can effectively maximize the benefits of SEZs while mitigating potential adverse impacts.

In conclusion, the relationship between SEZs and land use planning is intricate and dynamic, necessitating astute understanding and careful management. The successful establishment and operation of SEZs hinge on effective land use planning. Conversely,

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<sup>107</sup> Levien, "The Land Question: Special Economic Zones and the Political Economy of Dispossession in India."

SEZ location, design, and operations have a profound impact on land use patterns, sometimes challenging conventional planning norms and practices. Through critical analysis and comprehensive policy formulation, it is possible to navigate these complexities and achieve harmonious economic growth, environmental sustainability, and social equity within SEZ and land use planning strategies.

#### **1.9.6 Research Gap**

SEZs have been widely promoted as a tool for economic development, trade expansion, and foreign investment attraction, yet their success is highly dependent on clear regulatory frameworks and strong institutional coordination. Studies examining SEZ governance in Malaysia, Indonesia, Thailand, and China indicate that fragmented policy approaches and inconsistent regulations hinder SEZ effectiveness.<sup>108</sup> In Malaysia, SEZs operate under multiple agencies with overlapping mandates, leading to delays in decision-making and weak enforcement of development policies.<sup>109</sup>

Comparative studies highlight that well-established SEZs in China, such as Shenzhen, benefited from a unified regulatory authority that streamlined decision-making and ensured cohesive spatial and economic planning.<sup>110</sup> This regulatory coherence not only facilitated investment but also allowed for structured land use planning, ensuring balanced and sustainable development within the SEZ. In Malaysia, research has largely focused on free trade zone regulations and investment policies, yet it has given less attention to integrating land use planning, environmental controls, and long-term

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<sup>108</sup> Wahyuni, Astuti, and Utari, “Critical Outlook At Special Economic Zone in Asia: A Comparison Between Indonesia, Malaysia, Thailand and China”; Zeng, “The Past, Present, and Future of Special Economic Zones and Their Impact.”

<sup>109</sup> Sazzad Parwez and Vinod Sen, Special Economic Zone, Land Acquisition, and Impact on Rural India, *Emerging Economy Studies* 2, no. 2 (2016): 223–239.

<sup>110</sup> Zeng, “How Do Special Economic Zones and Industrial Clusters Drive China’s Rapid Development?”

infrastructure development within the SEZ framework.<sup>111</sup> While existing research recognises these governance challenges, there is no dedicated study analyzing Malaysia's SEZ-specific regulatory gaps in land use planning. This research will bridge this gap by evaluating the institutional and legal barriers affecting SBEZ BKH and proposing a more effective governance framework for its future development.

The effectiveness of SEZs is often measured in terms of economic output and investment inflows, yet little attention is given to how land use planning influences SEZ performance.<sup>112</sup> Without a structured land use framework, SEZs may struggle with inefficient land allocation, uncoordinated infrastructure, and environmental conflicts, limiting their long-term economic viability. Current SEZ research focuses on tax incentives, industrial clustering, and investment policies, but it lacks a spatial planning perspective that ensures optimal land utilisation and long-term sustainability.<sup>113</sup>

Studies on Malaysia's SEZs, including SBEZ BKH, primarily discuss economic potential and trade facilitation, with no comprehensive spatial planning framework to integrate zoning regulations, infrastructure, and environmental sustainability.<sup>114</sup> This absence of a spatial framework contrasts with international best practices, where

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<sup>111</sup> Anuar and Harun, "Malaysia-Thailand Cross Border Trade and Cross Border Special Economic Zone Potential: A Case Study of Rantau Panjang- Sungai Kolok Cross Border Town"; Rajah Rasiah, *Industrialising Malaysia: Policy, Performance, Prospects*, in *Industrialising Malaysia: Policy, Performance, Prospects* (Taylor & Francis, 2002); Wahyuni, Astuti, and Utari, "Critical Outlook At Special Economic Zone in Asia: A Comparison Between Indonesia, Malaysia, Thailand and China."

<sup>112</sup> Salleh and Ahmad, "The Establishment of Malaysia-Thailand Special Border Economic Zone (SBEZ): The Potential of Bukit Kayu Hitam as Northern Economic Hub."

<sup>113</sup> Krainara and Routray, "Cross-Border Trades and Commerce between Thailand and Neighboring Countries: Policy Implications for Establishing Special Border Economic Zones"; Wahyuni, Astuti, and Utari, "Critical Outlook At Special Economic Zone in Asia: A Comparison Between Indonesia, Malaysia, Thailand and China"; Sattarov, "Special Economic Zones as an Engine of Regional Economic Development: The Best Practices and Implications for Uzbekistan."

<sup>114</sup> Nadea Le Roux and Anculien Schoeman, A Comparative Analysis of the Design of Special Economic Zones: The Case of South Africa, Malaysia and Indonesia, *Journal of Economic and Financial Sciences* 9, no. 3 (2016): 749–768.

successful SEZs integrate land use planning to support their economic objectives. Comparative SEZ models in South Africa, India, and Indonesia demonstrate that successful SEZs incorporate structured land use plans to guide industrial, commercial, and residential development.<sup>115</sup> The lack of research on how SEZs in Malaysia, particularly Bukit Kayu Hitam, can develop a structured land use plan presents a significant gap. This study will fill this gap by designing a spatial planning framework tailored to the specific needs of SBEZ BKH.

A key challenge in addressing this gap lies in the broader weaknesses of Malaysia's development planning system, which struggles with fragmented regulations and inconsistent enforcement. Malaysia's development planning system is characterized by multiple layers of planning regulations, including the National Physical Plan, Structure Plan, and Local Plan, which often lack coordination and integration.<sup>116</sup> Studies show that delays in implementation, outdated planning policies, and weak enforcement mechanisms have led to poorly coordinated development across different planning jurisdictions.<sup>117</sup> Research on Malaysia's economic corridors highlights the disconnect between economic policies and spatial planning frameworks, where major development projects often proceed without a clear zoning strategy or environmental safeguards.<sup>118</sup> Furthermore, sustainability initiatives, such as green building standards

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<sup>115</sup> Bhupendra Kumar, Special Economic Zones in India: Recent Developments and Future New Challenges, *SSRN Electronic Journal*, no. November (2021); Lord and Tangtrongjit, *Scoping Study for The Special Border Economic Zone (SBEZ) In The Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT)*.

<sup>116</sup> Faizah Ahmad et al., Malaysian Development Plan System: Issues and Problems, One Decade After Its Reform (2001-2011), *Planning Malaysia Journal* 11, no. 3 (2013).

<sup>117</sup> Zakiah Ponrahono et al., A Theoretical Study on Malaysia Development Planning Mechanism and Its Institutional Process, *Academia.edu*, no. 172 (2018): 1–21, <https://www.academia.edu/1801463/A-Theoretical-Study-on-Malaysia-Development-Planning-Mechanism-and-Its-Institutional-Process>; Marlyana Azyyati Marzukhi et al., Enhancing One Stop Centre in the Malaysian Planning System, *E3S Web of Conferences* 101 (2019): 2–7.

<sup>118</sup> Noor Suzilawati et al., Towards Sustainable Regional Economic Development - The Case Study of Iskandar Malaysia -, no. 1974 (2008); Gabriel Hoh Teck Ling and Jia Chyi Pung, An Urban Governance Approach in the Development of Commercial Brownfield: A Case Study of Iskandar Malaysia, *International Journal of Built Environment and Sustainability* 6, no. 1 (2019): 31–38.

and low-carbon city planning, remain voluntary rather than legally mandated, making their implementation inconsistent.<sup>119</sup> Although studies critique Malaysia's general planning inefficiencies, they do not specifically analyse how these weaknesses affect SEZ land use planning. This disjointed approach in national and regional planning further complicates SEZ development, where the absence of a dedicated spatial framework hinders their ability to function as efficient economic zones. This research will address this gap by examining the intersection between Malaysia's planning system and SBEZ-specific spatial development needs, ensuring a more coordinated and sustainable planning approach.

Most SEZ research focuses on investment attraction and trade liberalisation but fails to integrate land use planning considerations.<sup>120</sup> Successful SEZs in China and India demonstrate that land use planning plays a critical role in ensuring economic zones are not only attractive to investors but also functionally efficient and environmentally sustainable.<sup>121</sup> While Malaysia's economic policies emphasize foreign direct investment (FDI) and industrial clustering, there is little discussion on how spatial planning can optimize investment returns by ensuring efficient land allocation, transportation access, and supporting infrastructure.<sup>122</sup> This lack of integration between economic objectives and spatial planning leads to uncoordinated SEZ growth,

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<sup>119</sup> Siti Sarah Sulaiman and Ainul Jaria Maidin, Development Plans Role in Promoting Achievement of Sustainable Development: A Case Study of the State of Selangor, Malaysia, *Soc Sci Res Network*.

<sup>120</sup> Anna Bulanda-Jansen, Evolution of the Metropolitan Area of Shenzhen, Analysis: From Theory to Selected Examples, *IOP Conference Series: Materials Science and Engineering* 471, no. 11 (2019); Hyöng-gon Chöng, Douglas Zhihua Zeng, and Taeoe Kyöngje Chöngch'aek Yöñ'guwöñ (Korea), *Promoting Dynamic & Innovative Growth in Asia: The Cases of Special Economic Zones and Business Hubs*, 2016.

<sup>121</sup> Jiaping Wu and Tony Barnes, Local Planning and Global Implementation: Foreign Investment and Urban Development of Pudong, Shanghai, *Habitat International* 32, no. 3 (2008): 364–374.

<sup>122</sup> Rasiah, "The Industrial Policy Experience of the Electronics Industry in Malaysia"; Mahmudul Alam, Rafiqul Islam Molla, and Wahid Murad, Malaysia's Proactive Economic Zone Regime as a Model to Emulate for Success of Bangladesh Economic Zone Scheme, *The Journal of Developing Areas* 48, no. 2 (2014): 399–407.

making them vulnerable to inefficiencies in infrastructure development and land utilisation. This study will bridge this gap by integrating economic policies with land use planning strategies for SBEZ BKH, ensuring that investment incentives are complemented by structured zoning and infrastructure development.

Infrastructure development and connectivity are critical for SEZ success, yet existing research treats these as secondary concerns rather than core planning considerations. Studies highlight that Bukit Kayu Hitam faces logistical bottlenecks, inefficient transport networks, and inadequate cross-border trade infrastructure, yet there is no clear spatial planning strategy to address these issues.<sup>123</sup> Research on China's SEZs, such as Shenzhen and Pudong, emphasizes how seamless infrastructure integration played a key role in their economic transformation.<sup>124</sup> In contrast, Malaysia's SEZ development lacks a holistic land use approach that integrates transport planning, industrial zoning, and logistics efficiency.<sup>125</sup> Without a strategic land use framework, these infrastructure weaknesses further exacerbate inefficiencies in SEZ operations, limiting their ability to function as competitive economic hubs. This study will fill the research gap by assessing infrastructure deficiencies in SBEZ BKH and proposing land use planning solutions to enhance connectivity and logistics efficiency.

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<sup>123</sup> Prema-chandra Athukorala and Suresh Narayanan, Economic Corridors and Regional Development : The Malaysian Experience, *World Development* 106 (2018): 1–14, <https://doi.org/10.1016/j.worlddev.2018.01.009>; Nizamuddin Zainuddin et al., A Review on Development Challenges for an Inland Port At Malaysia-Thailand Border, *Quantum Journal of Social Sciences and Humanities* 2, no. 6 (2021): 113–125.

<sup>124</sup> Wang, “The Economic Impact of Special Economic Zones: Evidence from Chinese Municipalities”; Fangfang Cheng et al., Science Parks and the Co-Location of High-Tech Small- and Medium-Sized Firms in China's Shenzhen, *Urban Studies* 51, no. 5 (2014): 1073–1089.

<sup>125</sup> Zainuddin et al., “A Review on Development Challenges for an Inland Port At Malaysia-Thailand Border”; Ibrahim Mohd, Faizah Ahmad, and Wan Norazriyati Wan Abd Aziz, Land Use Planning and Property Development: Factors Affecting Urban Housing Development in Kuala Lumpur, Malaysia, *25th American Real Estate Society Meeting*, 2009; Nurul Ardila Azmi et al., A Comparative Analysis of Transit Oriented Development Guidelines between Malaysia and Other Countries, *Planning Malaysia* 19, no. 15 (2021): 186–199.

The existing body of research on SEZs, while extensive, neglects key land use planning considerations, leaving a significant gap in understanding how spatial development strategies can enhance SEZ efficiency. While previous studies have explored economic incentives, investment policies, and trade liberalisation, there remains a critical need for research that integrates these aspects with land use planning frameworks. Bridging this gap requires a comprehensive approach that aligns investment strategies, regulatory frameworks, infrastructure planning, and zoning regulations to ensure SEZs are both economically viable and spatially sustainable. This study will bridge this gap by developing an integrated land use planning framework tailored for SBEZ BKH, ensuring that it is not only an attractive investment destination but also a well-planned and sustainable economic hub.

### **1.10 Research Methodology**

Research is a systematic process aimed at expanding knowledge through the logical discovery of information, rather than relying solely on mere beliefs.<sup>126</sup> Choosing the appropriate research methodology is important to guide the data collection process, analysis, and interpretation, and determines the overall direction and outcomes of the study. The following sub-section will further discuss on the details of the research methodology that has been carried out for this study.

#### **1.10.1 Research Design**

Research design is a methodological framework for problem-solving, thinking, and acquiring knowledge. It serves as a conceptual blueprint to conduct research. It outlines the process of collecting, measuring, and analyzing data to address a specific

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<sup>126</sup> Pervez Ghauri, Kjell Grønhaug, and Roger Strange, *Research Methods in Business Studies, Research Methods in Business Studies*, 5th Edition. (Cambridge University Press, 2020).

research question. A well-constructed research design ensures that the evidence obtained enables the researcher to systematically and clearly address the research problem.

Research design can be classified into two main types: qualitative and quantitative research. Qualitative research is primarily exploratory and is used to gain insight into underlying reasons, opinions, and motivations. It helps the development of ideas or hypothesis and allows for in-depth analysis through methods such as interviews, focus groups, and observations.<sup>127</sup> Meanwhile, quantitative research is used to measure and analyse issues by generating numerical data or structured information that can be systematically examined, though the accuracy of statistical interpretations may vary. It helps in quantifying attitudes, opinions, behaviours, and other defined and measurable variables and in generalizing results from a larger sample population. Techniques such as surveys, longitudinal studies, and systematic observations are common quantitative methods.<sup>128</sup>

Qualitative research is preferred in certain studies as it provides a richer and more detailed understanding of the subject matter. This approach is particularly useful when the research aims to delve deeply into complex issues, understand behavioural context, or investigate new and under researched areas. The qualitative research process usually involves collecting data through interviews, observations, and document analysis, which enable the researchers to gather detailed and comprehensive data.<sup>129</sup> The goal is

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<sup>127</sup> David Silverman, *Qualitative Research: Theory, Method and Practice.*, *The Humanistic Psychologist*, vol. 14, 2004.

<sup>128</sup> Ghauri, Grønhaug, and Strange, *Research Methods in Business Studies*.

<sup>129</sup> David Silverman, *Doing Qualitative Research*, Fourth. (London: SAGE Publications Ltd, 2013).



to understand participants' perspectives and experiences in their natural settings, leading to more genuine and insightful findings.

Using qualitative research for a study on SEZs and SBEZ is particularly beneficial, as SEZs involve multifaceted economic, social, and political dimensions that require a deep understanding of various stakeholders' perspectives. Qualitative methods can uncover the nuanced effects of SEZ policies on local communities, businesses, and the broader economic environment.<sup>130</sup> By conducting interviews and focus groups with different stakeholders, researchers can gather rich, contextual data that would not be captured through quantitative methods alone.

#### **1.10.1.1 Doctrinal Legal Research**

Doctrinal research, often recognised as a pillar of legal scholarship, aims to produce a systematic and detailed analysis of legal rules and principles.<sup>131</sup> It involves examining statutes, case law, and administrative rules to understand their legal, social, and political contexts.<sup>132</sup> Anwarul Yaqin elaborated that doctrinal research is aimed at systematically exploring, explaining, examining, and analyzing facts, principles, provisions, concepts, theories, and the operations of specific laws or legal institutions.<sup>133</sup>

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<sup>130</sup> Achmad Fauzi, Martani Huseini, and Amy Yayuk Sri Rahayu, Designing Strategies to Improve the Competitiveness of Special Economic Zones, *Technium Social Sciences Journal* 31, no. October (2022): 22–43; Nisit Sungsuwan and Rattaphong Sonsuphap, Special Economic Zone: A Regulation of Cross-Border Trading in a Developing Economy, *Journal of Governance and Regulation* 12, no. 4 (2023): 165–172.

<sup>131</sup> Terry Hutchinson, Defining And Describing What We Do: Doctrinal Legal Research, *Deakin Law Review* 17, no. 1 (2012): 84–119.

<sup>132</sup> Mark Van Hoecke, Methodology of Comparative Legal Research, *Law and Method* (2016): 279–301.

<sup>133</sup> Anwarul Yaqin, *Legal Research and Writing* (Malayan Law Journal, 2007).

In conducting this research, doctrinal legal research methodologies are employed for the data collection from both primary and secondary sources. The primary sources consist of important legal documents, including statutes, regulations, and court decisions, which serve to elucidate essential legal doctrines, principles, and concepts.<sup>134</sup> Key documents include the Federal Constitution, TCPA, the NLC, the Local Government Act, and relevant state legislation. In contrast, secondary legal sources, such as journal articles, law textbooks, and legal commentaries, provide additional context, analysis, and interpretation of the primary legal materials.<sup>135</sup>

The research concentrates on legislation related to SEZs and the SBEZ BKH, examining their impact on land use planning within Malaysia. In the event that any gaps or deficiencies in the legislation or current practices are identified, recommendations for legislative improvements or the establishment of new frameworks are proposed. These frameworks aim to align the existing land use planning practice with the ongoing development of SEZs and the SBEZ BKH in Malaysia.

This research focuses on relevant legislation, particularly in relation to SEZs, SBEZ BKH, and their connection to land use planning in Malaysia. If gaps or deficiencies are identified within existing laws or current practices, this study will propose improvements or amendments to strengthen the legal framework governing SEZs and their integration with land use planning. A doctrinal legal research approach is

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<sup>134</sup> Joseph Mante, Understanding Legal Research in the Built Environment, *Secondary Research Methods in the Built Environment*, no. March (2021): 106–116.

<sup>135</sup> Ibid.

adopted, emphasizing the systematic analysis of legal rules and principles through the examination of statutes, case law, and administrative regulations.

Next, socio-legal research is an interdisciplinary approach that examines how law interacts with society and aims to understand how legal systems influence and are influenced by social contexts or how laws deal with related social problems, issues and questions.<sup>136</sup> Traditional doctrinal research usually focuses on the interpretation of legal texts and principles, while socio-legal research considers the broader context in which laws are created, interpreted, and enforced.<sup>137</sup> This method integrates insights from various social sciences to provide a more holistic view of the law's role and impact.

By investigating how laws affect and are affected by societal norms, behaviours, and institutions, socio-legal research uncovers actual realities and legal frameworks.<sup>138</sup> In this thesis, socio-legal research plays a crucial role in analyzing the relationship between land use planning and the regulatory environment governing SEZs. This research provides valuable insights into the impact of these laws on both society and the economy. For instance, an in-depth examination of the SBEZ BKH could offer valuable information on how the enforcement of land use planning laws affects the local economy including other stakeholders, providing essential insights into the societal and economic implications of such regulations.

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<sup>136</sup> Yaqin, *Legal Research and Writing*.

<sup>137</sup> Afif Noor, Socio-Legal Research: Integration of Normative and Empirical Juridical Research in Legal Research, *Jurnal Ilmiah Dunia Hukum* 7, no. 2 (April 7, 2023): 94–112, <https://www.ejournal.warmadewa.ac.id/index.php/prasada/article/view/1373>.

<sup>138</sup> Yaqin, *Legal Research and Writing*.

Moreover, engaging with different stakeholders, including government officials and local residents, can further explore the most valuable perspectives and experiences related to the planning system within SEZs. This engagement can unleash the challenges and successes in implementing SEZ policies in Malaysia practically. It will highlight the legal framework that aligns or conflicts with local needs and expectations.

Through this holistic socio-legal approach, the effectiveness of existing legal frameworks in driving economic growth are evaluated in this study. There is a further exploration of the social impact of these laws, such as displacement or changes in community structure. By integrating the stakeholder insights, policymakers can further understand both the advantages and disadvantages of SEZ policies, facilitating more balanced and inclusive planning that addresses the needs of all stakeholders involved.

#### **1.10.1.2 Case Study**

In qualitative research, case studies involve an in-depth exploration of a program, event, activity, process, or one or more individuals.<sup>139</sup> Yin defined a case study as an empirical approach focused on examining a contemporary phenomenon ("the case") thoroughly within its real-life setting.<sup>140</sup> This method is particularly relevant when the distinction between the phenomenon and its context is not obvious. Case study

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<sup>139</sup> Creswell, Research Design: Qualitative, Quantitative and Mixed Methods Approaches. Case study defined by specific time frames and activities, with researchers gathering comprehensive information through various data collection methods over an extended period.

<sup>140</sup> Robert K Yin, *Case Study Research and Applications: Design and Methods*, Sixth. (London: SAGE Publications Ltd, 2018).

research encompasses both single-case and multiple-case designs, each suited for different research aims.<sup>141</sup>

In this study, a single case strategy is employed. A single case study allows for a detailed exploration of specific aspects, providing valuable insights into complex phenomena. It emphasizes the context, allowing researchers to understand the unique environment and conditions influencing the case, which is crucial for accurate interpretations where context significantly impacts outcomes.<sup>142</sup> The research examines and explores how land use planning affects SBEZ development within Malaysia's legal and planning framework. The study also employs this same targeted, context-focused analytical approach. This method is especially effective when studying unique or exemplary cases, highlighting rare attributes or testing existing theories, and can generate broader principles or new theories applicable beyond the specific instance.<sup>143</sup>

The selection of SBEZ BKH as a single case study is justified by its unique status as Malaysia's only officially designated SBEZ,<sup>144</sup> distinguished by its size and strategic location along a major highway. While SBEZ BKH does not have a dedicated regulatory framework, its development has already commenced, making it an active economic zone despite the absence of a specialised governance structure. In contrast,

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<sup>141</sup> Ibid. A single case study explore the deep into one particular instance, providing detailed, context-sensitive insights, often used to explore unique or critical cases. Conversely, multiple case studies compare several cases to identify patterns and enhance generalizability across different contexts, thereby increasing the robustness of the findings..

<sup>142</sup> Camille Croni, Using Case Study Research as a Rigorous Form of Inquiry, *Nurse Researcher* 21, no. 5 (2014): 19–27.

<sup>143</sup> Yin, *Case Study Research and Applications: Design and Methods*.

<sup>144</sup> Montague Lord and Pawat Tangtrongita, Special Border Economic Zone (SBEZ) in the Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT), no. May (2014).

other border regions with similar economic potential have not been formally developed as SBEZs.

At the time this research was conducted, discussions were underway between Malaysia and Singapore regarding the establishment of the Johor-Singapore Special Economic Zone (JS-SEZ).<sup>145</sup> However, JS-SEZ remained in the proposal stage, with no concrete details on its regulatory structure, development strategy, or implementation timeline. Given the lack of available information, JS-SEZ could not be considered a viable case study for this research. SBEZ BKH, on the other hand, was selected as its physical development had already begun, providing a tangible case for analysis despite the absence of a formal regulatory framework.

This case study presents a valuable opportunity to examine the practical challenges of developing an SEZ without a dedicated governance framework, offering critical insights that could inform future policy development for SEZs at both national and international levels. The findings of this research are expected to contribute to legal and policy frameworks for SEZ governance, setting a foundation for further socio-legal studies on economic zones. Further details on the case study of BKH will be elaborated in Chapter 4.

#### **1.10.2 Data Collection**

Data collection can be defined as gathering the data for a particular purpose from multiple sources systematically.<sup>146</sup> Thus, this study will employ the main data

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<sup>145</sup> Jassmine Shadiqe, Onn Hafiz: Malaysia and Singapore to Finalise Johor-Singapore SEZ Terms of Reference by Oct, *New Straits Time*, September 14, 2023, <https://www.nst.com.my/news/nation/2023/09/955229/onn-hafiz-malaysia-and-singapore-finalise-johor-singapore-sez-terms>.

<sup>146</sup> Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*.

collection, which is the interview,<sup>147</sup> as well as documentary data (statutes, legal cases, etc) and library data as secondary resources. These are to fulfil the case study requirement, which requires multiple sources of data to be analysed.

#### **1.10.2.1 Documentary data**

This study incorporates documentary research, a method increasingly recognised for its effectiveness in gathering both qualitative and quantitative data.<sup>148</sup> The focus is on comprehensively understanding the regulatory legal framework for land use planning within SEZs and SBEZs in Malaysia. The research scrutinises a diverse range of documentary sources, including academic journals, books, conference papers, legal statutes, case law, government reports, and other relevant materials found in libraries.<sup>149</sup> This extensive scope enables a detailed review of existing documentation, with the potential to reveal new insights.

Legal precedents, or case law, play a vital role in this research, particularly in exploring land use planning and development control in the context of SBEZ.<sup>150</sup> These judicial decisions provide authoritative legal perspectives, supporting the hypotheses and conclusions of the study with validated viewpoints. Furthermore, the research incorporates secondary sources like textbooks, articles from law journals, newspaper reports, and various policy documents. This includes development plans, economic policy papers, and other relevant documents, enriching the study with diverse

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<sup>147</sup> Ibid.

<sup>148</sup> Lisa Webley, Qualitative Approaches to Empirical Legal Research, *The Oxford Handbook of Empirical Legal Research*, no. December (2012).

<sup>149</sup> To be elaborated in 1.10.2.2

<sup>150</sup> Amrit Kharel, *Doctrinal Legal Research* 252, no. November (2018).

perspectives and information.<sup>151</sup> These sources offer critical insights into the complexities of land use planning, enhancing the study's analytical depth.

Overall, the documentary review method enriches the study with a multifaceted understanding of SEZ land use planning, serving as a versatile research tool for in-depth legal and policy analysis. The use of secondary sources such as legal statutes, case law, academic literature, and policy reports provided contextual background and legal interpretations, supporting the findings from primary data collection. By incorporating both qualitative interviews and documentary research, this study ensures a comprehensive and well-validated approach to examining regulatory frameworks and planning governance in SEZs.

#### **1.10.2.2 In-Depth Interviews**

In this research, the decision to employ in-depth interviews as the principal qualitative research tool was primarily motivated by the technique's potential to explore intricate individual experiences, views, and perceptions, particularly those concerning State Authority, SEZs and SBEZs.<sup>152</sup> By centring on the interviewees' perspectives, the study aimed to deeply probe into the complex dynamics governing these zones, thereby enabling a richer understanding of regulatory legal frameworks and planning in SEZs and SBEZs.

The study adopts a semi-structured interview approach, informed by the flexibility and depth that such interviews offer in qualitative research.<sup>153</sup> A pre-defined interview

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<sup>151</sup> Silverman, *Doing Qualitative Research*; Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*.

<sup>152</sup> Jane Ritchie and Jane Lewis, *Qualitative Research Practise: A Guide for Social Science Students and Researcher*, 1st ed. (London: Sage Publication Inc, 2003).

<sup>153</sup> Silverman, *Doing Qualitative Research*.



guide containing key questions or interview protocols related to the research objectives was meticulously prepared, ensuring room for the impromptu exploration of emerging themes and sub-topics.<sup>154</sup> This method proved to be effective, especially for studying such complex subjects as the SBEZ at BKH, as it allowed for a thorough understanding of the issues, revealing potential challenges and best practices.

The study carefully selected interviewees with first-hand experience and specialised knowledge of SEZs and SBEZs, ensuring a comprehensive dataset.<sup>155</sup> Interviews were conducted either in person or online using platforms such as Google Meet and Microsoft Teams.<sup>156</sup> Face-to-face interviews followed a structured protocol and were recorded on a mobile phone.<sup>157</sup> Online interviews were conducted using secure digital platforms with built-in recording features. The recordings were transcribed for thematic analysis to uncover important patterns and insights aligned with the study's objectives.<sup>158</sup>

However, it is crucial to recognise the limitations of the in-depth interview method. Both the interviewer and the interviewee committed substantial time and effort to the process, making it resource-intensive.<sup>159</sup> Also, the data derived was inherently subjective, shaped by the perspectives and memories of the interviewee, thereby

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<sup>154</sup> Ibid.

<sup>155</sup> Ritchie and Lewis, *Qualitative Research Practise: A Guide for Social Science Students and Researcher*; Silverman, *Doing Qualitative Research*. The respondents were identified based on a set of criteria that included their role, expertise, and specific experience relevant to the research objectives, thereby ensuring a data set rich in both breadth and depth.

<sup>156</sup> Chi-kuan Chia et al., *Online Interview Tools for Qualitative Data Collection During COVID-19 Pandemic : Review of Web Conferencing Platforms' Functionality*, *Malaysian Journal of Qualitative Research* 7, no. May 2020 (2020): 95–106.

<sup>157</sup> Silverman, *Doing Qualitative Research*.

<sup>158</sup> Ibid.; Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*.

<sup>159</sup> Alan Morris, *The What and Why of In-Depth Interviewing*, in *A Practical Introduction to In-Depth Interviewing*, 2018, 1–16.

introducing inevitable bias into the research.<sup>160</sup> While the depth of the data collected was considerable, its limited breadth posed challenges to the generalisability of the study's findings, an issue widely discussed in literature.<sup>161</sup>

Nevertheless, despite their limitations, in-depth interviews were extremely valuable for understanding the complex realities of SEZs and SBEZs. Creating an open and respectful interview environment maximized the technique's strengths, strengthening the research design and shedding light on the intricate dynamics that influence the functioning and governance of these zones. The data sources for this research, particularly for conducting in-depth interviews, are as follows:

*Table 1-2*

*Data Source*

|                                                             |                                                    |
|-------------------------------------------------------------|----------------------------------------------------|
| <b>A) Federal Government Agencies and Related Parties</b>   |                                                    |
| 1)                                                          | Northern Corridor Implementation Authority (NCIA). |
| 2)                                                          | Customs, Quarantine and Security (ICQS).           |
| 3)                                                          | Iskandar Regional Development Agency (IRDA);       |
| <b>B) Government Of Kedah, Agencies and Related Parties</b> |                                                    |
| 1)                                                          | Kubang Pasu Local planning authority.              |
| 2)                                                          | Kubang Pasu Land Office.                           |
| 3)                                                          | Plan Malaysia Kedah.                               |
| 4)                                                          | Kedah State Development Corporation (PKNK);        |
| <b>C) Iskandar Malaysia, Johore</b>                         |                                                    |
| 1)                                                          | Majlis Bandaraya Iskandar Puteri.                  |
| 2)                                                          | Majlis Bandaraya Pasir Gudang                      |
| 3)                                                          | Plan Malaysia Johor.                               |
| 4)                                                          | Land Office Johor Bahru                            |
| <b>D) Penang</b>                                            |                                                    |
| 1)                                                          | Majlis Bandaraya Pulau Pinang                      |
| 2)                                                          | Majlis Bandaraya Seberang Perai                    |
| 3)                                                          | Penang Development Corporation                     |
| 4)                                                          | Land Office Seberang Perai Tengah                  |
| <b>E) Interviews with the following stakeholders:</b>       |                                                    |
| 1)                                                          | Residents of housing development projects in BKH.  |
| 2)                                                          | The Master Developer of SBEZ BKH.                  |
| 3)                                                          | Business operating in BKH.                         |

<sup>160</sup> Hsiu Fen Lin, The Impact of Website Quality Dimensions on Customer Satisfaction in the B2C E-Commerce Context, *Total Quality Management and Business Excellence* 18, no. 4 (2007): 363–378.

<sup>161</sup> Silverman, *Doing Qualitative Research*.

As outlined in Part D, direct interviews with PLANMalaysia Penang were not conducted, as the officer at PLANMalaysia Kedah had previously served in PLANMalaysia Penang. Given their prior experience and familiarity with planning practices in Penang, relevant findings, discussions, and insights regarding lessons learned from Penang's SEZ development were obtained through this individual. This approach ensured continuity in the data collection process while leveraging the officer's expertise across both planning jurisdictions.

As for foreign SEZs, two countries were selected as sources of best practices. Firstly, the United Kingdom was chosen due to its influence on Malaysia's own planning system, which is rooted in British planning principles. The UK's planning system incorporates specific provisions related to the development of economic zones within their planning act. Secondly, Singapore was selected as a neighbouring country known for its advanced industrial development and its position as a global logistics hub. By studying Singapore's planning system, valuable insights can be gained on how to effectively manage development with limited land resources.

### **1.10.3 Data Analysis**

The analysis of the data was conducted using various research methodologies, including file review and interviews. The analysis focused on examining the legal features, characteristics, issues, challenges, advancements, prospects, and approaches related to land use planning in the SBEZ of BKH, as well as in other SEZs such as Iskandar Malaysia in Johore and Penang, and the United Kingdom and Singapore.

The qualitative research method is deemed more appropriate for this study. It facilitated the acquisition of essential and meaningful data, encompassing a wide range

of comprehensive information, including hidden or nuanced data that quantitative research methodologies cannot generate or measure.<sup>162</sup> The data analysis involved qualitative case study methods, multiple sources of evidence, chains of evidence data, and triangulation methods to support the findings of this research.<sup>163</sup> In terms of legal analysis, reference was made to primary and secondary resources, specifically relevant Malaysian laws on land use planning.

In the pursuit of legal findings, the study has employed conventional, analytical, and comparative legal protocols and methods.<sup>164</sup> It was posited that these diverse approaches to legal research would facilitate the development of a robust land-use planning legal framework that governs the competitive SBEZ in BKH. Furthermore, the use of aforementioned research methodologies and the inclusion of various data sources were deemed pivotal in effectively addressing the research objectives and research questions at hand.

To ensure the credibility, reliability, and validity of this research, a triangulation approach was employed through methodological, data, and investigator triangulation.<sup>165</sup> Methodological triangulation was conducted by analysing statutes, regulations, and legal frameworks from different jurisdictions to compare and evaluate land-use planning regulations relevant to the SBEZ.<sup>166</sup> By incorporating legal sources from various levels, including domestic laws and international best practices, this approach strengthened the legal assessment and provided a comprehensive understanding of regulatory mechanisms governing SEZs. Additionally, data

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<sup>162</sup> Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*.

<sup>163</sup> Ibid.

<sup>164</sup> Aikaterini Argyrou, Making the Case for Case Studies in Empirical Legal Research, *Utrecht Law Review* 13, no. 3 (2017): 95–113; Graham Gibbs, *Analyzing Qualitative Data*, 2015.

<sup>165</sup> Gibbs, *Analyzing Qualitative Data*.

<sup>166</sup> Silverman, *Doing Qualitative Research*.

triangulation was applied by drawing from multiple sources, including statutory provisions, planning guidelines, government reports, SEZ development plans, and case studies. Using these varied data sources ensured a well-rounded perspective and minimised potential bias in the legal analysis.

Investigator triangulation was conducted by gathering insights from different groups or sectors.<sup>167</sup> For example, interviews from planners across different sectors capture diverse viewpoints on land-use planning within the SBEZ. Interviews were carried out with local authority planners, who provided insights on municipal-level regulatory control; PLANMalaysia representatives, who contributed national-level perspectives; and private sector planners, who shared practical experiences and industry challenges. Engaging multiple stakeholders allowed the study to verify findings from different angles, enhancing the depth and reliability of the research. By integrating these triangulation methods, the study ensured a balanced, well-supported analysis of land-use planning frameworks, reinforcing the validity of its conclusions and recommendations for SBEZ governance.

#### **1.10.3.1 Content analysis**

Content analysis was employed as a systematic examination of textual data. This method involves the collection and analysis of written materials to extract meaningful insights and draw relevant inferences.<sup>168</sup> Initially utilised in communication research to objectively and quantitatively analyse message characteristics, content analysis has since been applied in various research areas, including the interpretation of legal and

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<sup>167</sup> Gerald F. Hess, *Qualitative Research on Legal Education: Studying Outstanding Law Teachers*: 925–940.

<sup>168</sup> Kimberly A. Neuendorf, *The Content Analysis Guidebook*, Sage Publication, 2nd ed. (Sage Publication Inc, 2017).

political documents, in economic research as well as understanding urban development.<sup>169</sup>

This method, although initially applied in the communication research field, it was also applied by other research areas such as interpretation of legal and political documents<sup>170</sup>, understanding people's psychology<sup>171</sup>, development of SEZs or FTZ<sup>172</sup> as well as the evaluation of the effectiveness of a land use planning system<sup>173</sup>. This methodological approach facilitated a comprehensive exploration of the collected qualitative data, enabling the identification of recurring themes, patterns, and trends. By employing content analysis, the researcher was able to transform qualitative information into a more structured and quantitative framework, thereby enhancing the understanding of the legal features, challenges, and prospects pertaining to land use planning within SEZs and SBEZ.

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<sup>169</sup> Sharon Bar-Ziv, A Content Analysis Approach to Intellectual Property Research, in Handbook of Intellectual Property Research, vol. 64 (Oxford University Press Oxford, 2021), 473–486, <https://researchsupport.admin.ox.ac.uk/innovation/intellectual-property>; Kestutis Zaleckis et al., Integrating Content Analysis Into Urban Research: Compatibility With Sociotope Method and Multimodal Graph, SAGE Open 9, no. 1 (January 29, 2019): 215824401984011, <http://journals.sagepub.com/doi/10.1177/2158244019840115>; Janine Greyer-stock, Content Analysis in the Research Field of Economic News Coverage, ed. Franziska Oehmer-Pedrazzi et al., Standardised Content Analysis in Communication Research (Wiesbaden: Springer Fachmedien Wiesbaden, 2023), [http://dx.doi.org/10.1007/978-3-658-36179-2\\_14](http://dx.doi.org/10.1007/978-3-658-36179-2_14).

<sup>170</sup> Klaus Krippendorff, *Content Analysis: An Introduction to Its Methodology*, Sage Publication, 4th ed. (Sage Publication Inc, 2018); Michael C. Evans et al., Recounting the Courts? Applying Automated Content Analysis to Enhance Empirical Legal Research, *Empirical Legal Studies* 4, no. 4 (2007): 1007–1039; John A Sharp, John Peters, and Keith Howard, *The Management of a Student Research Project Third*, Gower Publishing, Third. (Burlington: Gower Publishing Limited, 2002).

<sup>171</sup> Harold H. Kassarian, Content Analysis in Consumer Research, *Journal of Consumer Research* 4, no. 1 (1977): 8–18; Candice Hargons, Della V. Mosley, and Danelle Stevens-Watkins, Studying Sex: A Content Analysis of Sexuality Research in Counseling Psychology, *Counseling Psychologist* 45, no. 4 (2017): 528–546.

<sup>172</sup> Wanwisa Thamwicha and Kanokporn Chaiprasit, Exporting Analysis of the Small and Medium Enterprises (SMEs) in the Mukdahan Special Economic Zone, *RMUTT Global Business Accounting and Finance Review* 1, no. 2 (2017): 34–47; Fenwick, “Evaluating China’s Special Economic Zones.”

<sup>173</sup> Mina Di Marino et al., Integrating Green Infrastructure and Ecosystem Services in Land Use Planning. Results from Two Finnish Case Studies, *Land Use Policy* 82, no. January (2019): 643–656, <https://doi.org/10.1016/j.landusepol.2019.01.007>; Andreas Von Der Dunk et al., Defining a Typology of Peri-Urban Land-Use Conflicts - A Case Study from Switzerland, *Landscape and Urban Planning* 101, no. 2 (2011): 149–156, <http://dx.doi.org/10.1016/j.landurbplan.2011.02.007>.

### 1.10.3.2 Thematic Analysis

Data analysis should undergo a transparent process to ensure that the research is reliable, trustworthy and not biased. For that purpose, this research employs thematic analysis to achieve the objective that has been formulated in the initial part of this research. Thematic analysis (TA) can be defined as “a method for identifying, analysing, and reporting patterns (themes) within data”.<sup>174</sup> TA can also be further explained as an important technique to interpret qualitative data in analysing recurring trends and themes in textual data analysis.<sup>175</sup> As qualitative research primarily concentrates on textual data interpretations with different explanations, thematic analysis will be applied to illustrate the themes and recurring trends in the collected data.

Braun and Clarke suggest that TA is a straightforward method which has many advantages, such as flexibility, summarising the core elements of the dataset, creating unintended observations, and highlighting the dataset's similarities and differences.<sup>176</sup> These advantages can potentially provide rich and dynamic insights, and high accountability from the dataset. As a result, the thematic analysis will summarize and key elements from a large dataset obtained during the data collection process.<sup>177</sup> Six phases will be followed in applying thematic analysis in this research, as illustrated in Figure 1-4.

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<sup>174</sup> Virginia Braun and Victoria Clarke, Using Thematic Analysis in Psychology, *Qualitative Research in Psychology* 3, no. 2 (2006): 77–101.

<sup>175</sup> Marie Crowe, Maree Inder, and Richard Porter, Conducting Qualitative Research in Mental Health: Thematic and Content Analyses, *Australian and New Zealand Journal of Psychiatry* 49, no. 7 (2015): 616–623.

<sup>176</sup> Braun and Clarke, “Using Thematic Analysis in Psychology.”

<sup>177</sup> Gibbs, *Analyzing Qualitative Data*.

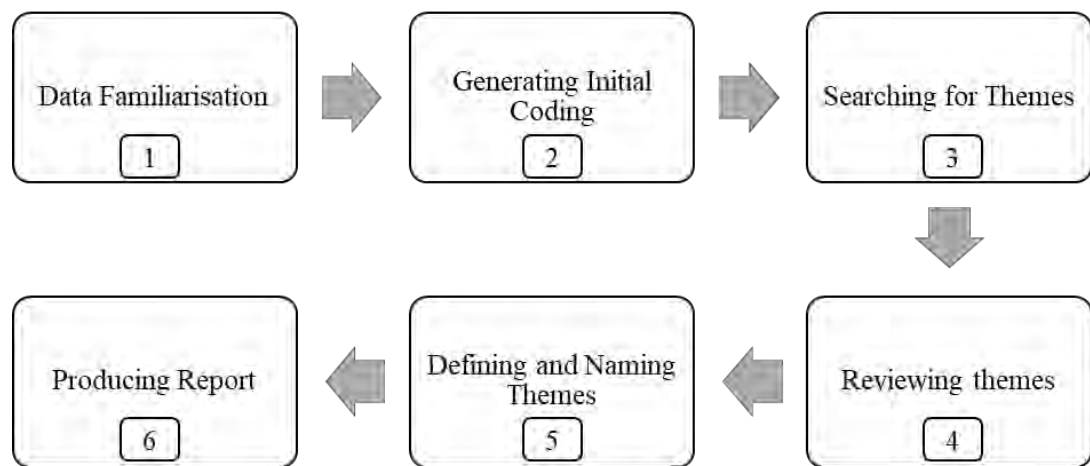


Figure 1-4 Thematic Analysis ProcessSource: Braun and Clarke (2006)<sup>178</sup>

Manual coding is a time-consuming and challenging process. Thus, qualitative analysis software has become very popular and helpful for researchers in organizing and sourcing the information in text and images.<sup>179</sup> Computer Assisted Qualitative Data Analysis (CAQDAS) is the computer software that is used in coding the qualitative data in this study.<sup>180</sup> Several CAQDAS software programmes are usually being used by the researcher, such as Atlas.ti, Nvivo, HyperRESEARCH and N6. For this research, Atlas.ti was selected. Most of this software shares similar attributes, which incorporate both text and image data, storing and organizing data, the ability to search and locate specific text based on given codes, interrelating relationships between one code and other codes, and translating qualitative data from and into quantitative data are some of the functions of such systems.<sup>181</sup>

<sup>178</sup> Braun and Clarke, "Using Thematic Analysis in Psychology."

<sup>179</sup> Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*; Gibbs, *Analyzing Qualitative Data*.

<sup>180</sup> Gibbs, *Analyzing Qualitative Data*.

<sup>181</sup> Silverman, *Doing Qualitative Research*; Creswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*.



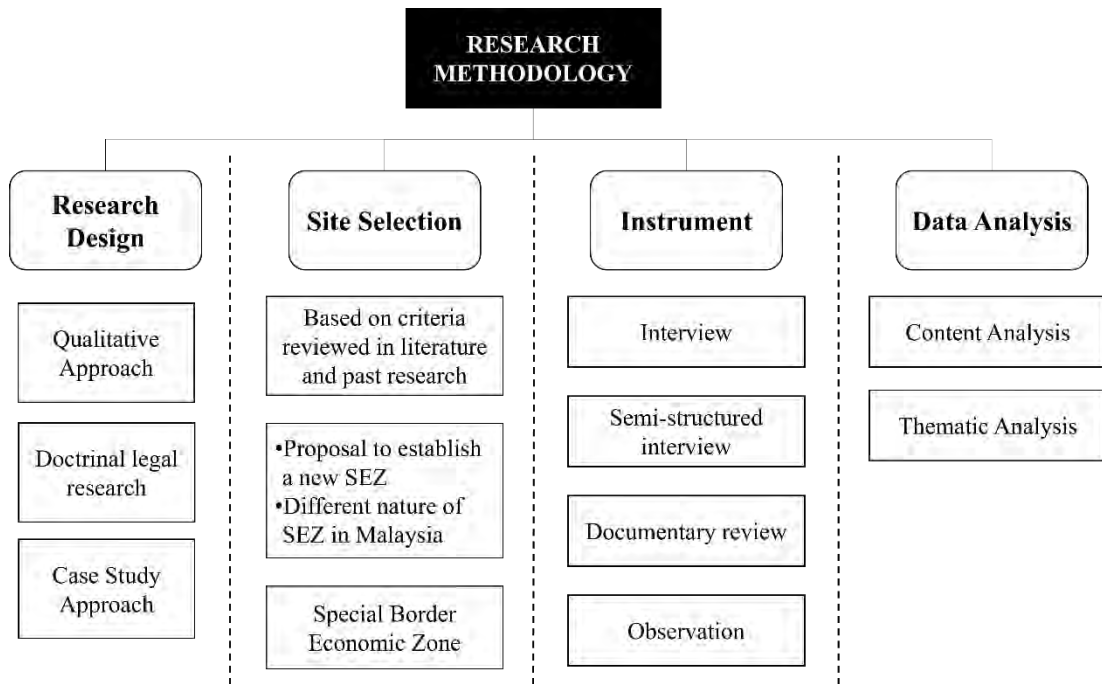


Figure 1-5 Summary of Research Methodology (Researcher Own, 2024)

### 1.11 Research Framework

A research framework plays a crucial role in guiding the overall direction of a study. It provides a structured and systematic approach, ensuring that all key components are considered and well-aligned with the research objectives. Acting as a roadmap, the framework helps researchers explore the relationships between variables, concepts, and underlying assumptions, while maintaining clarity and focus throughout the process. It also helps define the boundaries of the study, offering a clear scope and preventing unnecessary deviation. By outlining the major areas of analysis, the framework aids in identifying research gaps, formulating relevant questions, and ensuring that the investigation remains coherent and logically organised. Ultimately, a strong research framework enhances the quality, depth, and relevance of the findings produced.

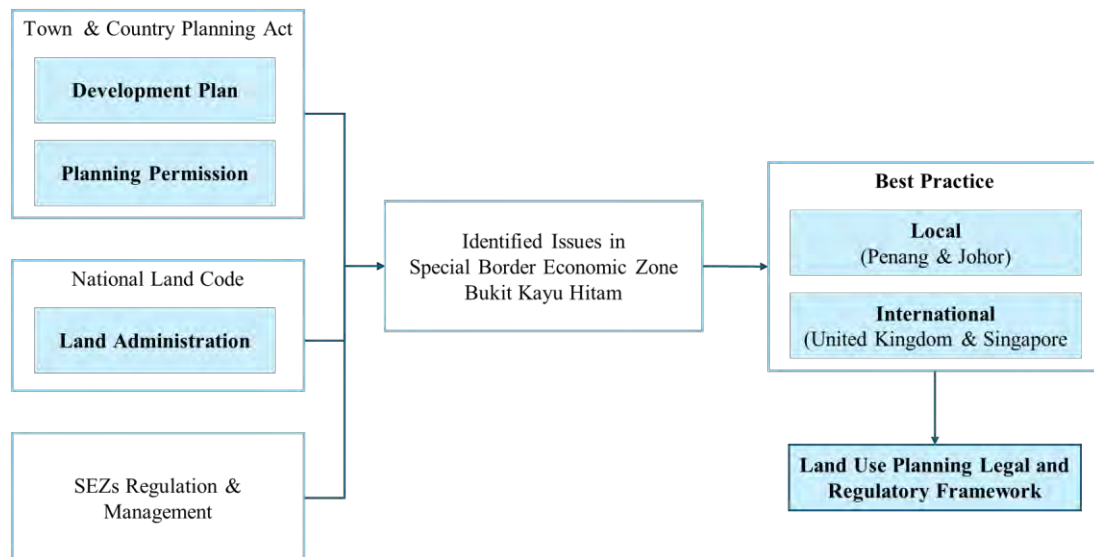


Figure 1-6 Research Framework

In this research framework, the focus is on the essential components of land use planning and regulation, specifically within the context of SEZs. The framework begins with an examination of three primary elements: the development plan, planning permission, and land administration, which are all crucial to land use decisions. It explores these elements in local contexts, with a focus on Penang and Johor, and also includes international comparisons with the United Kingdom and Singapore. The objective is to gain an understanding of how these different jurisdictions address similar issues and how lessons from international best practices can contribute to improvements in the local context, particularly in the SBEZ. Ultimately, the framework leads to an analysis of the legal and regulatory framework for land use planning, providing a comprehensive foundation for addressing the challenges faced by SEZs.

### 1.12 Outline of Chapters

**Chapter One:** This chapter provides an overview of the thesis, encompassing the research background, problem statements, research objectives and questions, and the study's significance, as well as its limitations. This chapter will expand further to include the research methodology, covering aspects such as research design, scope, types of data, data validity and reliability, data collection methods, and data analysis. A summary of each subsequent chapter will conclude this section.

**Chapter Two:** This chapter discusses the concept, relevant statistics, facts and official reports associated with SEZs in Malaysia. It will discuss key statutes and policies such as the Sustainable Development Goals (SDG), Vision 2020, the Malaysian Plan, Government Transformation Plan (GTP), Economic Transformation Plan (ETP), 2030 Wealth Policy, among others. The chapter will also elaborate existing blueprints for SEZs and SBEZs.

**Chapter Three:** This chapter aims to identify and analyse historical, current, and potential legal issues related to land use planning practices in Malaysia. This chapter will examine relevant statutes and legislation concerning land use planning, continuing to spotlight landmark legal cases pertaining to land use and development in Malaysia.

**Chapter Four:** The focus of this chapter is the case study on SBEZ in BKH. The chapter will dissect the policies, statutes, and legislation that regulate this specific SBEZ, alongside its vision, mission, objectives, achievements, milestones, issues, challenges, approach, opportunities, and prospects. The chapter will also explore legal issues that impact the development of this SBEZ.

**Chapter Five:** This chapter is aimed at understanding practices and experiences from industrial development from Penang and Iskandar Malaysia in Johor that could inform the development of the SBEZ in BKH. The chapter will outline the background, policies, and legal frameworks governing these SEZs, and will analyse how these zones handle challenges and issues that could also arise in BKH's SBEZ.

**Chapter Six:** Much like Chapter Five, this chapter aims to glean insights from the practices and experiences of the United Kingdom and Singapore, focusing on their SEZs to enrich the development strategies for BKH's SBEZ. This chapter will follow a similar structure to Chapter Five but will concentrate on foreign SEZs.

**Chapter Seven:** This chapter will present recommendations for the establishment of a legal framework governing land use planning law for SBEZs in BKH. Proposed amendments to existing laws and new legal drafts will be discussed in detail, based on analyses and findings from the preceding chapters.

**Chapter Eight:** The concluding chapter will synthesise the entire thesis, and its facts and findings, serving as the culmination of the overall study.

## **CHAPTER TWO**

### **SPECIAL ECONOMIC ZONES (SEZS) IN THE GLOBAL AND MALAYSIAN CONTEXT: LEGAL, SPATIAL AND ECONOMIC DIMENSION**

#### **2.1 Introduction**

This chapter examines the evolution of SEZs, providing an overview of their global prevalence and focusing on their implementation in Malaysia. SEZs have been effective in driving economic growth in many countries by fostering foreign investment, facilitating import-export activities, promoting technology transfer, generating employment opportunities, enhancing infrastructure, and providing other associated benefits. This thesis aims to analyse the development of SEZs in a comprehensive manner, with a specific focus on Malaysia.

#### **2.2 Special Economic Zones Worldwide**

The establishment of SEZs serves as an economic strategy to address financial constraints faced by developing countries. It enables them to secure initial funds for critical development projects.<sup>182</sup> By leveraging this support, countries can address financial constraints and improve key infrastructure, attracting investment and

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<sup>182</sup> Rajneesh Narula and James X. Zhan, Using Special Economic Zones to Facilitate Development: Policy Implications, *Transnational Corporations* 26, no. 2 (2019): 1–26.

boosting economic growth in targeted areas. SEZs contribute to both local and national development.

*Table 2-1*  
*Number of SEZs by Region*

|                                    | Total number of<br>SEZs (Completed) | SEZs Under<br>development | Proposed new<br>SEZs |
|------------------------------------|-------------------------------------|---------------------------|----------------------|
| World                              | 5383                                | 474                       | 507                  |
| <b>Developed Countries</b>         | <b>374</b>                          | <b>5</b>                  |                      |
| Europe                             | 105                                 | 5                         |                      |
| North America                      | 262                                 |                           |                      |
| <b>Developing Countries</b>        | <b>4772</b>                         | <b>451</b>                | <b>502</b>           |
| Asia                               | 4046                                | 371                       | 419                  |
| East Asia                          | 2645                                | 13                        |                      |
| China                              | 2543                                | 13                        |                      |
| South-East Asia                    | 737                                 | 167                       | 235                  |
| Malaysia                           | 48                                  | NA                        | NA                   |
| South Asia                         | 456                                 | 167                       | 184                  |
| India                              | 373                                 | 142                       | 61                   |
| West Asia                          | 208                                 | 24                        |                      |
| Africa                             | 237                                 | 51                        | 53                   |
| Latin America & Caribbean          | 486                                 | 28                        | 24                   |
| <b>Transition Countries</b>        | <b>237</b>                          | <b>18</b>                 | <b>5</b>             |
| Least Developed Country            | 173                                 | 54                        | 140                  |
| Landlocked developing<br>countries | 146                                 | 22                        | 37                   |
| Small Island Developing<br>States  | 33                                  | 8                         | 10                   |

Source: United Nations, World Investment Report 2019 (United Nations Conference on Trade and Development)<sup>183</sup>

Table 2.1 highlights three significant trends in the distribution of SEZs by region. Firstly, the global adoption of SEZs is extensive, with over five thousand zones established, underscoring their role as key economic tools. Secondly, the focus is predominantly on developing countries, which host about 90% of these zones, with China accounting for nearly half. In contrast, developed countries contain only about 6% of SEZs. Lastly, the table suggests robust future growth, with almost 500 SEZs currently under development and another 500 proposed, signalling ongoing expansion,

<sup>183</sup> United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*.

especially in developing nations and special categories such as "Least Developed Countries" and "Landlocked Developing Countries."

While SEZs have experienced significant global growth, it is important to carefully consider their complexities and challenges. Studies have shown that many SEZs fail to achieve core objectives, such as job creation and export diversification, indicating that success in fulfilling these goals is not guaranteed.<sup>184</sup> Moreover, inadequate infrastructure, including insufficient transport networks and utility services, can greatly reduce the appeal and efficiency of SEZs.<sup>185</sup> Environmental concerns also present a significant challenge, particularly in developing countries with lax regulations, resulting in issues such as increased energy consumption and carbon emissions.<sup>186</sup>

Legislative and policy obstacles further complicate SEZ operations, with instability and competition from other regimes impeding optimal management.<sup>187</sup> This situation emphasises the need for policy reforms that aim to attract foreign investment and promote industrial growth.<sup>188</sup> Additionally, the socioeconomic impacts of SEZs on local communities and the broader economy are critical areas of concern. While SEZs

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<sup>184</sup> Sosnovskikh, "Industrial Clusters in Russia: The Development of Special Economic Zones and Industrial Parks."

<sup>185</sup> Philip Giannecchini and Ian Taylor, The Eastern Industrial Zone in Ethiopia: Catalyst for Development?, *Geoforum* 88, no. January (January 2018): 28–35, <https://linkinghub.elsevier.com/retrieve/pii/S0016718517303056>.

<sup>186</sup> Jieping Chen, Xianpeng Long, and Shanlang Lin, Special Economic Zone, Carbon Emissions and the Mechanism Role of Green Technology Vertical Spillover: Evidence from Chinese Cities, *International Journal of Environmental Research and Public Health* 19, no. 18 (2022).

<sup>187</sup> Alexey Kuznetsov and Olga Kuznetsova, The Success and Failure of Russian SEZs: Some Policy Lessons, *Transnational Corporations* 26, no. 2 (September 19, 2019): 117–140, <https://www.un-ilibrary.org/content/journals/2076099x/26/2/6>; Wahyuni, Astuti, and Utari, "Critical Outlook At Special Economic Zone in Asia: A Comparison Between Indonesia, Malaysia, Thailand and China."

<sup>188</sup> Bret Crane et al., China's Special Economic Zones: An Analysis of Policy to Reduce Regional Disparities, *Regional Studies, Regional Science* 5, no. 1 (2018): 98–107, <https://doi.org/10.1080/21681376.2018.1430612>; Parwez, "A Study on Special Economic Zone Implicated Land Acquisition and Utilisation."

contribute to FDI and job creation, their overall effect on regional economic development is uncertain and often limited.<sup>189</sup> Concerns regarding integration and the impact on local labour markets highlight the importance of adopting a sustainable approach to SEZ development, ensuring that benefits are balanced with the interests of surrounding communities.<sup>190</sup>

In summary, the widespread use of SEZs highlights their vital role as economic instruments worldwide. However, they face challenges such as achieving desired outcomes, addressing infrastructure and environmental concerns, and navigating policy and regulatory issues.<sup>191</sup> This understanding of global trends and challenges will enrich the later discussion on the history of Malaysia's Free Zones, providing important context for evaluating SEZs within Malaysia.

### 2.2.1 Special Border Economic Zone

The discussion above has provided an overview of SEZ development worldwide to illustrate their global implementation. Since this research focuses on SEZs situated in border areas, this section will specifically examine border economic zones or special economic zones near national boundaries. While different terminologies may be used,

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<sup>189</sup> Farole and Akinci, *Special Economic Zones Progress, Emerging Challenges, and Future Directions*; Rob Jenkins et al., *Special Economic Zones in India: Interrogating the Nexus of Land, Development and Urbanization*, *Environment and Urbanization ASIA* 6, no. 1 (2015): 1–17.

<sup>190</sup> Adam A. Ambroziak and Christopher A. Hartwell, *The Impact of Investments in Special Economic Zones on Regional Development: The Case of Poland*, *Regional Studies* 52, no. 10 (2018): 1322–1331, <https://doi.org/10.1080/00343404.2017.1395005>.

<sup>191</sup> Sosnovskikh, “Industrial Clusters in Russia: The Development of Special Economic Zones and Industrial Parks”; Chen, Long, and Lin, “Special Economic Zone, Carbon Emissions and the Mechanism Role of Green Technology Vertical Spillover: Evidence from Chinese Cities”; Kuznetsov and Kuznetsova, “The Success and Failure of Russian SEZs: Some Policy Lessons”; Crane et al., “China’s Special Economic Zones: An Analysis of Policy to Reduce Regional Disparities”; Farole and Akinci, *Special Economic Zones Progress, Emerging Challenges, and Future Directions*; Parwez and Sen, “Special Economic Zone, Land Acquisition, and Impact on Rural India”; Susanne Frick and Andrés Rodríguez-Pose, *Are Special Economic Zones in Emerging Countries a Catalyst for the Growth of Surrounding Areas?*, *Transnational Corporations* 26, no. 2 (September 19, 2019): 75–94, <https://www.un-ilibrary.org/content/journals/2076099x/26/2/4>.



the underlying concept often remains similar. Special Border Economic Zones (SBEZs) are a unique subset of SEZs, strategically positioned to maximise cross-border trade, investment, and economic cooperation. The term SBEZ is often used interchangeably with Special Border Zone (SBZ) and Border Trade Zone (BTZ) due to their shared objectives and characteristics.<sup>192</sup>

Unlike other SEZ models, which are often centrally located or near major ports, SBEZs are strategically positioned along international borders to facilitate economic exchanges between neighbouring countries. These zones typically offer trade facilitation measures, relaxed customs regulations, and preferential business policies to attract FDI and integrate regional supply chains. The primary advantage of SBEZs is their ability to function as trade gateways, linking domestic industries with external markets, labour pools, and production networks in bordering nations. Countries that lack direct access to global trade routes, such as landlocked developing countries (LLDCs),<sup>193</sup> often prioritise the development of SBEZs to overcome logistical challenges and improve economic connectivity.<sup>194</sup>

The historical development of SBEZs highlights their critical role in economic integration. One of the earliest and most well-known border SEZ models is Mexico's maquiladora programme, which was established in the 1960s along the U.S.–Mexico border.<sup>195</sup> The initiative enabled U.S. manufacturers to set up assembly plants within

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<sup>192</sup> Lord and Tangtrongjita, *Scoping Study for The Special Border Economic Zone (SBEZ) In The Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT)*.

<sup>193</sup> United Nations, United Nations Office for Disaster Risk Reduction. Landlocked developing countries (LLDCs) are developing countries that lack direct access to the sea. They face unique challenges in trade, transportation, and infrastructure. Example of LLDC are Afghanistan, Armenia, Nepal, Mongolia and Uganda. There are approximately 30 countries under this LLDC.

<sup>194</sup> United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*.

<sup>195</sup> Krainara and Routray, "Cross-Border Trades and Commerce between Thailand and Neighboring Countries: Policy Implications for Establishing Special Border Economic Zones."

a 12-mile-wide free zone, benefiting from lower labour costs and streamlined customs procedures. This model later became the foundation for other SBEZs worldwide, demonstrating how border economic zones can create mutually beneficial trade relationships. Similarly, countries like Mongolia and Laos have developed border SEZs as key economic hubs to enhance trade with their larger, more industrialised neighbours, such as China and Thailand.<sup>196</sup> These zones provide LLDCs with access to regional and global markets, enabling them to participate more effectively in global value chains (GVCs).

The timing of SBEZ establishment varies among nations, reflecting different policy approaches. In some cases, border SEZs are introduced early in a country's economic development strategy to take advantage of existing cross-border trade flows. For instance, Thailand's 2015 SEZ programme was explicitly designed to strengthen its economic ties with neighbouring Cambodia, Laos, Myanmar, and Vietnam (CLMV countries) by creating ten SBEZs along its borders.<sup>197</sup> In other cases, border SEZs are developed at a later stage to address regional disparities. China, for example, initially concentrated its SEZ efforts in its coastal provinces before expanding its SEZ programme to border regions to boost economic activity in its western and northeastern provinces. This approach demonstrates how SBEZs can serve as policy instruments to stimulate underdeveloped regions, improve infrastructure, and create employment opportunities.<sup>198</sup>

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<sup>196</sup> United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*.

<sup>197</sup> Ibid.

<sup>198</sup> Anh Thu Nguyen et al., Conditions for Establishing Cross-Border Economic Zones in the North of Vietnam, *Economic Horizons* 21, no. 2 (2019): 93–109.

Beyond trade facilitation, SBEZs also enable cross-border industrial collaboration and labour market integration. Many businesses located in SBEZs take advantage of cheaper cross-border labour, access to raw materials, and shared logistics networks. A case in point is the Mae Sot SEZ in Thailand, where Thai firms employ low-cost labour from Myanmar to produce goods for the domestic Thai market<sup>199</sup>. This model allows firms to remain cost-competitive while maintaining proximity to their home market. As the business environment in Myanmar improved, some firms relocated to Myawaddy, the Myanmar side of the border, illustrating how SBEZs facilitate economic spillovers and cross-border investment flows. Similarly, in Africa, the Musina/Makhado SEZ in South Africa serves as a logistical and industrial hub connecting trade routes between South Africa and Zimbabwe, promoting economic cooperation within the Southern African Development Community (SADC) region.<sup>200</sup>

An advanced form of SBEZ is the cross-border economic zone, where two neighbouring countries jointly develop and manage a single economic zone that physically straddles their shared border.<sup>201</sup> This model requires strong intergovernmental coordination, shared regulatory frameworks, and integrated infrastructure development. Notable examples include the Horgos/Khorgos Cross-Border Economic Zone between China and Kazakhstan, which functions as a duty-free trade and commerce hub, and the Mohan/Boten Cross-Border Economic Zone between China and Laos, which integrates warehousing, tourism, and trade within a

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<sup>199</sup> Moe Thida Lwin, Labour Market In Mae Sot 1990–2017 And Thailand’s New Special Economic Zone Policy, *Hue University Journal of Science: Economics and Development* 128, no. 5B (February 19, 2020): 95–109, <http://jos.hueuni.edu.vn/index.php/hujos-ed/article/view/4855>.

<sup>200</sup> United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*.

<sup>201</sup> Ibid.

single economic space.<sup>202</sup> These zones represent the next stage of regional economic integration, requiring joint policy formulation and harmonised investment strategies.

Despite their advantages, the success of SBEZs depends on political stability, regulatory alignment, and cross-border infrastructure investment. One of the key challenges is ensuring consistent policy enforcement on both sides of the border, as discrepancies in tax policies, customs procedures, and labour regulations can create operational inefficiencies.<sup>203</sup> The Ethiopia-Kenya border initiative, launched in 2019, demonstrates the complexities involved in jointly administered Free Trade Zones (FTZs), requiring high-level political support and sustained coordination.<sup>204</sup> Nevertheless, as regional economic blocs continue to expand, SBEZs will play an increasingly important role in facilitating trade, fostering industrial development, and strengthening economic ties between neighbouring countries.

The development of Special Border Economic Zones (SBEZs) underscores the complex interplay between economic policy, geopolitical interests, and regional integration. While these zones offer significant opportunities for cross-border trade, investment, and industrial collaboration, their success is far from guaranteed. The effectiveness of SBEZs is contingent upon a range of factors, including political stability, regulatory consistency, and the quality of cross-border infrastructure. Disparities in tax regimes, customs enforcement, and labour policies between

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<sup>202</sup> Omirbek Hanayi, *The Khorgos Free Economic Zone and Its Economic Potential*, Eurasian Research Institute, 2017; United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*; Peng Li and Zhen Xiao, Impervious Surface Expansion in the China-Laos Border Area under the Context of Geo-Economic Cooperation: A Case Study of the Mohan-Boten Economic Cooperation Zone, *GIScience and Remote Sensing* 59, no. 1 (2022): 2184–2201, <https://doi.org/10.1080/15481603.2022.2154919>.

<sup>203</sup> United Nations, *World Investment Report 2019 (United Nations Conference on Trade and Development)*.

<sup>204</sup> Ibid.

neighbouring nations can hinder their intended benefits, creating inefficiencies rather than seamless economic integration. Furthermore, while some countries strategically utilise SBEZs to address regional imbalances and stimulate economic growth in underdeveloped areas, others risk turning them into enclaves of exploitation, where weaker labour protections and environmental standards attract investment at the cost of long-term sustainability. The evolution of cross-border economic zones highlights both the potential and the limitations of such initiatives, demonstrating that while SBEZs can serve as catalysts for regional economic cooperation, their success ultimately depends on well-coordinated governance, infrastructure investment, and policy harmonisation between participating states.

### 2.3 History of Malaysian Free Zones

In Malaysia, SEZs manifest predominantly as Free Zones. These were established following the Investment Incentives Act in 1968 (Act 199), which was pivotal in combatting market saturation and spurring economic growth.<sup>205</sup> Labour laws were also revised during this period to curb trade union influence, encouraging multinational corporations to relocate export-oriented operations to Malaysia, specifically leveraging Penang's port infrastructure.<sup>206</sup> The first Free Trade Zone in Bayan Lepas, Penang, was established in 1972 with the support of the Federal Government and the enactment of the Free Trade Zone Act 1971 (Act 24) (FTZA 1971).<sup>207</sup> The

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<sup>205</sup> This act was an integral component of the New Economic Policy (NEP), initiated in the early 1970s. The legislation was designed to bolster export-oriented industry by offering a range of financial incentives to enterprises focused on manufacturing and exporting Malaysian products. These incentives included tax exemptions, investment tax credits, depreciation allowances, export inducements, and immunity from import duties and surcharges.

Yeow Teck Chai and Ooi Chooi Im, *The Development of Free Industrial Zones – The Malaysian Experience*, 2009; R. Rasiah and I. Shari, Market, Government and Malaysia's New Economic Policy, *Cambridge Journal of Economics* 25, no. 1 (2001): 57–78.

<sup>206</sup> Chai and Im, *The Development of Free Industrial Zones – The Malaysian Experience*.

<sup>207</sup> Le Roux and Schoeman, "A Comparative Analysis of the Design of Special Economic Zones: The Case of South Africa, Malaysia and Indonesia."

establishment of the Bayan Lepas Free Trade Zone marked a significant milestone in Malaysia's industrialisation, particularly within the electronics sector. Its excellent infrastructure and liberal customs policies attracted numerous multinational corporations.<sup>208</sup> Spurred by its success, Malaysia developed ten FTZs by 1987 across various states, enhancing its industrial landscape.<sup>209</sup>

Continuing this trajectory, Malaysia has developed over 600 industrial estates and parks, supported by collaborations between government agencies such as the State Economic Development Corporations (SEDCs), Regional Development Authorities (RDAs), and private developers.<sup>210</sup> These zones are equipped with essential services such as roads, utilities, and telecommunications, fostering optimal business environments. This collaborative development approach provides a valuable context for further discussions of the nuances of SEZs in Malaysia, setting the stage for sustainable economic growth and regional development.

## **2.4 The Concept of Special Economic Zone in Malaysia**

SEZs are important for economic development. Malaysia has adapted its SEZ offerings to meet different needs, introducing various types and concepts such as traditional secured areas and regional SEZs. These zones have thematic clusters for specific industries, such as technology, biotechnology, Halal products, and small-scale industries. This ensures tailored support and infrastructure. By grouping businesses together, these clusters reduce transportation costs and encourage resource sharing,

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<sup>208</sup> Rasiah, "Industrialising Malaysia: Policy, Performance, Prospects."

<sup>209</sup> By 1987, the country boasted a total of ten FTZs, distributed across various regions with four (4) in Penang, three (3) in Selangor, two (2) in Malacca, and one (1) in Johor. Ibid.; Chai and Im, *The Development of Free Industrial Zones – The Malaysian Experience*.

<sup>210</sup> Malaysian Investment Development Authority (MIDA), *Setting-Up Business – Infrastructure Support*, 2019; Makoto Anazawa, *Free Trade Zones in Malaysia*, *Hokudai Economic Papers* (1985).

knowledge transfer, and industry-specific growth.<sup>211</sup> The following discussion will provide a detailed explanation of the different types and concepts of SEZs that are present in Malaysia.

#### **2.4.1 SEZs under the Free Zone Act 1990 and the Customs Act 1967**

Free Zones (FZs) are a specific component of the regulatory framework governing SEZs. In Malaysia, policymakers have implemented various measures to ensure the competitiveness of SEZs, particularly FTZs, and to attract investors to participate in the local economy. One significant initiative in this regard was the revision and enhancement of the Free Trade Zone Act of 1971 (Act 24) (FTZA) through the establishment of the Free Zones Act 1990 (Act 438) (“FZA”).<sup>212</sup>

The FZA divides the free zone concept into two (2) categories: Free Industrial Zones and Free Commercial Zones. Under Section 3(1) of the Free Zones Act, the Minister of Finance holds the authority to approve the gazetting of both types of free zones.<sup>213</sup> These zones benefit from streamlined customs procedures and are exempted from certain duties and taxes associated with import and export activities, as stipulated in Section 2(1A) of the Custom Act 1967.<sup>214</sup>

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<sup>211</sup> Athukorala and Narayanan, “Economic Corridors and Regional Development: The Malaysian Experience.”

<sup>212</sup> The governance of SEZs in Malaysia is supported by legislative acts such as the Customs Act 1967 (Act 235), Excise Act 1976 (Act 176), Sales Tax Act 1972 (Act 64), and Service Tax Act 1975 (Act 151). These acts provide incentives and exemptions to promote trade and support manufacturing companies that focus on the production or assembly of goods for import and export. Chai and Im, *The Development of Free Industrial Zones – The Malaysian Experience*.

<sup>213</sup> Subsection 3(1), Free Zones Act 1990 (Act 438).

<sup>214</sup> Malaysian Investment Development Authority (MIDA), *Setting-Up Business – Infrastructure Support*.

#### 2.4.1.1 Free Industrial Zones (FIZ)

The Free Industrial Zones (FIZs) in Malaysia are important for the country's physical development. They host large industrial factories from both domestic and foreign companies. These zones have relaxed customs controls and are mostly focused on exports.<sup>215</sup> Businesses operating in FIZs are required to allocate at least 80% of their output for export and mainly import their raw materials and components.<sup>216</sup> Although there is encouragement to use local resources, FIZs still heavily depend on imported essentials. The activities allowed in FIZs include converting materials into new products and assembling machinery, which helps to drive technological advancements and industrial growth.<sup>217</sup> The strategic location and lenient regulations of FIZs make them an attractive platform for taking advantage of international trade opportunities.

FIZ Bayan Lepas is an important part of Malaysia's strategy to attract multinational corporations (MNCs) and lead the development of Free Industrial Zones (FIZs). Being the first FIZ, Bayan Lepas has made a significant contribution to the economic growth of Penang and has increased Malaysia's attractiveness as an investment destination.<sup>218</sup>

The construction of Intel's first production facility outside the United States in Bayan Lepas, as shown in Figure 2.1, demonstrates the global confidence in Malaysia's business infrastructure and skilled workforce.<sup>219</sup> This success has led to the

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<sup>215</sup> Subsection 2(1A), Free Zones Act 1990 (Act 438).

<sup>216</sup> Chai and Im, *The Development of Free Industrial Zones – The Malaysian Experience*.

<sup>217</sup> Activities encompass the conversion of organic or inorganic materials into novel products through alterations in their size, shape, composition, or nature. Moreover, FIZs facilitate the assembly of machinery or products, ultimately leading to the production of finished goods. Section 2, Free Zones Act 1990 (Act 438).

<sup>218</sup> The presence of eight influential companies, known as the "Samurai Eight," including National Semiconductor, AMD, Intel, Osrum, Hewlett-Packard, Clarion, Hitachi, and Bosch, marked a significant milestone in the country's industrialisation journey. Chai and Im, *The Development of Free Industrial Zones – The Malaysian Experience*; Prema-chandra Athukorala, *Growing with Global Production Sharing: The Tale of Penang Export Hub*, Malaysia, in *International Conference on Trade, Investment and Production Networks in Asia*, 2012.

<sup>219</sup> Intel Corporation, *Intel Marks 40 Years in Malaysia*, last modified 2012, accessed December 18, 2021, <https://newsroom.intel.com/editorials/intel-marks-40-years-in-malaysia/#gs.mqir7w>; *The Star*



establishment of 21 additional FIZs across Malaysia by 2020, each promoting economic development and job creation in its respective region. The Second Schedule, Section 10(1)(b) of the Free Zones Act 1990 lists all the gazetted zones under FZA,<sup>220</sup> and the managing authorities are listed on the Customs Department website, as shown in Appendix 2.1.

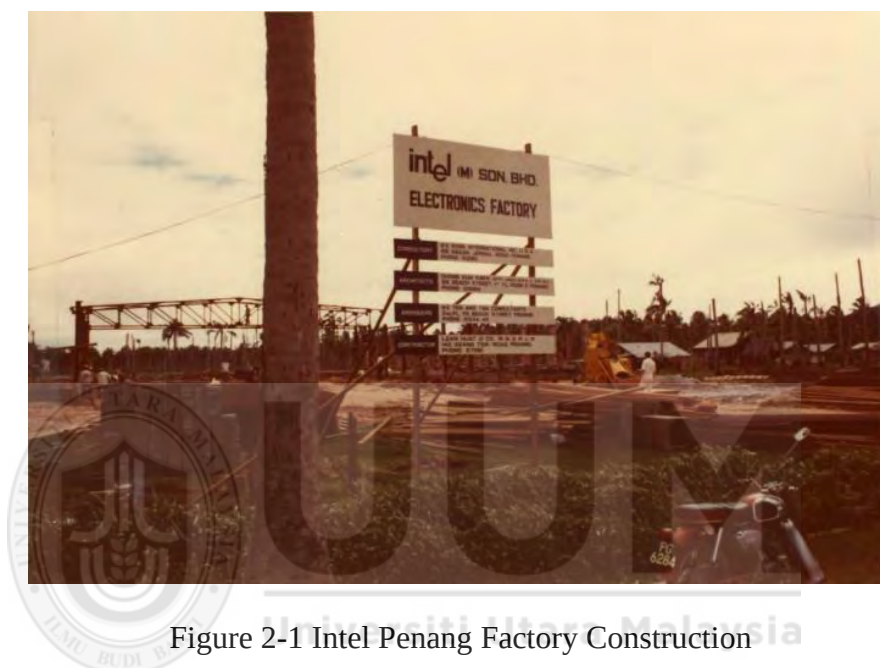


Figure 2-1 Intel Penang Factory Construction

The establishment of Free Industrial Zones (FIZs) in Malaysia has boosted economic growth through technology transfer, job creation, and increased exports. Multinational companies in these zones have improved Malaysia's manufacturing and knowledge transfer, resulting in a skilled workforce. The clustering effect within FIZs has created a vibrant ecosystem of suppliers and service providers, strengthening industry support. The success of FIZ Bayan Lepas demonstrates the impact of strategic planning and

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Online, Intel Corp Reiterates Its Investment Commitment in Malaysia, *The Star Online*, January 19, 2023, <https://www.thestar.com.my/business/business-news/2023/01/19/intel-to-invest-rm70bil-in-malaysia-over-10-years>.

<sup>220</sup> Subsection 3(2) of FZA prescribed that each of FIZs shall be governed by their own authority.

robust infrastructure in attracting global investments, cementing Malaysia's position in the global economy.

#### **2.4.1.2 Free Commercial Zone (FCZ)**

Free Commercial Zones (FCZs) are typically strategically located near ports or airports, primarily to support the activities associated with Free Industrial Zones (FIZs). However, there are instances where FCZs are established in locations outside of these ports and airports, primarily for commercial or retail trade purposes.<sup>221</sup> Under section 6A of the FZA, the Minister has the authority to permit retail activities within the free zone area.<sup>222</sup> Notable examples of FCZs where retail activities are allowed include Rantau Panjang and Pengkalan Kubur Free Zone in Kelantan, Bukit Kayu Hitam Free Zone in Kedah, and Stulang Laut Free Zone in Johor.



Figure 2-2 Retail Shop in Stulang Duty-Free Zone

Companies operating in Free Commercial Zones (FCZs) and Free Industrial Zones (FIZs) receive exemptions on duties, sales tax, and service tax for imported products.

<sup>221</sup> Jeyapalan Kasipillai and Richard Krever, The Adoption of GST in Malaysia: Lessons Not Learned and a Few New Paths, in *Australian Tax Forum*, vol. 32, 2017, 465–486.

<sup>222</sup> Section 6A, Free Zones Act 1990.

FCZ activities mainly involve bulk breaking and repackaging of imported or sourced products from FIZs or Local Manufacturing Warehouses (LMWs).<sup>223</sup> These products or components are then combined with others. FCZs also play a crucial role as hubs for distribution, logistics, and warehousing, making them ideal for regional distribution centres/services, product consolidation, and international procurement centres.<sup>224</sup>

Figure 2.3 highlights Malaysia's critical role in global maritime chokepoints and shipping routes, focusing on regions essential for international trade and navigation. Malaysia's strategic location along the Straits of Malacca, one of the busiest and most vital maritime passages globally, is marked as a primary chokepoint. The straits connects the Indian Ocean and the Pacific Ocean, linking major economies such as India, China, Japan, and Southeast Asia with Europe and North America, as well as regions like the Arabian Gulf and the Middle East.<sup>225</sup> Malaysia's ports, particularly Port Klang and Port Tanjung Pelepas (PTP), capitalize on this strategic positioning. Ranked among the top 20 global ports—12th and 18th, respectively—these ports serve as key transshipment hubs,<sup>226</sup> enhancing connectivity and logistical capabilities for multinational companies across the ASEAN region and beyond. Malaysia's pivotal role in controlling and managing substantial maritime traffic reinforces its significance in international trade logistics.

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<sup>223</sup> Malaysian Investment Development Authority (MIDA), *Setting-Up Business – Infrastructure Support*.

<sup>224</sup> Muhammad Subhan and Ahmad Bashawir Abdul Ghani, Analyzing Growth Opportunity of Port from the Resource-Based Perspective The Case of Port of Tanjung Pelepas Malaysia, *Gadjah Mada International Journal of Business* 10, no. 3 (2008): 353.

<sup>225</sup> Sheldon W. Simon, Safety and Security in the Malacca Straits: The Limits of Collaboration, *Asian Security* 7, no. 1 (2011): 27–43; Hanizah Idris and Muhammad Faiz Ramli, Southeast Asian Region Maritime Connectivity And The Potential Development Of The Northern Sea Route For Commercial Shipping, *Journal of Southeast Asian Studies* 23, no. 2 (2018): 25–46.

<sup>226</sup> Lloyd's List, *One Hundred Ports 2020*, 2020, <https://lloydslist.maritimeintelligence.informa.com/one-hundred-container-ports-2020>.



Figure 2-3 Main Maritime Shipping Routes  
Source: Idris & Ramli (2018)

The strategic importance of these ports is further emphasised by their hosting of Regional Distribution Centres (RDCs) for major international companies such as IKEA, Daiso Industries, and Decathlon. For example, IKEA has established its RDC at Port Klang to supply 12 stores in ASEAN, while Decathlon utilises PTP for its operations across Southeast Asia and Oceania.<sup>227</sup> The integration of these RDCs within Malaysia's Free Zones not only streamlines the supply chain and distribution processes but also stimulates job creation and economic growth.<sup>228</sup> This synergy between RDCs, SEZs, and Free Zones strengthens Malaysia's position as a key hub for regional and international trade, attracting further global investments. The list of FCZ gazetted under Schedule One, Section 10(1)(b) of the FCZ is included as Appendix 2.2.

#### **2.4.1.3 Licensed Manufacturing Warehouses (LMW)**

Licensed Manufacturing Warehouses (LMW) serve as an alternative to Free Industrial Zones (FIZs) or Free Commercial Zones (FCZs) in locations where these zones are not designated. LMWs are inspired by the concept of FIZs/FCZs and offer similar advantages without spatial limitations. They enable duty-free imports of raw materials and components that are directly used in the manufacturing process. Governed by section 65/65A of the CA 1967,<sup>229</sup> LMWs require that at least 80% of production is intended for export.<sup>230</sup> This exemption streamlines the manufacturing process until the

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<sup>227</sup> Port Klang Authority, *Better Future of Port Klang* (Klang, 2019); MMC Corporation Berhad (MMC), Decathlon Sets Up Regional Distribution Centre in Port of Tanjung Pelepas Free Trade Zone, last modified 2019, accessed December 15, 2020, <https://thehub.mmc.com.my/2019Q3/page58.html>.

<sup>228</sup> Operations of RDCs require a skilled workforce to handle logistics, documentation, customs clearance, and supply chain management. Malaysian Investment Development Authority (MIDA), Malaysia's Industrial Growth Complements Global Supply Chain, 2020, <https://www.mida.gov.my/malaysias-industrial-growth-complements-global-supply-chain/>.

<sup>229</sup> Subsection 65(3), Customs Act 1967 (Act 235) This particular provision stipulates that the Minister possesses the authority to grant exemptions to individuals or entities from paying either full or partial duty charges that would typically be applicable to goods. The purpose of such exemptions is to relieve the specified person from the obligation to make the required duty payments. The Minister has the discretion to impose conditions as necessary when granting these exemptions to LMWs. .

<sup>230</sup> The key criteria for establishing an LMW include: (1) a minimum of 80% or a significant portion of the company's production intended for export, and (2) the importation of raw materials and

finished products are ready for export, aligning with the typical benefits available in FIZs and FCZs.<sup>231</sup>

Unlike FTZs, which require extra security measures including dedicated entry and exit points, and external and internal fencing as depicted in Figures 2.4 and 2.5, LMWs require only individual lot fencing. This reduces physical infrastructure requirements. Kulim Hi-Tech Park is one such LMW, which simplifies the setup and offers flexibility in establishing manufacturing facilities outside designated FTZs while still enjoying significant duty-free benefits. A detailed explanation of Kulim Hi-Tech Park is provided in sub-section 2.4.4. As of 2018, nearly 2,000 manufacturers were granted LMW licenses.<sup>232</sup>



Figure 2-4 Entry/Exit Point FTZ with Fencing at Bayan Lepas FIZ

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components as primary inputs. Chai and Im, *The Development of Free Industrial Zones – The Malaysian Experience*.

<sup>231</sup> Ibid.

<sup>232</sup> Azahari Ramli, Rushami Zein Yusuff, and Shahimi Mohtar, *Kesan Integrasi Strategi Sebagai Mediator Dalam Hubungan Antara Modal Insan Dengan Prestasi Operasi Gudang Pengilang Di Malaysia*, *Sains Humanika* 1, no. 2014 (2015): 61–67.





Figure 2-5 Double Fencing outside Perimeter and Individual Lot at Bayan Lepas FIZ

The process for LMW applications is designed for quick setup and operation of the industrial development. Applications are evaluated and approved by the State Customs Department of the proposed location.<sup>233</sup> The State Director of Customs will grant the final approval. Facilities designated as LMWs must meet strict standards, including permanent building structures that comply with fire safety and local authority regulations, and must have designated storage areas for raw materials, finished products, and waste. This system supports Malaysia's objective to expand industrial zones and attract investment for a conducive business environment in areas other than the FTZs scheme.<sup>234</sup> This approach significantly contributes to Malaysia's economic development, as demonstrated by the nearly 2,000 manufacturers that had been granted LMW licenses by 2018.

<sup>233</sup> Simon Low, Licensed Manufacturing Warehouse (LMW), *Industry Malaysia*, last modified 2020, accessed April 27, 2021, [https://www.industrymalaysia.com/licensed-manufacturing-warehouse-lmw/#:~:text=For the premises considered suitable,packaging area in the building,; Interview - G3R5 - Officer, Kastam Diraja Malaysia - Unit Zone Bebas \(Personal Interview: October 2021\).](https://www.industrymalaysia.com/licensed-manufacturing-warehouse-lmw/#:~:text=For the premises considered suitable,packaging area in the building,; Interview - G3R5 - Officer, Kastam Diraja Malaysia - Unit Zone Bebas (Personal Interview: October 2021).)

<sup>234</sup> Le Roux and Schoeman, "A Comparative Analysis of the Design of Special Economic Zones: The Case of South Africa, Malaysia and Indonesia."

The flexibility of LMWs allows companies to establish manufacturing facilities outside designated FTZs while enjoying duty-free benefits, thus offering additional opportunities for export-oriented activities and contributing to Malaysia's economic development. To facilitate the LMW application process, streamlined procedures are in place.



Figure 2-6 Individual Lot Fencing only in LMWs Kulim Hi-Tech

In conclusion, LMWs play a strategic role in supporting Malaysia's industrial expansion by offering duty-free manufacturing opportunities beyond designated FTZs. Their flexible setup, streamlined approval process, and minimal infrastructure requirements—such as the use of individual lot fencing instead of full perimeter security—make them attractive to export-oriented businesses. As shown in Figure 2-6, facilities like those in Kulim Hi-Tech Park reflect how LMWs can operate effectively with simpler security layouts while still complying with customs regulations. This model not only complements the FTZ scheme but also enhances Malaysia's competitiveness in attracting industrial investment.



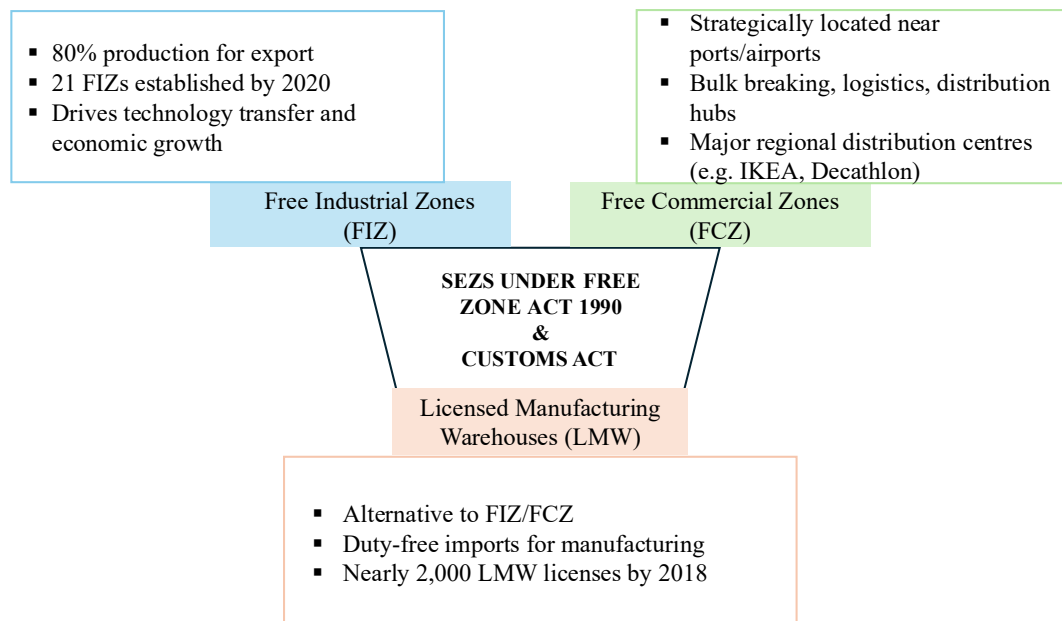


Figure 2-7 Summary of SEZ Under FZA and Customs Act (Researcher Own, 2024)

#### 2.4.2 Multimedia Super Corridor

On top of the economic zone that focus on the trading of goods, the Malaysian government also introduced a technology-driven economic corridor within the capital region. The Multimedia Super Corridor (MSC) was conceptualised as a high-tech Special Economic Zone (SEZ) to position Malaysia as a leader in the global digital economy.<sup>235</sup> The initiative was the vision of Tun Mahathir Mohamad, Malaysia's fourth Prime Minister, who first articulated the idea at the Asian Multimedia Conference in 1996. He envisioned the MSC as a global testbed for new governance models, cyber laws, and digital infrastructure, fostering collaborations between governments, corporations, and research institutions.

<sup>235</sup> Wan Nurul Basirah Wan Mohamad Noor et al., Analysing Accounting Professionals' Readiness for Digital Economy Using the Theory of Organisational Readiness for Change, *International Journal of Academic Research in Business and Social Sciences* 12, no. 11 (2022); Hans Dieter Evers and Solvay Gerke, Knowledge Cluster Formation as a Science Policy in Malaysia: Lessons Learned, *Journal of Current Southeast Asian Affairs* 34, no. 1 (2015): 115–137.

Covering approximately 750 square kilometres, the MSC stretches from Kuala Lumpur City Centre (KLCC) to Kuala Lumpur International Airport (KLIA), encompassing Cyberjaya and Putrajaya as key nodes. Businesses operating within the MSC enjoy temporary tax exemptions, state-of-the-art infrastructure, and high-speed internet connectivity, making it a strategic location for knowledge-based industries, research and development (R&D), and digital economy expansion.<sup>236</sup> Since its launch in 1996, the MSC has been governed by the Malaysia Digital Economy Corporation (MDEC), which has played a pivotal role in attracting multinational corporations (MNCs) and technology firms. Over the years, nearly 4,700 companies have been granted MSC status, generating USD 85 billion in investments and creating 185,000 jobs.

A significant component of the MSC is Cyberjaya, a 2,900-hectare smart city developed as Malaysia's premier technology hub. Positioned near Putrajaya, Cyberjaya was designed to support the MSC's objectives by hosting global technology firms such as IBM, Huawei, Dell, and BMW while fostering an environment conducive to innovation, research, and technological advancements. However, despite the initial ambitions of transforming Cyberjaya into Malaysia's Silicon Valley, its development has faced significant challenges over the years.

While Cyberjaya was envisioned as the nucleus of Malaysia's digital transformation, its trajectory has not fully aligned with its original aspirations. Several key challenges have limited its success, raising concerns about the effectiveness of centrally planned industrial clusters. One of the primary structural weaknesses of Cyberjaya is its top-

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<sup>236</sup> Evers and Gerke, "Knowledge Cluster Formation as a Science Policy in Malaysia: Lessons Learned"; Hamsha Bin Injau, Evaluation Of Multimedia Super Corridor (MSC Malaysia) Contribution In Malaysian Economy, *Ritsumeikan Asia Pacific University* (Ritsumeikan Asia Pacific University, 2011).

down approach to development, which contrasts with the organic evolution seen in global innovation hubs such as Silicon Valley.<sup>237</sup> Successful technology clusters often emerge naturally, driven by entrepreneurship, venture capital networks, and institutional synergies. In contrast, Cyberjaya was created from scratch on former palm oil plantation land, lacking a pre-existing industrial base to build upon. The absence of an established technology ecosystem meant that the MSC's development relied heavily on government incentives rather than market-driven forces.

Another major limitation is the failure to establish strong university-industry linkages. In innovation hubs such as Silicon Valley, research institutions like Stanford University and UC Berkeley played a critical role in driving technological advancements and fostering startup culture. Cyberjaya, however, lacked a strong research-university presence at its inception, and later efforts to establish educational institutions did not result in significant industry collaboration.<sup>238</sup> This weak knowledge transfer has hindered the city's ability to develop an innovation-driven ecosystem. Furthermore, technology transfer from multinational corporations (MNCs) to local firms has been minimal.<sup>239</sup> While Cyberjaya successfully attracted MNCs, many of them set up outsourcing and back-office operations rather than engaging in high-value R&D activities.<sup>240</sup> Research suggests that foreign direct investment (FDI) alone is insufficient to create a thriving innovation cluster if it does not lead to local capacity

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<sup>237</sup> Tan Yigitcanlar and Muna Sarimin, Multimedia Super Corridor, Malaysia, *Vine* 35, no. 1 (2019): 1–3, <https://www.emerald.com/insight/content/doi/10.1108/VINE-06-2014-0041/full/html>; Ali Salman, Create or Nurture? Lessons from Cyberjaya: Malaysia's Promised Silicon Valley Policy Ideas № 50, no. July (2018).

<sup>238</sup> Salman, "Create or Nurture? Lessons from Cyberjaya: Malaysia's Promised Silicon Valley Policy Ideas № 50."

<sup>239</sup> Bala Ramasamy, Anita Chakrabarty, and Madeleine Cheah, Malaysia's Leap into the Future: An Evaluation of the Multimedia Super Corridor, *Technovation* 24, no. 11 (2004): 871–883; Salman, "Create or Nurture? Lessons from Cyberjaya: Malaysia's Promised Silicon Valley Policy Ideas № 50."

<sup>240</sup> Salman, "Create or Nurture? Lessons from Cyberjaya: Malaysia's Promised Silicon Valley Policy Ideas № 50."

building and spillover effects. Cyberjaya has often been compared to Bangalore rather than Silicon Valley, indicating its transition into a service-oriented hub rather than a centre for digital innovation.

Infrastructure and governance challenges have further compounded Cyberjaya's shortcomings. Despite significant government investment in physical and digital infrastructure, issues such as inadequate soft infrastructure, lack of livability, and poor public transport connectivity have made it less attractive for global talent and investors.<sup>241</sup> Additionally, poor governance structures, policy inconsistencies, and potential conflicts of interest in managing the city have raised concerns about its long-term sustainability.

Recognising the limitations of the MSC framework, the Malaysian government initiated a rebranding strategy to modernise and expand its digital economy initiatives in July 2022. This led to the launch of Malaysia Digital (MD), an enhanced version of MSC, aimed at addressing the shortcomings of the past while aligning with emerging global digital trends.<sup>242</sup> One of the key improvements under MD is the introduction of non-location-based incentives, allowing companies to benefit from digital economy policies without being restricted to Cyberjaya or designated MSC zones.<sup>243</sup> This shift makes Malaysia's digital economy more accessible and flexible, attracting a wider range of digital businesses and investors. Another major policy change is the revamped bill of guarantees, which provides greater flexibility in choosing benefits and tax

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<sup>241</sup> Ibid.; Ramasamy, Chakrabarty, and Cheah, "Malaysia's Leap into the Future: An Evaluation of the Multimedia Super Corridor."

<sup>242</sup> The Straits Time, PM Ismail Launches Malaysia Digital Initiative to Replace Multimedia Super Corridor, *The Straits Time*, July 22, 2022, <https://www.straitstimes.com/asia/se-asia/pm-ismail-launches-malaysia-digital-initiative-to-replace-multimedia-super-corridor>.

<sup>243</sup> EY Malaysia, Guidelines on Transition of MSC Malaysia Status Company to MD Status, last modified 2023, [https://www.ey.com/en\\_my/technical/tax-alerts/guidelines-on-transition-of-msc-malaysia-status-company-to-md-status?utm\\_source=chatgpt.com](https://www.ey.com/en_my/technical/tax-alerts/guidelines-on-transition-of-msc-malaysia-status-company-to-md-status?utm_source=chatgpt.com).

incentives<sup>244</sup>. Under the MD framework, companies can now select incentives that align with their operational needs, making Malaysia's digital economy more attractive to both startups and established technology firms.<sup>245</sup>

The expansion of promoted activities under MD reflects a broader strategic vision for Malaysia's Multimedia Super Corridor (MSC) was established to position the nation as a digital innovation leader. However, challenges such as structural issues, governance problems, and regional competition hindered Cyberjaya's development into a world-class innovation hub. The shift to Malaysia Digital (MD) aims to modernise digital economy policies by removing location-based incentives, enhancing policy frameworks, and promoting digital trade and workforce mobility. This transition seeks to create a more dynamic digital economy, positioning Malaysia as a key player in the global digital landscape.

#### **2.4.3 Science and Technology Parks**

To support the MSC initiative, Malaysia has strategically developed specialised industrial areas focused on science and technology. These areas include Technology Park Malaysia (TPM) and Kulim Hi-Tech Park (KHTP). TPM was established in the late 1980s under the Ministry of Science, Technology and Innovation (MOSTI), and is located in Bukit Jalil, Kuala Lumpur.<sup>246</sup> With a sprawling 750-acre campus, TPM serves as a centre for innovation, providing an ideal environment for high-tech companies to thrive and compete on an international level. It offers cutting-edge

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<sup>244</sup> Malaysia Digital Economy Corporation (MDEC), Malaysian Digital, last modified 2022, <https://mdec.my/malaysiadigital>.

<sup>245</sup> Ibid.

<sup>246</sup> Injau, "Evaluation Of Multimedia Super Corridor (MSC Malaysia) Contribution In Malaysian Economy."

infrastructure and encourages collaboration between industry, academia, and research institutions.<sup>247</sup>

Among the SEZs adopting the Science and Technology Park model, Kulim Hi-Tech Park (KHTP) can be categorised as one of the most successful in Malaysia. As briefly explained in sub-section 2.4.1.3, KHTP operates under the LMW concept, meaning it does not have a designated gated area similar to FCZs or FIZs. Kulim Hi-Tech is Malaysia's first fully integrated high-tech park, strategically located in Kedah state. KHTP, sprawling with approximately 3,600 acres, was founded in 1996 under the Sixth Malaysia Plan, which aims to lead Malaysia into a more robust industrial economy focused on high-tech capital production, advanced technologies and R&D activities.<sup>248</sup> KHTP is expected to fulfil one of the Seventh Program strategies to develop local electronic components. It will also facilitate the backward integration of the semiconductor industry by establishing wafer manufacturing plants to reduce dependence on imported components.<sup>249</sup>

The decision to locate a science park in Kulim, Kedah, is based mainly on Kulim's strategic location to Penang's which has established a well-developed industrial zone. The location of Kulim, which is approximately 30 kilometres from Penang Port at Butterworth and 45 kilometres from Penang International Airport has a great potential to support the vast industrial development. Development of the industrial sector in Kulim, particularly in Hi-Tech Park, is believed to be linked to industrial development in Penang, which is experiencing excessive load infrastructure problems, increased

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<sup>247</sup> Ibid.

<sup>248</sup> Economic Planning Unit (EPU), *Sixth Malaysia Plan 1991 - 1995* (Kuala Lumpur, 1991); International Business Publication, *Malaysia Investment and Business Guide: Strategic and Practical Information*, Volume 1. (Washington: International Business Publication, USA, 2012).

<sup>249</sup> Economic Planning Unit (EPU), *Seventh Malaysia Plan 1996-2000* (Putrajaya, 1996).

operating costs and a shortage of labour resources.<sup>250</sup> Thus, it is expected that the development of KHTP will give a positive impact on the socio-economic sector for the region by providing many job opportunities as well as to support the local industries.

Two leading agencies have been established to manage KHTP. Local Authority Kulim Hi-Tech Industrial Park (PBT TPHTK) was officially established on 1 April 1995 under Section 7, Local Government Act 1976 (Act 171).<sup>251</sup> This is one of the mechanisms to ensure that any new business that comes into the district can be expedited especially on the planning permission.<sup>252</sup> Meanwhile, Kulim Technology Park Corporation (KTPC), a wholly owned company under Kedah State Development Corporation, is the agency assigned to manage the tech-park. KTPC is the agency responsible for leasing and land development matters in KHTP.<sup>253</sup>

At the initial stage of the development, KHTP was under the jurisdiction of the Kulim Municipal Council.<sup>254</sup> However, the State Government of Kedah has come out with an initiative by establishing 'exclusive local authority' that will solely manage the special economic zone. This exclusive local authority being established in order to ensure all the process, especially on the planning permission, can be expedited. As discussed in

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<sup>250</sup> Fauziah Che Leh, Trends and Policy Implications of the Location Selection of Electric and Electronic Firms in Malaysia: A Case Study of the Penang and Kulim High-Tech Parks, *Geografia - Malaysian Journal of Society and Space* 12, no. 7 (2016).

<sup>251</sup> Section 7 of the Local Government Act 1976 (Act 171) allows the State Authority to appoint a local authority to manage an area where they deem it necessary.

<sup>252</sup> The main objectives of PBTTPHTK are to establish an efficient administrative and service system for investors, developers, and residents of Kulim Hi-Tech Park, ensuring high-quality services and management at all times. It also functions as a one-stop agency to streamline the approval process for development, planning, and licensing applications. In addition, PBTTPHTK plays a key role in regulating land development, maintaining Kulim Hi-Tech Park, and managing property taxation. Pihak Berkuasa Tempatan Taman Perindustrian Hi-tech Kulim, Latar Belakang Pihak Berkuasa Tempatan Taman Perindustrian Hi-Tech Kulim, last modified 2020, accessed January 27, 2020, <http://www.pbttphtk.gov.my/ms/pbttphtk/profil/latar-belakang>.

<sup>253</sup> Kulim Technology Park Corporation (KTPC), About Us, last modified 2020, accessed May 24, 2020, <https://www.khtp.com.my/park-owner/ktpc>.

<sup>254</sup> Interview - G1R3 - Officer, PlanMalaysia Kedah (Alor Setar, Kedah: April 2021).

the earlier section, one of the reasons that will be taken into consideration for the investor to set up their business in SEZs is due to the initial process in constructing their base. Thus, the establishment of PBTTPHK is one of the initiatives by the government based on the practices and implementations from other SEZs around the globe.

Both parks play crucial roles in strengthening Malaysia's industrial competitiveness, particularly in reducing dependence on imported semiconductor components. These science parks are essential for fostering innovation, facilitating the transfer of knowledge, and promoting the commercialisation of research. They not only generate employment opportunities but also promote the growth of support industries and enhance infrastructure and local talent. Collectively, TPM and KHTP exemplify Malaysia's dedication to becoming a major player in the global knowledge economy. By leveraging its technological strengths, Malaysia aims to foster economic growth and sustainable development.

#### **2.4.4 Digital Free Trade Zone**

In November 2017, the Malaysian Government, in collaboration with China's Alibaba, launched the Digital Free Trade Zone (DFTZ) at KLIA Aeropolis in Sepang, Selangor.<sup>255</sup> The DFTZ is positioned near the Kuala Lumpur International Airport (KLIA), a major transportation hub, and aims to make Malaysia a regional centre for

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<sup>255</sup> Noorsila Abd Majid, DFTZ a Game Changer; Will Make Malaysia More Accessible to the World: SMEs, *New Straits Time Online*, November 3, 2017, <https://www.nst.com.my/business/2017/11/298838/dftz-game-changer-will-make-malaysia-more-accessible-world-smes>.



digital trade. Its goal is to enhance economic growth and provide Malaysian SMEs with opportunities to engage globally.<sup>256</sup>

The DFTZ streamlines cross-border trade and e-commerce, enabling Malaysian SMEs to reach international markets. It comprises two main components: the eFulfilment Hub and the eServices Platform. The eFulfilment Hub links SMEs with major service providers to ease export processes, while the eServices Platform digitises cargo clearance and related procedures, boosting trade efficiency.<sup>257</sup> The DFTZ also includes Pos Malaysia Aviation's e-Fulfilment Centre, which offers services such as ground handling, customs clearance, and last-mile delivery. This facility supports various item sizes, enhancing fulfilment capacity.

Its establishment was timely, particularly with the e-commerce boom during the COVID-19 pandemic. In 2020, Malaysia's e-commerce revenue rose by 32.7 percent.<sup>258</sup> Movement Control Orders accelerated SME adoption of e-commerce, driving new approaches to customer engagement and transactions.<sup>259</sup> The DFTZ strengthens Malaysia's role as a global e-commerce hub, promoting economic growth and helping SMEs access international markets amid the digital economy's rapid rise.

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<sup>256</sup> Tham Siew Yean, *The Digital Free Trade Zone ( DFTZ ): Putting Malaysia's SMEs onto the Digital Silk Road*, Yusof Ishak Institute 17, no. 2018 (2018).

<sup>257</sup> For example, SMEs will register their business with Shopee or Lazada. This partnership enables SMEs to leverage the expertise and capabilities of these providers to streamline their export processes, enhancing efficiency and effectiveness. Through the eServices Platform, the DFTZ offers a comprehensive system to manage cargo clearance and various essential procedures associated with cross-border trade. By digitising and streamlining these processes, the eServices Platform aims to reduce bottlenecks and enhance the overall efficiency of international trade operations. *Ibid.*

<sup>258</sup> In 2020 alone, e-commerce revenue reached RM896 billion compared to the previous year, a 37% increase. According to the Ministry of Communication and Digital, *E-Commerce Income Nearly Doubled To Almost RM900bil In 2020*, last modified in 2021, accessed June 29, 2021, <https://www.kkd.gov.my/en/public/news/19399-e-commerce-income-nearly-doubled-to-almost-rm900bil-in-2020>.

<sup>259</sup> Jon Russel, *Alibaba Ups Its Stake in Southeast Asia's Lazada with \$1 Billion Investment*, last modified 2018, accessed May 5, 2021, <https://techcrunch.com/2017/06/28/alibaba-ups-its-stake-in-southeast-asias-lazada-with-1-billion-investment/>.

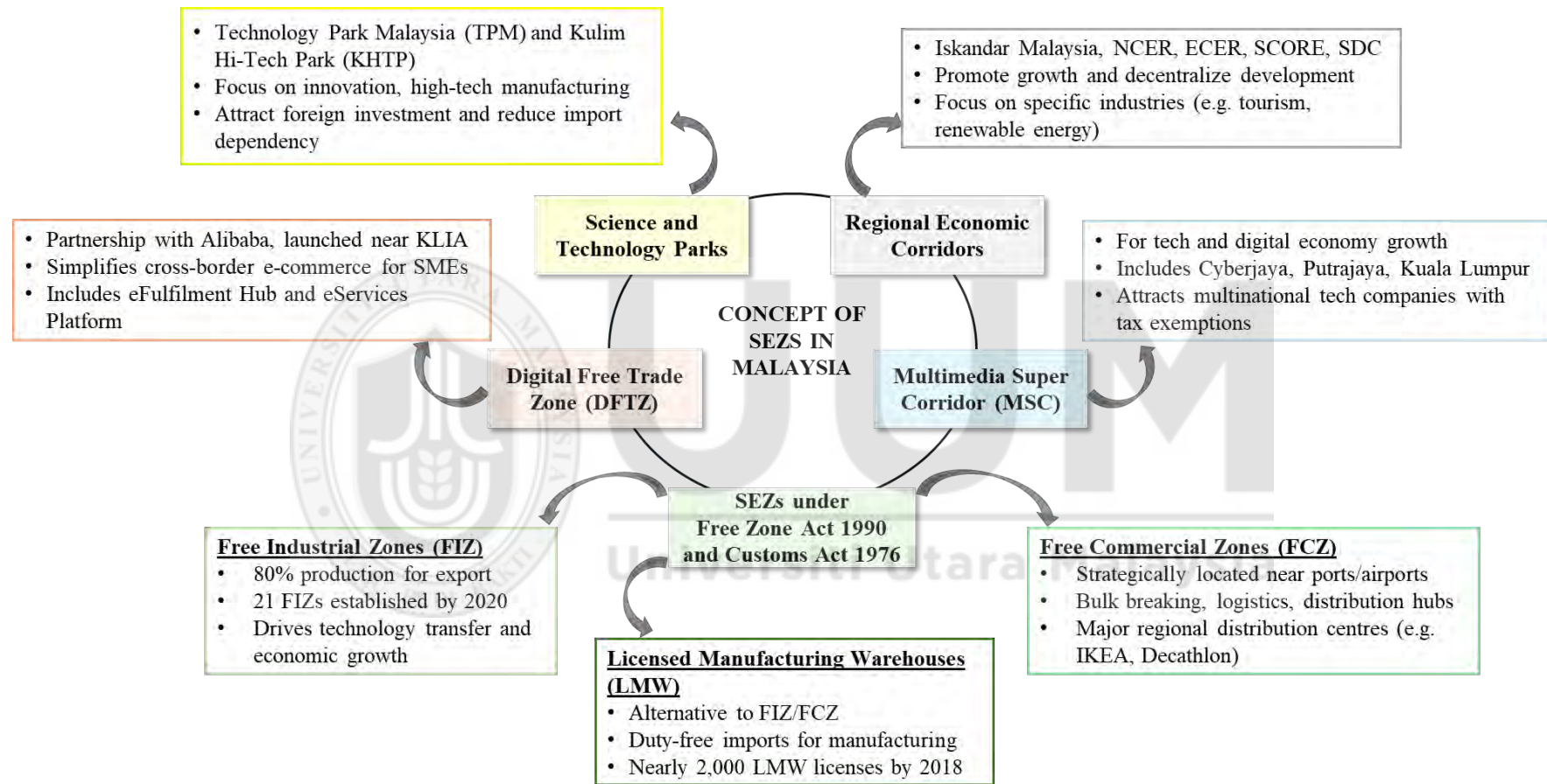


Figure 2-8 Summary of SEZs Concept in Malaysia (Researcher Own, 2024)

#### 2.4.5 Regional Economic Corridors

In 2006, as part of the federal government's initiatives, Malaysia introduced the Regional Development Policy, which led to the establishment of five economic corridors under the Ninth Malaysia Plan, launched by Prime Minister Tun Abdullah Ahmad Badawi.<sup>260</sup> These corridors are Iskandar Malaysia in Johor, the Northern Economic Corridor (NCER) across Kedah, Pulau Pinang, Perlis, and northern Perak, the East Coast Economic Region (ECER) covering Kelantan, Pahang, Terengganu, and Johor's Mersing district, the Sarawak Renewable Energy Corridor (SCORE), and the Sabah Development Corridor (SDC).<sup>261</sup> The initiative aimed to decentralise economic development from the capital, stimulate nationwide growth, and improve living standards, with a target of achieving developed country status by 2020.<sup>262</sup> As of 2024, these regional economic corridors, each with its own governing authority, report to the Ministry of Economy.<sup>263</sup>

The corridors, which cover nearly 70% of Malaysia's landmass, are implemented through precise planning, strategic land use, and infrastructure development to promote agricultural and industrial growth.<sup>264</sup> Each corridor utilises its unique attributes to advance the economy and attract investment, while also enhancing local living standards. For example, Iskandar Malaysia focuses on environmental responsibility through such initiatives as the IM Ecolife Challenge, which promotes

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<sup>260</sup> Che Sulaiman Nor Fatimah, Suriyani Muhamad, and Nur Azura Sanusi, Innovative Capacity , Human Capital and Its Contribution To Economic Development In Innovative Capacity, *World Journal of Social Sciences* 2, no. 6 (2015).

<sup>261</sup> Chai and Im, *The Development of Free Industrial Zones – The Malaysian Experience*.

<sup>262</sup> Athukorala and Narayanan, "Economic Corridors and Regional Development: The Malaysian Experience."

<sup>263</sup> Ministry of Economy, Ministry of Economy's Agencies, last modified 2024, <https://ekonomi.gov.my/en/department-profile/organisation/ministry-economys-agencies>.

<sup>264</sup> Athukorala and Narayanan, "Economic Corridors and Regional Development: The Malaysian Experience."

low-carbon lifestyles.<sup>265</sup> The NCER, on the other hand, emphasises upskilling programs such as 'empowerNCER', which aim to enhance job readiness and educational growth in line with Malaysia's broader socioeconomic goals.<sup>266</sup> More details about each regional corridor will be discussed in the following sections.

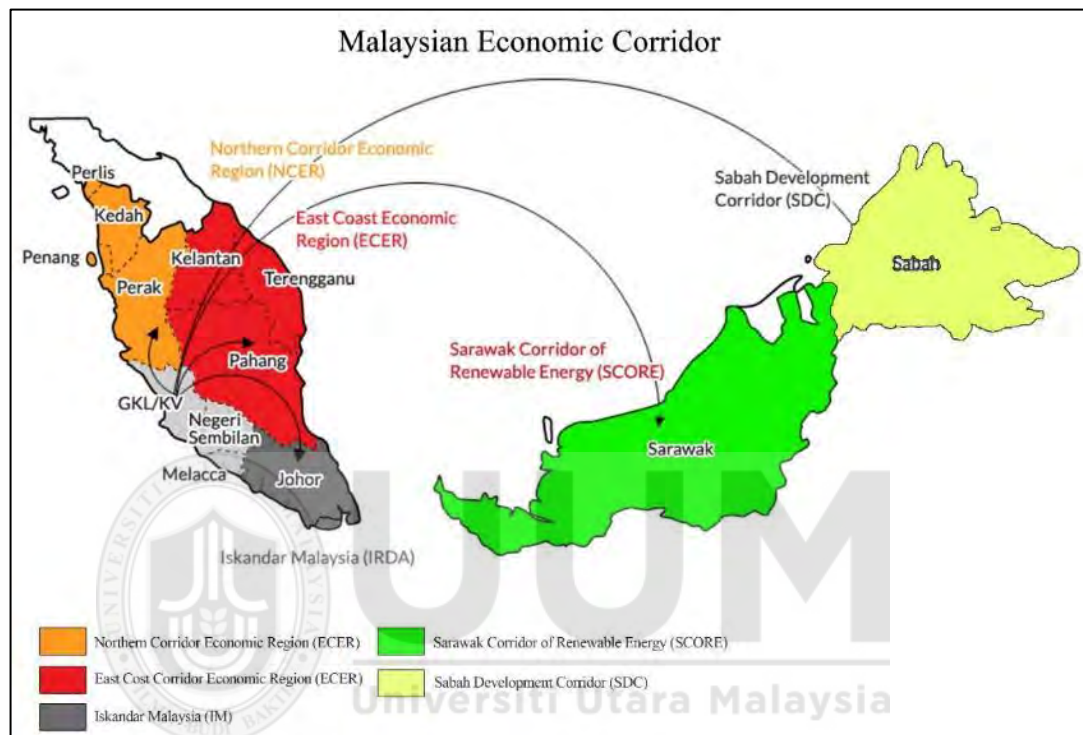


Figure 2-9 Malaysian Economic Corridor

#### 2.4.5.1 Iskandar Malaysia

Iskandar Malaysia, formerly known as the South Johore Economic Region (SJER), has emerged as a significant regional economic corridor in Malaysia. Envisioned as a sustainable and thriving international metropolis in the Southern Region, Iskandar Malaysia was established in 2007 under the governance of the Iskandar Region Development Authority Act 2007 (Act 664). It encompasses an extensive area that

<sup>265</sup> Fatin Aliah Phang et al., Iskandar Malaysia Ecolife Challenge: Low-Carbon Education for Teachers and Students, *Clean Technologies and Environmental Policy* 18, no. 8 (2016): 2525–2532.

<sup>266</sup> Northern Corridor Implementation Authority (NCIA), *NCER Strategic Development Plan (2021-2025)* (Penang, 2021).

spans various districts in Johor. The development of Iskandar Malaysia revolves around five (5) flagship zones. These flagship zones serve as focal points for strategic development initiatives within the economic region, with the aim of attracting investments, driving economic growth, and enhancing the overall socio-economic landscape of the area.

Iskandar Malaysia, stands as a pivotal regional economic corridor in Malaysia.<sup>267</sup> Inaugurated in 2007 and governed by the Iskandar Region Development Authority Act 2007 (Act 664), this dynamic economic zone covers a comprehensive expanse across multiple districts in Johor.<sup>268</sup> The overarching objective of the Iskandar Regional Development Authority (IRDA) is to transform Iskandar Malaysia into a robust and sustainable metropolis of global repute.<sup>269</sup>

To achieve this objective, IRDA undertakes several key functions that are closely tied to the growth of the regional economy.<sup>270</sup> Firstly, IRDA establishes national policies, directions, and strategies specifically tailored to the development within Iskandar Malaysia. Secondly, it serves as a co-ordinating body for various government entities, focusing on standardisation and effective implementation of guidelines and best practices within the region.<sup>271</sup> Thirdly, it holds the crucial role of promoting and stimulating Iskandar Malaysia as a hub for trade, investment, and logistics. Finally, IRDA is tasked with facilitating economic and social development, incorporating

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<sup>267</sup> Khazanah Nasional Berhad, *Iskandar Regional Development Authority & Iskandar Development Region Information Pack*, 2007, [http://www.khazanah.com.my/docs/IDR Infopack\\_23Feb07.pdf](http://www.khazanah.com.my/docs/IDR%20Infopack_23Feb07.pdf).

<sup>268</sup> Iskandar Regional Development Authority (IRDA), *Comprehensive Development Plan II (2014-2025)* (Johor Bharu, 2014).

<sup>269</sup> Government of Malaysia, *Iskandar Regional Development Authority Act 2007 (Act 664)* (Malaysia, 2007).

<sup>270</sup> Section 5(a) to (g) of IRDA 2007 prescribed on the function of the Authority.

<sup>271</sup> Ibid.

elements of tourism and infrastructure, as well as residential, agricultural, industrial, and commercial growth.

These functions are strategically aligned with the development plans of Iskandar Malaysia's five flagship zones, which will be elaborated further in Chapter 5 of this thesis. These zones act as the linchpins for attracting investment, stimulating economic growth, and enhancing the socio-economic fabric of the area.<sup>272</sup>

#### **2.4.5.2 Northern Corridor Economic Region (NCER)**

The Northern Corridor Economic Region (NCER) was established in 2008, covering 25 districts in northern Peninsular Malaysia, including Kedah, Perak, Perlis, and Penang <sup>273</sup>. The creation of the NCER was facilitated through the enactment of the Northern Corridor Implementation Authority Act 2008 (Act 687), which established the Northern Corridor Implementation Authority (NCIA) as the governing body responsible for formulating and implementing the region's physical and socio-economic development policies and strategies.

The development of the NCER is centred around seven major growth nodes, each playing a crucial role in driving the region's economic transformation. These growth nodes include the Perlis Inland Port (PIP), Chuping Valley Industrial Area (CVIA), Batu Kawan Development, Greater Kamunting Conurbation (GKC), Manjung-Aman Jaya Maritime City, Kedah Rubber City (KRC), and Kedah Science & Technology

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<sup>272</sup> Rabiatul Adawiyah Abd Khalil, Foziah Johar, and Soheil Sabri, The Impact of New-Build Gentrification in Iskandar Malaysia: A Case Study of Nusajaya, in *ASEAN-Turkey ASLI (Annual Serial Landmark International) Conference on Quality of Life 2014, ABRA International Conference on Quality of Life*, vol. 202 (Elsevier B.V., 2015), 495–504, <http://dx.doi.org/10.1016/j.sbspro.2015.08.192>.

<sup>273</sup> NCER, *Transforming the Socioeconomic Landscape of Ncer*, 2017.

Park (KSTP).<sup>274</sup> These strategic areas have been identified to harness the region's potential and leverage its unique strengths in various sectors.

#### **2.4.5.3 East Coast Economic Region (ECER)**

The East Coast Economic Region (ECER) was established as a strategic initiative within Malaysia's Economic Corridor framework in 2007-2008. PETRONAS, the national oil and gas company, was entrusted by the government to lead the development efforts of this economic region.<sup>275</sup> Serving as the third economic region in Peninsular Malaysia, following the Iskandar Malaysia (IM) and the Northern Corridor Economic Region (NCER), the ECER encompasses the eastern coast of the Malaysian peninsula, including the states of Kelantan, Terengganu, Pahang, and the northeastern part of Johor, specifically Mersing.

To facilitate the comprehensive development and coordinated implementation of projects and programmes, the ECER is governed by the East Coast Economic Region Development Council Act 2008 (Act 688), which was established in 2008.<sup>276</sup> The ECER's development is structured around the establishment of seven (7) Key Development Areas or Growth Nodes. These nodes are strategically positioned to concentrate and optimize development within the region. They include the ECER Special Economic Zone, comprising the Kertih-Kuantan-Pekan area, Cross-Border Development in Kota Bharu-Jeli-Besut, KTCC-Kenyir-Dungun, Mersing-Rompin,

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<sup>274</sup> Northern Corridor Implementation Authority (NCIA), *The Northern Corridor Economic Region Development Blueprint 2016–2025 (Blueprint 2.0)*, 2016.

<sup>275</sup> East Coast Economic Region Development, *ECER Master Plan 2.0: The Next Leap 2018-2020* (Kuala Lumpur, 2018).

<sup>276</sup> Government of Malaysia, *East Coast Economic Region Development Council Act 2008 (Act 688)* (Malaysia, 2008).

Gua Musang-Kuala Lipis, Bentong-Raub, and DARA-Jengka-Temerloh-Mentakab-Maran-Bera.<sup>277</sup>

#### **2.4.5.4 Sarawak Corridor of Renewable Energy (SCORE)**

The Sarawak Corridor of Renewable Energy (SCORE) is a designated economic and developmental corridor located in the central part of Sarawak, Malaysia. The concept of SCORE emerged from the recognition by both the federal and state governments that the reliance on non-renewable resources such as timber and petroleum is limited<sup>278</sup>. In response, there was a strategic imperative to diversify the sources of growth and revenue through the utilisation of renewable energy. SCORE, which operates under the purview of the state legislation known as the Regional Corridors Development Authority Ordinance 2006 (Chapter 64), gazetted in 2006, is governed by the Regional Corridors Development Authority (RECODA).<sup>279</sup> The development within SCORE is strategically focused on five (5) major nodes: Tanjung Manis, Mukah, Samalaju, Baram, and Tunoh.<sup>280</sup>

The establishment of SCORE reflects a proactive approach by the Malaysian government to ensure sustainable economic growth in Sarawak. By harnessing the potential of renewable energy resources and promoting strategic development in various sectors, SCORE aims to drive economic diversification, attract investments,

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<sup>277</sup> East Coast Economic Region Development, *ECER Master Plan 2.0: The Next Leap 2018-2020*.

<sup>278</sup> Andrew Aeria, Economic Development via Dam Building : The Role of the State Government in the Sarawak Corridor of Renewable Energy and the Impact on Environment and Local Communities, *Southeast Asian Studies* 5, no. 3 (2016): 373–412.

<sup>279</sup> State Government of Sarawak, *Regional Corridors Development Authority Ordinance 2006 (Chapter 64)* (Malaysia, 2006).

<sup>280</sup> The authority is responsible for overseeing the implementation of the ordinance and carries out five (5) primary functions as stipulated in the legislation. These functions include managing and promoting the development of the Regional Corridor, facilitating efficient project mobilization and optimizing the utilization of natural resources, planning and implementing corridor development, as well as serving investors and clients. Regional Corridors Development Authority, What Is RECODA, last modified 2020, accessed July 1, 2020, <https://www.recoda.com.my/what-is-recoda/>.



and enhance the socio-economic well-being of the region. Through the careful management of resources, collaboration with stakeholders, and the implementation of effective development plans, SCORE is poised to contribute to the long-term growth and sustainability of Sarawak, while also serving as a model for other regions seeking to leverage renewable energy for economic development.

#### **2.4.5.5 Sabah Development Corridor (SDC)**

Initiated in 2009, the Sabah Development Corridor (SDC) is one of Malaysia's five economic corridors, encompassing the whole of the Sabah state. Tasked with the comprehensive oversight of SDC's progress, the Sabah Economic Development and Investment Authority (SEDIA) serves as the central coordinating body.<sup>281</sup> Its primary functions include the planning, coordination, promotion, and expedited development of the SDC. Similar to other economic corridors, the SDC aims to address disparities in rural-urban development, stimulate economic growth through partnerships between the public and private sectors, and ensure sustainable management of resources within the state using their own blueprint.<sup>282</sup> The governance of the Sabah Development Corridor (SDC) falls under the Sabah Economic Development and Investment Authority (SEDIA) Enactment 2009, a state legislation specifically enacted for this purpose, making it a part of the state's institutional framework.<sup>283</sup> Through strategic

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<sup>281</sup> Sabah Economic Development and Investment Authority, About SEDIA, last modified 2021, <https://sedia.com.my/about-sedia/>.

<sup>282</sup> The SDC Blueprint designates seven (7) major development nodes that serve as focal points for strategic growth: the Kinabalu Gold Coast Enclave in Kota Kinabalu, the Integrated Livestock Valley in Keningau, the Sabah Agro-Industrial Precinct in Kimanis and Papar, the Palm Oil Industry Cluster in Lahad Datu, the Sabah Oil & Gas Industrial Park in Sipitang, the Sandakan Education Hub in Sandakan, and the Marine Integrated Cluster in Semporna. Dullah Mulok, Kasim Mansur, and Mori Kogid, The Sabah Development Corridor (SDC), in *Persidangan Kebangsaan Ekonomi Malaysia Ke-10 (PERKEM 10)*, Kekayaan Terangkum Teras Pembangunan Lestari, Melaka Bandaraya Bersejarah, 18 – 20 September 2015, vol. 10, 2015, 406–413; Sabah Economic Development and Investment Authority (SEDIA), Sabah Development Corridor Blueprint 2008-2025 (Kota Kinabalu, 2007).

<sup>283</sup> Under the SEDIA Enactment, SEDIA is entrusted with eight primary functions that are similar to other regional authorities. The primary objective of SEDIA is to promote economic development in Sabah while ensuring social and sustainable progress. By fulfilling its mandate, SEDIA plays a vital

planning, effective implementation, and collaboration with various stakeholders, the SDC endeavors to realize its vision of a prosperous and sustainable Sabah, benefiting both the present and future generations.

## **2.5 Regional Development Authorities**

Malaysia's approach to regional development extends beyond large-scale economic corridors to include Regional Development Authorities (RDAs), which primarily focus on rural socio-economic growth. While Regional Economic Corridors are designed to attract private investment, develop industrial hubs, and integrate regions into global markets, RDAs take a grassroots approach by fostering localised economic activities, infrastructure expansion, and social development within designated rural areas. These authorities were established to balance regional development, ensuring that rural communities benefit from economic progress and are not left behind in the country's broader growth agenda.

The primary objective of RDAs is to improve rural infrastructure, create employment, and reduce poverty, particularly in underdeveloped regions. Agencies such as South East Johor Development Authority (KEJORA), South Kelantan Development Authority (KESEDAR), Central Terengganu Development Authority (KETENGAH), Kedah Regional Development Authority (KEDA), and Penang Regional Development Authority (PERDA) to oversee long-term projects that uplift rural populations by focusing on agriculture, tourism, small and medium enterprises (SMEs), and housing development.<sup>284</sup> These initiatives are state-led, relying on direct federal funding rather

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role in advancing the economic prospects of Sabah, balancing development efforts, and safeguarding the state's long-term well-being. Sabah Economic Development and Investment Authority, Function of SEDIA, last modified 2019, [http://www.sedia.com.my/About\\_us.html](http://www.sedia.com.my/About_us.html).

<sup>284</sup> Noor Suzilawati Rabe, Mariana Mohammed Osman, and Syahriah Bachok, The Evolution of Regional Planning and Regional Economic Development in Malaysia, *Arab World Geographer* 16, no.

than private sector investment, ensuring inclusive and sustainable growth. In contrast, Regional Economic Corridors, including Iskandar Malaysia, NCER, ECER, SDC, and SCORE, operate under a public-private partnership (PPP) model, with an emphasis on high-value industries, large infrastructure projects, and export-driven growth.<sup>285</sup> Economic corridors prioritise foreign direct investment (FDI) and urban-industrial expansion, whereas RDAs focus on grassroots development, ensuring that rural populations benefit from economic opportunities.

The historical evolution of RDAs can be traced back to the 1970s, when Malaysia first introduced Rural Growth Centres (RGCs) to stimulate economic activity within rural communities.<sup>286</sup> These centres were designed as economic focal points, equipped with essential infrastructure such as commercial spaces, post offices, transportation hubs, and product collection centres to facilitate local trade and commerce. As these centres expanded, the need for structured regional governance led to the establishment of specific RDAs, each with a clearly defined territorial jurisdiction and development mandate. By fostering entrepreneurship, expanding commercial activities, and enhancing local business ecosystems, RDAs have played a crucial role in reducing rural-urban migration and improving living standards. Their success is measured by poverty reduction, accessibility to essential services, and rural economic participation, contrasting with the macroeconomic performance indicators used for economic corridors, such as GDP growth, industrial output, and investment levels.

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2 (2013): 228–243; Ahmad Bashir bin Aliakbar et al., The Role and Challenges of Kejora in Rural Economic Development, *International Journal of Academic Research in Business and Social Sciences* 13, no. 3 (2023): 1730–1739.

<sup>285</sup> Athukorala and Narayanan, “Economic Corridors and Regional Development: The Malaysian Experience.”

<sup>286</sup> Mohd Raiz Radzuan et al., Entrepreneurship Quality and Rural Entrepreneur Development in Malaysia, *International Journal of Academic Research in Business and Social Sciences* 11, no. 1 (2021): 346–363.

Despite their differences, both RDAs and economic corridors contribute to regional development, complementing one another in Malaysia's broader economic strategy.<sup>287</sup> RDAs focus on direct community engagement, social welfare, and targeted development within rural areas, while economic corridors create high-growth industrial hubs to strengthen Malaysia's global economic competitiveness. The integration of these two frameworks ensures a balanced national development agenda, where rural and urban areas benefit from tailored economic strategies. The following sections provide an in-depth discussion of each Regional Development Authority (RDA), outlining its establishment, jurisdiction, key functions, and contributions to Malaysia's regional growth.

### **2.5.1 Southeast Johor Development Authority (KEJORA)**

The Southeast Johor Development Authority (KEJORA), established under the Southeast Johor Development Authority Act 1972 (Act 75), is dedicated to enhancing rural socio-economic conditions through focused development programs aimed at improving livelihoods and regional growth.<sup>288</sup> As a government agency, Kejora supports various sectors, including agriculture, animal husbandry, tourism, and agro-based industries, to promote holistic rural development.<sup>289</sup> Its initiatives align with the Rural Development Policy 2030 (DPLB), which focuses on sustainable and inclusive growth.

Kejora's role in rural development is closely tied to addressing the challenges of a less aggressive rural economy and the underutilisation of resources, particularly in the

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<sup>287</sup> Rabe, Osman, and Bachok, "The Evolution of Regional Planning and Regional Economic Development in Malaysia."

<sup>288</sup> KEJORA, KEJORA: Objective, *KEJORA*, <https://www.kejora.gov.my/en/vision-mission-objective/>.

<sup>289</sup> Aliakbar et al., "The Role and Challenges of Kejora in Rural Economic Development."

agricultural sector. Since agriculture contributes the least to Johor's economy despite occupying the largest share of land use, Kejora has implemented various initiatives to support its sustainability. A key strategy involves infrastructure development in newly established towns within the region, ensuring they are well-equipped with essential facilities.<sup>290</sup> By financing road networks, water supply systems, and storage facilities, Kejora aims to enhance agricultural productivity and market accessibility. Improved infrastructure reduces logistical challenges, minimises post-harvest losses, and increases profitability for farmers, strengthening the economic resilience of rural communities.

Beyond economic development, Kejora prioritises social empowerment by encouraging community participation in project planning and execution. This participatory approach fosters a sense of ownership among villagers, ensuring the sustainability of development initiatives.<sup>291</sup> The agency also integrates environmental considerations into its programmes, promoting sustainable agricultural practices and agro-tourism to preserve natural resources while diversifying income sources.<sup>292</sup> Additionally, Kejora invests in skill development and education, equipping rural populations with the necessary expertise to engage in alternative economic activities beyond traditional agriculture, which helps mitigate risks linked to climate change and market fluctuations.<sup>293</sup>

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<sup>290</sup> Radzuan et al., "Entrepreneurship Quality and Rural Entrepreneur Development in Malaysia"; Aliakbar et al., "The Role and Challenges of Kejora in Rural Economic Development."

<sup>291</sup> Aliakbar et al., "The Role and Challenges of Kejora in Rural Economic Development"; Radzuan et al., "Entrepreneurship Quality and Rural Entrepreneur Development in Malaysia."

<sup>292</sup> Mohd Fakharrur Razziy Hazran et al., Developing Ecotourism Community Based Approach: A Sustainable Tourism Development Project on Tanjung Surat Island, *Journal of Technical Education and Training* 16, no. 2 (2024): 328–338.

<sup>293</sup> Radzuan et al., "Entrepreneurship Quality and Rural Entrepreneur Development in Malaysia"; Aliakbar et al., "The Role and Challenges of Kejora in Rural Economic Development."

Despite its contributions, Kejora faces challenges in implementing rural development programmes, including inadequate funding, bureaucratic constraints, and limited community engagement.<sup>294</sup> Addressing these issues requires collaboration between government agencies and local stakeholders to ensure effective execution of development strategies. While Kejora has demonstrated success in infrastructure improvements, economic diversification, and social empowerment, continuous adaptation and policy refinement are necessary to sustain progress. Its comprehensive approach offers valuable insights for broader rural development efforts, emphasising the need for balanced economic, social, and environmental strategies.

### **2.5.2 South Kelantan Development Authority (KESEDAR)**

The South Kelantan Development Authority (KESEDAR) was established in 1978 under the South Kelantan Development Act 1978 (Act 203) to drive regional development and reduce poverty in South Kelantan. Its primary objective is to enhance the socio-economic well-being of rural communities by improving infrastructure, creating employment opportunities, and promoting economic activities. Given the region's challenging topography, where a significant portion of the land is mountainous, KESEDAR has focused on optimising available land for agriculture and settlement to support sustainable rural growth.

A major aspect of KESEDAR's initiatives is infrastructure development, ensuring that rural communities have access to essential services such as electricity, water supply, road networks, and public amenities.<sup>295</sup> The development of proper infrastructure is

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<sup>294</sup> Aliakbar et al., "The Role and Challenges of Kejora in Rural Economic Development."

<sup>295</sup> Fauzi Hussin and Hussin Abdullah, The Role of FELDA and KESEDAR in the Development of Land in the District of Gua Musang: A Comparison the Socio-Economic Level of the Settlers, *Sustainable Agriculture Research* 1, no. 2 (2012): 284.

crucial in bridging the urban-rural divide, improving connectivity, and facilitating economic activities, particularly in agriculture and trade. By strengthening transportation links and providing basic utilities, KESEDAR aims to support local industries, enhance market accessibility, and improve overall living standards in the region.

Beyond infrastructure, KESEDAR also emphasises community empowerment and economic diversification. While agriculture remains a key sector, the authority has implemented various programs to encourage small-scale industries, entrepreneurship, and agro-based businesses to provide alternative income sources.<sup>296</sup> KESEDAR also invests in education and skill development to equip the rural population with the necessary expertise to adapt to changing economic conditions and reduce dependency on traditional sectors.

Despite its progress, KESEDAR faces challenges such as financial constraints, bureaucratic hurdles, and the need for greater employment opportunities. Addressing these issues requires continuous collaboration between government agencies, private sectors, and local communities. By integrating sustainable economic strategies, improving infrastructure, and fostering inclusive development, KESEDAR plays a crucial role in shaping the future of South Kelantan's rural economy.

### **2.5.3 Central Terengganu Development Authority (KETENGAH)**

The Central Terengganu Development Authority (KETENGAH) was established on 12 April 1973 under the Central Terengganu Development Authority Act 1973 (Act 104/73). Functioning under the KKDW, KETENGAH is responsible for socio-

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<sup>296</sup> Ibid.

economic development in central Terengganu. Its jurisdiction covers parts of Dungun, Kemaman, and Hulu Terengganu, encompassing nearly half of the state's total land area.<sup>297</sup> In 1993, its administrative scope was expanded to include Kenyir Lake, incorporating eco-tourism and environmental conservation as part of its broader development strategy. The agency aims to transform rural areas into commercially viable regions, ensuring balanced economic progress between urban and rural communities.

KETENGAH's development initiatives focus on economic growth, infrastructure enhancement, community empowerment, and tourism promotion. The agency actively supports agriculture, industry, housing, and commercial enterprises to expand economic opportunities in rural areas.<sup>298</sup> Infrastructure development plays a key role in this strategy, with projects such as the Jerangau–Jabor Highway (Federal Route 14) improving connectivity between Kuala Terengganu and Kuantan, facilitating trade and transportation.<sup>299</sup> Additionally, KETENGAH prioritises community development by investing in education, technology adoption, and skill training, ensuring that local populations are equipped for economic participation and long-term sustainability.

Tourism remains a critical economic driver within KETENGAH's jurisdiction, particularly through eco-tourism and aqua-tourism initiatives at Kenyir Lake.<sup>300</sup> The

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<sup>297</sup> Lembaga Kemajuan Terengganu Tengah, Fuction KETENGAH, last modified 20024, <https://www.ketengah.gov.my/objective-and-function/>.

<sup>298</sup> Ibid.

<sup>299</sup> Norhaspida Yatim, Lebuhraya Jerangau-Jabor Akan Dinaik Taraf Empat Lorong, *Sinar Harian Online*, August 28, 2019, <https://www.sinarharian.com.my/article/45250/edisi/terengganu/lebuhraya-jerangau-jabor-akan-dinaik-taraf-empat-lorong>.

<sup>300</sup> Khairul Najwa Mohd Azmir et al., Assessment of Tanjung Bewah Karst at Tasik Kenyir and Construction of a Framework for High Value Biodiversity Area, *Malayan Nature Journal* 73, no. 4 (2021): 459–468.



authority organises the annual Festival Kenyir<sup>301</sup> to attract visitors while also expanding tourism efforts to historical sites like Bukit Besi, known for its iron mining legacy, and natural attractions such as Chemerong Waterfall.<sup>302</sup> These efforts are designed to diversify the local economy, generate employment, and promote sustainable rural development. Through these comprehensive strategies, KETENGAH continues to play a key role in strengthening economic resilience and enhancing the quality of life for communities in central Terengganu.

#### **2.5.4 Penang Regional Development Authority (PERDA)**

The Penang Regional Development Authority (PERDA) was established in 1969 as a government agency responsible for socio-economic development, particularly in Mainland Penang. Operating under the Malaysian government, PERDA focuses on fostering industrial growth, housing development, education, business, and tourism to enhance economic opportunities and improve living standards in the region.

A key aspect of PERDA's mandate is promoting industrial and housing development to support small businesses and local communities. Through its Small and Medium Industrial Factories (SMFs) initiative, PERDA provides well-equipped spaces for small-scale industries, facilitating business expansion and employment opportunities. One of its flagship projects, PERDA Food Park (PFP) in Kubang Menerong, Tasek Gelugor,<sup>303</sup> aims to strengthen the agricultural-based food processing industry. Spanning 150 acres, PFP houses 28 factory units, offering rental spaces for food-

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<sup>301</sup> Hanneyeyzah Bariah Baharin, Festival Kenyir Berpotensi Jadi Tarikan TMM2020, *Berita Harian Online*, July 27, 2019, <https://www.bharian.com.my/berita/wilayah/2019/07/589755/festival-kenyir-berpotensi-jadi-tarikan-tmm2020>.

<sup>302</sup> Lembaga Kemajuan Terengganu Tengah, Ecotourism under KETENGAH, last modified 2024, <https://tourism.ketengah.gov.my/eco-tourism>.

<sup>303</sup> Lembaga Kemajuan Wilayah Pulau Pinang, Pembangunan Hartanah, last modified 2024, <https://www.perda.gov.my/index.php/perkhidmatan-kami/hartanah>.

related enterprises. Alongside industrial projects, PERDA has implemented two major housing developments: Taman Sungai Bakap Perdana in South Seberang Perai and the Kuala Sungai Pinang People's Prosperity Housing Project (PPSR) in the Southwest District,<sup>304</sup> ensuring access to affordable housing for local residents.

PERDA actively supports business growth and entrepreneurship, particularly among the B40 income group, through various training and mentoring initiatives. The Entrepreneur Mentor Mentee (MMU) program helps develop competent and skilled entrepreneurs, while the Business Transformation Training (B2T) provides foundational knowledge on business management and strategies to enhance competitiveness.<sup>305</sup> Additionally, the Rural Product Commercialisation (RPC) initiative focuses on improving the quality and branding of rural products to meet international standards and expand commercial market access.<sup>306</sup>

PERDA invests in education and skills training to support workforce readiness. The Institut Kemahiran Tinggi PERDA (PERDA-TECH), established in 1987 and upgraded in 2007, offers various diploma and certificate programs in technical fields such as computer technology, multimedia, automotive technology, and engineering.<sup>307</sup>

Tourism and hospitality play a significant role in PERDA's development initiatives, focusing on eco-tourism, homestay programs, and the broader hospitality sector. One of its key investments is Hotel Bahang Bay, located in Teluk Bahang, Southwest Penang, which supports local tourism and creates economic opportunities in the

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<sup>304</sup> Ibid.

<sup>305</sup> Lembaga Kemajuan Wilayah Pulau Pinang, *Pembangunan Ekonomi*, last modified 2024, <https://www.perda.gov.my/index.php/perkhidmatan-kami/pembangunan-ekonomi>.

<sup>306</sup> Ibid.

<sup>307</sup> Siti Rozaini Ahmad et al., *Enhancing Employability and Empowerment: Unveiling Factors within PERDA-TECH for Sustainable Development*, *Journal of Technical Education and Training* 15, no. 3 Special Issue (2023): 235–244.

hospitality industry.<sup>308</sup> The Gelugor Lake Agrotourism Development Program aims to preserve local heritage and cultural products while positioning the area as an eco-tourism hub.<sup>309</sup> Additionally, the Penang Homestay Tourism Development Program provides support and promotion for 11 homestay locations across Penang, helping them attract both domestic and international visitors with curated tourism experiences.

Through these diverse initiatives, PERDA continues to drive economic progress, expand business opportunities, and improve living conditions, ensuring that both rural and urban communities in Penang benefit from sustainable development efforts.

#### **2.5.5 Kedah Regional Development Authority (KEDA)**

The Kedah Regional Development Authority (KEDA) was established on 28 May 1981 under the Kedah Regional Development Authority Act 1981 (Act 249). Operating under the KKDW, KEDA is responsible for advancing economic and social development across 89% of Kedah's total land area.<sup>310</sup> Its mandate focuses on improving infrastructure, enhancing living standards in rural communities, and fostering sustainable economic growth through targeted initiatives. The agency implements various development programs, including poverty eradication, housing projects for low-income groups, infrastructure upgrades, and support for small and medium enterprises (SMEs).<sup>311</sup> Special attention is given to underdeveloped and remote areas, ensuring that these regions benefit from national development efforts.

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<sup>308</sup> Lembaga Kemajuan Wilayah Pulau Pinang, "Pembangunan Hartanah."

<sup>309</sup> Lembaga Kemajuan Wilayah Pulau Pinang, "Pembangunan Ekonomi."

<sup>310</sup> Nazni Noordin, *Achievement of Rural and Regional Development Approach in Kedah: A Case of Keda* (Universiti Utara Malaysia, 2020).

<sup>311</sup> Ibid.

A key area of focus for KEDA is economic development, particularly in increasing income levels among rural populations. Several initiatives have been introduced to support this objective, including redevelopment projects, farmers' income enhancement programs, paddy field and abandoned land restoration projects, and entrepreneurial development services.<sup>312</sup> These efforts aim to create a more balanced economic landscape, ensuring rural communities have access to sustainable income-generating opportunities. By promoting entrepreneurship and improving agricultural productivity, KEDA seeks to uplift the socio-economic status of residents in its jurisdiction.

In addition to economic growth, human capital development is a central pillar of KEDA's strategic planning. The agency emphasises skill enhancement and workforce readiness to support national aspirations for a high-income economy. One of its flagship initiatives is the KEDA Training Development Program, which provides vocational training to rural youths who may not have pursued formal academic pathways.<sup>313</sup> Kolej KEDA was established as a specialised institution to equip individuals with technical and vocational skills, enabling them to secure better employment opportunities and contribute to local industries. Beyond technical education, KEDA also implements community engagement programs such as the Mobilisation and Social Services Project, which fosters community participation and social well-being.

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<sup>312</sup> The Greater Kedah, KEDA Allocates RM3.37 Million to Enhance Food Security, last modified 2024, <https://thegreaterkedah.gov.my/news/keda-allocates-rm3-37-million-to-enhance-food-security/>; Lembaga Kemajuan Wilayah Kedah, Community Development, last modified 2024, [https://www.keda.gov.my/?page\\_id=5507](https://www.keda.gov.my/?page_id=5507); Noordin, "Achievement of Rural and Regional Development Approach in Kedah: A Case of Keda."

<sup>313</sup> Lembaga Kemajuan Wilayah Kedah, "Community Development."

Through its comprehensive approach, KEDA continues to play a vital role in strengthening rural economies, expanding access to education and training, and improving infrastructure. Its programs reflect the government's commitment to inclusive and sustainable development, ensuring that even remote and disadvantaged communities can participate in and benefit from national progress.

## **2.6 Border Towns Development in Malaysia**

Border towns play a crucial role in Malaysia's development, serving as key points of trade, economic exchange, and cross-border movement. These towns are particularly significant in Peninsular Malaysia, where the geographical landscape is shaped by its proximity to neighbouring countries. Broadly, Peninsular Malaysia can be divided into three regional segments, each with distinct border dynamics.

The northern region comprises the states of Kedah, Perlis, and Perak, which share land borders with Thailand. Towns such as Bukit Kayu Hitam in Kedah, Padang Besar in Perlis, and Pengkalan Hulu in Perak function as major gateways facilitating trade and travel between Malaysia and Thailand. These areas have witnessed various forms of development, including customs and immigration facilities, commercial hubs, and logistical infrastructure to support cross-border economic activities.

On the East Coast, Kelantan shares a border with Thailand, with border towns such as Rantau Panjang and Pengkalan Kubur acting as important transit points for goods and people. These towns have distinct economic and cultural interactions with their Thai counterparts, influencing local trade and livelihoods.

In the southern region, Johor serves as the primary land link between Malaysia and Singapore. Cities like Johor Bahru and Iskandar Puteri have experienced rapid urbanisation due to their strategic location, benefiting from cross-border economic ties, industrial expansion, and tourism. The Johor-Singapore Causeway and the Malaysia-Singapore Second Link serve as vital connections, making Johor an integral part of Malaysia's economic integration with Singapore.

Table 2-2

*Border Crossings Between Malaysia and Thailand/Singapore*

| <b>THAILAND</b>                                     | <b>MALAYSIAN</b>                 |
|-----------------------------------------------------|----------------------------------|
| <b>Wang Prachan (Satun Province)</b>                | Wang Kelian (Perlis State)       |
| <b>Padang Besar (Songkhla Province)</b>             | Padang Besar (Perlis State)      |
| <b>Sadao (Songkhla Province)</b>                    | Bukit Kayu Hitam (Kedah State)   |
| <b>Ban Prakob</b>                                   | Durian Burung (Kedah State)      |
| <b>Betong (Yala Province)</b>                       | Pengkalan Hulu (Perak State)     |
| <b>Ban Buketa (Narathiwat Province)</b>             | Bukit Bunga (Kelantan State)     |
| <b>Su-ngai Kolok District (Narathiwat Province)</b> | Rantau Panjang (Kelantan State)  |
| <b>Takbai (Songkhla Province)</b>                   | Pengkalan Kubur (Kelantan State) |
| <b>SINGAPORE</b>                                    | <b>MALAYSIAN</b>                 |
| <b>Woodland</b>                                     | Johor Bahru                      |
| <b>Tuas</b>                                         | Tanjung Kupang                   |

Source: Adopted from Lord and Tangtrongjita (2014)<sup>314</sup>

These border towns are integral to regional development, impacting trade regulations, spatial planning, and economic growth. Their progress is closely linked to cross-border policies, infrastructure development, and economic collaboration with neighbouring countries. The following discussion examines border towns with high levels of

<sup>314</sup> Lord and Tangtrongjita, *Scoping Study for The Special Border Economic Zone (SBEZ) In The Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT)*.

commercial activity, providing insights into their ongoing development and the economic dynamics shaping these areas.

### **2.6.1 Bukit Kayu Hitam: Malaysia's Special Border Economic Zone (SBEZ)**

As a primary entry point between Malaysia and Thailand, Bukit Kayu Hitam plays a crucial role in facilitating trade and investment. The area has been designated as a Special Border Economic Zone (SBEZ), aimed at attracting foreign direct investment (FDI) and improving infrastructure to streamline cross-border commerce<sup>315</sup>. With plans to enhance public facilities and logistical efficiency, local communities anticipate improvements in living standards and economic opportunities<sup>316</sup>. Despite these prospects, the effectiveness of the SBEZ initiative depends on governance mechanisms that address cross-border trade complexities, including customs regulations, security measures, and compliance with international trade agreements.<sup>317</sup> If managed effectively, Bukit Kayu Hitam has the potential to evolve into a thriving economic hub, fostering stronger trade relations between Malaysia and Thailand.

### **2.6.2 Padang Besar: A Cross-Border Retail and Tourism Destination**

Padang Besar, located in Perlis, functions as a significant commercial hub for residents in northern Malaysia, particularly for the procurement of goods from Thailand. The town's marketplace is characterised by the presence of Thai traders who supply a diverse range of products, including food, clothing, and household items.<sup>318</sup> Due to

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<sup>315</sup> Salleh and Ahmad, "The Establishment of Malaysia-Thailand Special Border Economic Zone (SBEZ): The Potential of Bukit Kayu Hitam as Northern Economic Hub."

<sup>316</sup> Zainuddin et al., "A Review on Development Challenges for an Inland Port At Malaysia-Thailand Border."

<sup>317</sup> Salleh and Ahmad, "The Establishment of Malaysia-Thailand Special Border Economic Zone (SBEZ): The Potential of Bukit Kayu Hitam as Northern Economic Hub"; Zainuddin et al., "A Review on Development Challenges for an Inland Port At Malaysia-Thailand Border."

<sup>318</sup> Azila Azmi et al., Cross Border Shopping from the Perspective of Domestic Tourists in Padang Besar, Perlis, *European Journal of Economics and Business Studies* 7, no. 1 (2017): 25.

price competitiveness, Malaysian consumers frequently visit Padang Besar to purchase Thai goods, which are often more affordable than domestically available alternatives.

One of the key economic activities in Padang Besar is the trade of Thai food products, which include a variety of snacks, dried seafood, and spices that are highly sought after by Malaysian consumers. Additionally, the apparel market constitutes a major attraction, as clothing and textiles imported from Thailand are generally sold at lower prices than those available in other retail markets within Malaysia.<sup>319</sup> This economic structure distinguishes Padang Besar from other border towns, as it primarily serves as a marketplace where Thai vendors transport and sell their goods to Malaysian buyers, rather than functioning as a location where Thai consumers seek Malaysian products.

The commercial activity in Padang Besar is further supported by its strategic connectivity, particularly through its railway network, which links Malaysia's West Coast trunk line to Thailand's main southern railway corridor.<sup>320</sup> This transport infrastructure facilitates the movement of goods and enhances trade efficiency, reinforcing the town's role as a vital cross-border commercial centre. However, challenges persist, particularly in relation to informal trade practices such as smuggling, which disrupt market stability and create regulatory concerns.<sup>321</sup>

Despite these challenges, Padang Besar continues to be a key contributor to regional trade, and its economic significance is expected to grow with future development initiatives. The Chuping Valley project, spearheaded by the Northern Corridor

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<sup>319</sup> Ibid.

<sup>320</sup> Lord and Tangtrongjita, *Scoping Study for The Special Border Economic Zone (SBEZ) In The Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT)*.

<sup>321</sup> Fauzi Hussin et al., Border Economy: Issues and Problems Faced by Traders in The Rantau Panjang Duty-Free Zone, *Journal of Sociological Research* 3, no. 2 (2012); Anuar and Harun, "Malaysia-Thailand Cross Border Trade and Cross Border Special Economic Zone Potential: A Case Study of Rantau Panjang- Sungai Kolok Cross Border Town."



Economic Region (NCER),<sup>322</sup> aims to enhance Padang Besar's role by integrating it into a broader inland port system. This initiative seeks to optimise the town's logistical capacity, facilitating seamless trade between Thailand and Penang Port, thereby strengthening cross-border economic integration.

### **2.6.3 Rantau Panjang: A Duty-Free Trade Hub**

Rantau Panjang, located in Kelantan, is well known for its duty-free zone, which attracts a high volume of shoppers from both Malaysia and Thailand. The exemption from certain taxes makes it an attractive destination for retail trade, with businesses offering a variety of products ranging from consumer goods to textiles and electronics.<sup>323</sup> This has led to the growth of a vibrant marketplace that caters to both local and foreign consumers. However, the presence of informal trade practices, including smuggling, poses significant challenges to legitimate traders, affecting pricing stability and regulatory enforcement.<sup>324</sup> The socio-economic composition of traders in Rantau Panjang reflects a complex network of cross-border supply chains, making regulatory oversight a critical factor in sustaining its economic model.

## **2.7 Strategic Economic Policies in the Context of SEZs in Malaysia**

Building on the significant role of SEZs in Malaysia's economic framework, it is crucial to consider the broader economic development strategies that underpin these zones. The New Economic Policy (NEP), initiated by Malaysia's second prime minister, Tun Abdul Razak, in response to the 1969 social unrest, aimed to alleviate

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<sup>322</sup> Northern Corridor Implementation Authority (NCIA), *NCER Strategic Development Plan (2021-2025)*.

<sup>323</sup> Hussin et al., "Border Economy: Issues and Problems Faced by Traders in The Rantau Panjang Duty-Free Zone."

<sup>324</sup> Ibid.; Anuar and Harun, "Malaysia-Thailand Cross Border Trade and Cross Border Special Economic Zone Potential : A Case Study of Rantau Panjang- Sungai Kolok Cross Border Town."

poverty, rectify socio-economic disparities, and foster national unity from 1970 to 1990.<sup>325</sup> This was closely followed by the National Development Policy (NDP) from 1990 to 2000, under Tun Mahathir, which continued to support the Bumiputera<sup>326</sup> agenda, enhancing the socio-economic status of the indigenous Malay community.<sup>327</sup>

These foundational policies set the stage for subsequent strategies aimed at boosting Malaysia's global competitiveness. Noteworthy among these are Vision 2020, the National Transformation Policy, and the Shared Prosperity Vision 2030, Malaysia Madani, each crafted to drive Malaysia towards becoming a developed nation.<sup>328</sup> Additionally, Malaysia's economic planning includes medium-term strategies known as "Malaysia Plans," which started in the 1960s. These five-year plans play a crucial role in achieving medium-term economic goals and have seen 12 iterations to date, with further details to be discussed in section 2.5.4. These strategies collectively

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<sup>325</sup> The May 13, 1969 incident is one of the most tragic events in Malaysian history, which witnessed a major conflict between the Malay and Chinese communities. This incident was one of the main factors that led to the introduction of the New Economic Policy (NEP). Under the NEP, a range of policies were formulated to provide economic opportunities for all communities in Malaysia. These policies sought to ensure inclusive participation in the country's economic sector. Additionally, the NEP period witnessed the implementation of policies aimed at attracting foreign direct investment (FDI), Mohamad Asrol Arpidi Mamat et al., *Involvement of The Communist Era in 13 Mei 1969 Racial Riot*, International Journal of Academic Research in Progressive Education and Development 9, no. 2 (2020): 69–80; K.S. Jomo, *The New Economic Policy and Interethnic Relations in Malaysia*, UNRISD International Conference on Racism and Public Policy, 2004.

<sup>326</sup> "Bumiputera" is a term that broadly encompasses various ethnic groups accorded a "special position" under the Malaysian Constitution, although the term itself is not explicitly mentioned therein. Depending on the region—Peninsular Malaysia, Sabah, or Sarawak—different criteria exist for who is considered a "Bumiputera." In Peninsular Malaysia, this group includes Muslim Malays and the Orang Asli. In Sabah and Sarawak, it is extended to other indigenous peoples native to those regions. On the other hand, "Malay" is a term defined in Article 160(2) of the Malaysian Constitution, referring specifically to an ethnic group mainly found in Peninsular Malaysia, closely associated with the Islamic faith. Federal Constitution- Article 160(2), 161A(6)(a) and 161A(6) (b); Jabatan Perkhidmatan Awam, *Varia Ranah: Sorotan Ilmiah Perkhidmatan Awam*, 2020.

<sup>327</sup> Ho Khai Leong, *Dynamics of Policy-Making in Malaysia: The Formulation of the New Economic Policy and the National Development Policy*, *Asian Journal of Public Administration* 14, no. 2 (1992): 204–227.

<sup>328</sup> R. Islam, *Prioritising the Nine Challenges of Malaysian Vision 2020*, Proceedings of the International Symposium on the Analytic Hierarchy Process 2011 (2011): 1–7; Kementerian Hal Ehwal Ekonomi, *Wawasan Kemakmuran 2030*, 2019; Economic Planning Unit (EPU), *Annual Report Economic Transformation Programme* (2013) (Putrajaya, 2014).

illustrate Malaysia's comprehensive approach to economic planning, underscoring a long-term commitment to becoming a globally competitive nation.

### 2.7.1 Vision 2020

Malaysian Vision 2020, introduced by Tun Dr Mahathir Mohamad, aimed to transform Malaysia into a fully developed country by 2020. To achieve this, nine key challenges were identified, including building national unity, developing a mature democratic society, and ensuring economic justice and prosperity. Vision 2020 encompassed all aspects of nation-building, going beyond just the economy. It aspired to create a united, progressive, and resilient Malaysian society. Tun Mahathir stated his aspiration for Vision 2020 <sup>329</sup>:

*“Malaysia should not be developed only in the economic sense. It must be a nation that is fully developed along all the dimensions: economically, politically, socially, spiritually, psychologically and culturally. We must be fully developed in terms of national unity and social cohesion, in terms of our economy, in terms of social justice, political stability, the government system, quality of life, social and spiritual values, national pride and confidence.”*

The Multimedia Super Corridor (MSC) development, which includes Cyberjaya and Putrajaya, is significant in Malaysia's strategy to attract investment, stimulate economic growth, and boost competitiveness. Cyberjaya focuses on advancing technology and hosting multimedia industries, research and development centres, and multinational companies.<sup>330</sup> Putrajaya, on the other hand, is the administrative centre

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<sup>329</sup> Mahathir Mohamad, Malaysia: The Way Forward (Vision 2020) (Economic Planning Unit, 1991), last modified 1991, [www.epu.jpm.my](http://www.epu.jpm.my).

<sup>330</sup> Injau, “Evaluation Of Multimedia Super Corridor (MSC Malaysia) Contribution In Malaysian Economy.”

within the MSC and supports efficient governance through electronic government initiatives.<sup>331</sup> Cyberjaya and Putrajaya are specialised zones within the MSC framework, contributing to targeted development and innovation in their respective fields.

These zones are vital in realising Vision 2020, attracting investments, promoting technological advancements, and contributing to Malaysia's ambition to become a fully developed nation. The strategic integration of SEZs highlights their importance in Malaysia's economic landscape, driving both sector-specific and national development objectives.

### **2.7.2 National Transformation Plan**

The National Transformation Plan, introduced in 2009, aims to achieve Malaysia's Vision 2020 through two core programs: the Government Transformation Programme (GTP) and the Economic Transformation Programme (ETP). Both programmes were designed to enhance Malaysia's systems and overall development.

The GTP, initiated in 2009, focuses on government services and improving efficiency across various sectors, including public transport, which is vital for developing such areas as the Multimedia Super Corridor (MSC) hubs in Cyberjaya and Putrajaya. These programmes also aim to bring about improvements in areas such as crime reduction, corruption eradication, and infrastructure enhancements.<sup>332</sup>

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<sup>331</sup> Putrajaya serves as a hub for government institutions and promotes efficient administrative processes through the adoption of electronic government initiatives. By centralising administrative functions in Putrajaya, the government aims to enhance coordination, improve service delivery, and create a conducive environment for public administration. Ibid.

<sup>332</sup> John Antony Xavier et al., *The Government Transformation Programme of Malaysia : A Successful Approach to Public Service Reform* The Government Transformation Programme of Malaysia: A Successful Approach to Public Service Reform 0962, no. March (2016).

On the other hand, the ETP, launched in 2010, positions Malaysia to be a high-income nation by 2020. It revolves around Strategic Reform Initiatives (SRI), targetting 12 National Key Economic Areas (NKEA) from diverse sectors from oil and gas to information technology, significantly impacting Gross National Income (GNI) and spurring development projects such as Greater Kuala Lumpur.<sup>333</sup> Among the initiatives to improve this is the proposed development of high-speed train and mass rapid transportation systems. In the context of SEZs, these programs facilitate infrastructure development and attract foreign investments, boosting the economy and supporting Malaysia's strategic economic zones. The structured implementation of GTP and ETP advances Malaysia's global economic standing and strategically positions SEZs for future growth.

### **2.7.3 Malaysia Madani**

On January 19, 2023, Malaysian Prime Minister Datuk Seri Anwar Ibrahim introduced the Malaysia Madani initiative. This initiative aims to embody principles of Sustainability, Prosperity, Innovation, Respect, Trust, and Care and Compassion, enhancing government transparency, integrity, and empathy.<sup>334</sup> The Malaysia Madani framework includes specific strategies for economic zones, focusing on infrastructure enhancement and human capital development. Notable projects include developments in the petrochemical sector in Kerteh, Terengganu; data centres in Sedenak, Johor; and

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<sup>333</sup> Mohammad Nooh et al., Impak Program Transformasi Ekonomi (ETP) Terhadap Belia Malaysia Impak Program Transformasi Ekonomi (ETP) Terhadap Belia Malaysia: Pandangan Dari Fakulti Ekonomi Dan Muamalat Universiti Sains Islam Malaysia, no. March 2017 (2013); PEMANDU, Economic Transformation Programme Report, Economic Planning Unit Malaysia, 2010, <https://policy.asiapacificenergy.org/node/1271>.

<sup>334</sup> Nadiah Abdul Aziz and Rossilawati Rusli, Embracing Islamic Values in Governance: Reflecting the Concept of "Madani" In the Holy Qur'an, *International Journal Of Social Science And Education Research Studies* 03, no. 07 (July 13, 2023): 1304–1312, <https://ijssers.org/single-view/?id=8562&pid=8472>.

the rubber industry in Kuala Nerang, Kedah.<sup>335</sup> An initial investment of RM100 million (USD25 million) is dedicated to building sustainable green infrastructure.

Further, efforts are being made in Johor to transform Iskandar Malaysia into a financially competitive zone, attracting global investors and skilled professionals. Forest City, previously facing challenges in attracting investment and known as the "ghost town", is planned to become a Special Financial Zone (SFZ) within the Madani Economy framework, leveraging economic opportunities.<sup>336</sup> The initiative also aims to restructure the economy to increase the country's competitiveness, positioning Malaysia as a top investment destination in Southeast Asia.

Furthermore, the New Industrial Master Plan 2030 (NIMP 2030) has also been established. It aims to transform Malaysia's industrial sector, specifically in manufacturing and related services. This strategic plan aligns with Malaysia's Madani Economy goals and seeks to develop high-value-added and knowledge-based industries to elevate the nation's competitiveness and income level.<sup>337</sup> NIMP 2030 focuses on innovation, productivity, and the creation of high-skilled jobs. It includes detailed industry-specific roadmaps and strategies to improve the business environment and boost research and development. The plan also emphasises sustainable practices to enhance Malaysia's competitiveness in the global market.

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<sup>335</sup> The Star, Madani Economy: GLCs, GLICs to Spur Domestic Investments - Tengku Zafrul, *The Star Online*, July 27, 2023, <https://www.thestar.com.my/business/business-news/2023/07/27/madani-economy-glcs-glics-to-spur-domestic-investments---tengku-zafrul>.

<sup>336</sup> Yusof, "Deserted Ghost Town': Johor Country Garden Condo Residents Concerned over Unfinished Projects amid China Developer's Debt Crisis."

<sup>337</sup> NIMP 2030 sets forth six key goals: (1) increasing economic complexity, (2) creating high-value job opportunities, (3) extending domestic linkages, (4) developing new and existing clusters, (5) improving inclusivity, and (6) enhancing Environmental, Social, and Governance (ESG) practices. Malaysian Investment Development Authority (MIDA), Launch of the New Industrial Master Plan 2030 (NIMP), last modified 2023, accessed December 21, 2023, <https://www.mida.gov.my/launch-of-the-new-industrial-master-plan-2030-nimp-2030/>.

Although not explicitly highlighted in NIMP 2030, the BKH SBEZ closely reflects its objectives by promoting economic diversification and job creation—key goals of both SEZs and SBEZs. The plan encourages the development of efficient clusters and stronger domestic linkages, essential for integrating SBEZ into the global value chain.<sup>338</sup> In this regard, NIMP 2030 offers a strategic framework that supports the advancement and competitiveness of SBEZs, reinforcing their role in realising Malaysia's aspiration for a high-income, globally competitive Madani Economy.

#### 2.7.4 Malaysia Plans

Malaysia's economic planning is guided by "Five-Year Development Plans" or "Malaysia Plans", introduced by the First Prime Minister in the 1950s.<sup>339</sup> These plans are implemented every five years and focus on medium-term objectives within a broader ten-year vision.<sup>340</sup> As of 2024, Malaysia has had 12 Malaysia Plans tailored to specific economic needs and governance paradigms. The plans are fundamental to Malaysia's governmental tradition. As this research focuses on SEZs in Malaysia, the summary of the key points related to their development from Malaysia Plan documents is shown in the table below.

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<sup>338</sup> Example: a logistics industry cluster integrates freight forwarding, warehousing, transportation, and logistics software firms. This cluster collaborates with local manufacturers and suppliers, creating a dynamic ecosystem. The seamless interaction between cluster members and local businesses enhances supply chain efficiency, supporting both the SBEZs' operational success and the regional economy. Hong Leong Bank: Global Market Research, Malaysia: New Industrial Master Plan (NIMP) 2030, 2023.

<sup>339</sup> Economic Planning Unit (EPU), Planning Horizon, *Prime Minister Department*, last modified 2020, accessed December 22, 2021, <https://www.epu.gov.my/en/economic-developments/economic-management/planning-horizon>.

<sup>340</sup> Ibid.

Table 2-3  
Policies within each Malaysia Plan

| MALAYSIA<br>PLAN                                    | DETAILS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Second<br/>Malaysia<br/>Plan<br/>(1971-1975)</b> | Introduced in 1971, the Second Malaysia Plan emphasised foreign direct investment, particularly through the establishment of FTZs in 1972. These FTZs were designed to attract export-oriented manufacturing industries, creating job opportunities and identifying manufacturing as a key growth engine for the nation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Third<br/>Malaysia<br/>Plan<br/>(1976-1980)</b>  | This plan focused on the development of resource-rich but underdeveloped areas, such as Southeast Pahang, Southeast Johor, and the Miri-Bintulu region. It aimed to create opportunities in agriculture and forest-based industries, promoting economic activities in these regions. In contrast, for rapidly urbanising areas such as the Klang Valley, Penang, and Southern Johor, the plan provided direction for continued urban and industrial development. This period saw the establishment of new towns and intensified land development efforts, including the creation of the Southeast Johor Development Authority (KEJORA - Lembaga Kemajuan Johor Tenggara), the Southeast Pahang Development Authority (DARA - Lembaga Kemajuan Pahang Tenggara), the Central Terengganu Development Authority (KETENGAH - Lembaga Kemajuan Terengganu Tengah), and the South Kelantan Development Authority (KESEDAR - Lembaga Kemajuan Kelantan Selatan). |
| <b>Fourth<br/>Malaysia<br/>Plan<br/>(1981-1985)</b> | This plan extended the strategy of promoting export-oriented industries by establishing more Free Trade Zones (FTZs). By the end of 1980, eight FTZs had been designated, located in areas such as Melaka, Pulau Pinang, and Selangor. These zones covered a total area of 434 hectares and were aimed at stimulating export-oriented manufacturing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Fifth<br/>Malaysia<br/>Plan<br/>(1986-1990)</b>  | The Fifth Malaysia Plan proposed the establishment of a manufacturing sector in Melaka and Negeri Sembilan, aimed at benefitting from the development in the Klang Valley. It also advocated for making Pasir Gudang Port an export hub.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Sixth<br/>Malaysia<br/>Plan<br/>(1991-1995)</b>  | The Sixth Malaysia Plan aimed to harmonise development through region-specific strategies. This led to a more balanced industrial development and a structured national industrial framework. To implement this, the government sought cooperation from the private sector and state governments. The plan called for the design of complementary programmes but did not specify locations for new economic zones.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |



Table 2-4  
Policies within each Malaysia Plan...cont

| MALAYSIA<br>PLAN                                      | DETAILS                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Seventh<br/>Malaysia<br/>Plan<br/>(1996-2000)</b>  | This plan featured the establishment of a Border Development Zone on BKH and enhancements of existing free trade zones around Klang Port and Tanjung Pelepas. It also proposed establishing a free trade zone around the Kuala Lumpur International Airport (KLIA) to make it a significant hub for cargo movement.                                                                                                                                                       |
| <b>Ninth<br/>Malaysia<br/>Plan<br/>(2006-2010)</b>    | The Ninth Malaysia Plan focused on setting up a Digital Media Zone in Cyberjaya to serve as a hub for digital content development. It also planned for cross-border development areas covering multiple states, such as Terengganu Zone North-Kelantan Selatan-Pahang Barat, to spur economic growth. The plan identified areas in the North Peninsula, including Kedah, Perlis, and Northern Perak, to drive the development of the food industry, including halal hubs. |
| <b>Tenth<br/>Malaysia<br/>Plan<br/>(2011-2015)</b>    | This plan prioritised the acceleration of regional economic development through the identification of high-density clusters within previously identified growth corridors. It emphasised the importance of these clusters in each economic corridor for balanced territorial development.                                                                                                                                                                                 |
| <b>Eleventh<br/>Malaysia<br/>Plan<br/>(2016-2020)</b> | The plan prioritised regional economic corridors for Malaysia's development and growth, focusing on high-impact projects in various sectors across different economic regions. These included Iskandar Malaysia for Creative industries, NCER for automotive and aeronautical industries, ECER for petrochemical industries, SDC for tourism and downstream palm oil processing, and SCORE for power-intensive industries.                                                |
| <b>Twelfth<br/>Malaysia<br/>Plan<br/>(2021-2025)</b>  | Development projects such as Malaysia Vision Valley 2.0 (MVV 2.0) and Pagoh SEZs aim to drive new growth by focusing on high-tech industries such as aerospace. They also target the development of the halal industry and aim to attract both local and foreign investment. Private-sector-led projects in these zones are expected to create job opportunities and economic spillover effects.                                                                          |

Source (Researcher Own, 2024)

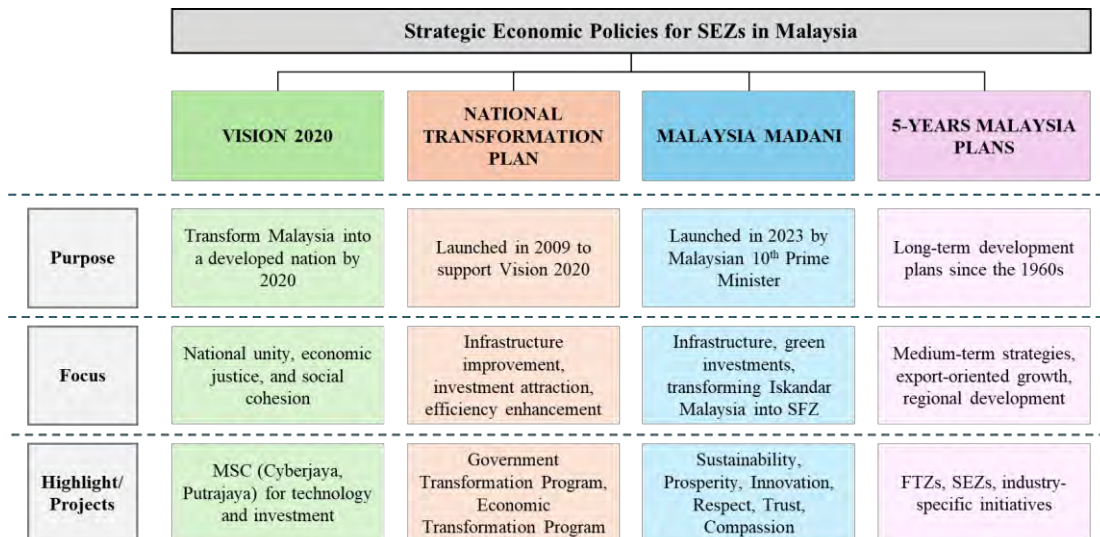


Figure 2-10 Summary of Strategic Economic Policies For SEZs in Malaysia (Researcher Own, 2024)

## 2.8 SEZs in Malaysia's Spatial Planning

The development of SEZs in Malaysia closely links with key planning frameworks, including the National Physical Plan and State Structure Plans. This section will give some examples of SEZ development as outlined in these planning documents. The focus will be on how these documents facilitate the proposed developments of SEZs, as well as the complementary developments that support these zones. Further discussion on the SBEZ BKH, in particular, will be presented in Chapter 4.

### 2.8.1 National Physical Plan

The National Physical Plan (NPP) holds a prominent position within Malaysia's strategic planning. The details of NPP will be further elaborated in Chapter 4. The most recent NPP 4 outlines several key initiatives related to the development of SEZs. One of the proposals within this NPP is the establishment of Kulim Airport (KXP) in Kedah.<sup>341</sup> While KXP itself is not designated as an SEZ, its model displays significant

<sup>341</sup> PLANMalaysia, *National Physical Plan 4*, 2021.

similarities to SEZs. The airport is planned to serve as a major logistics hub, enhancing the industrial capacities within Kulim and mainland Penang.<sup>342</sup> By facilitating efficient goods transportation and boosting trade efficacy, KXP is expected to play a pivotal role in catalysing the economic expansion of the region, aligning closely with the objectives of SEZs generally.

Moreover, in Penang, there is a proposal for the Bayan Lepas Light Rail Transit (LRT) line. Bayan Lepas, as previously discussed, is one of the SEZs and has significantly contributed to the development of Penang Island. The rapid growth in this area necessitates improvement of public transportation. This is to reduce reliance on personal vehicle use, encouraging the public to opt for public transit options instead.<sup>343</sup> The introduction of the LRT is expected to facilitate easier movement of people and reduce traffic congestion. This will indirectly ensure smoother transport of goods from the industrial park, thereby efficiently supporting ongoing development.<sup>344</sup>

In the context of national planning, having a comprehensive spatial plan is important to ensure a unified approach to development throughout the country. This helps to prevent regional inequalities and encourages consistent growth. Therefore, it is vital to use this NPP as part of spatial and strategic national planning, to oversee and regulate SEZs. This approach helps to avoid an over-proliferation of SEZs, making

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<sup>342</sup> Invest Kedah, Kulim International Airport (KXP), last modified 2022, accessed August 25, 2023, <https://www.investkedah.com/kulim-international-airport-kxp/>.

<sup>343</sup> The Star Online, Penang LRT on Track to Ease Traffic and Enhance Tourism, 2024, <https://www.thestar.com.my/news/nation/2024/04/10/penang-lrt-on-track-to-ease-traffic-and-enhance-tourism>.

<sup>344</sup> Junliang He et al., Evaluating the Rail-Based Multimodal Freight Transportation after HSR Entry in Yangtze River Delta Economics Zone, *Scientific Programming* 2021 (2021).

sure that each area either becomes an SEZ or effectively supports existing ones, thus contributing to a balanced economic expansion.

### **2.8.2 Structure Plans**

This section delves into the development of SEZs in Malaysia, highlighting specific examples and analysing the strategies detailed in the State Structure Plans (SSP). Where the National Physical Plan (NPP) offers a national perspective, SSPs provide state-specific directives. Two examples of SSPs that have been chosen and have integrated into the SEZ concept are from Penang and Kedah.

The Penang State Structure Plan (PSSP) proposes a range of initiatives to boost industrial activities, with a focus on improving infrastructure and essential facilities. One key aspect is the establishment of a new industrial area in the Penang South Reclamation (PSR) region, designed to accommodate new industries as an alternative to the saturation of existing developments on Penang Island. The plan also advocates for the development of that area with factory buildings and comprehensive support facilities, leveraging high technology to cement Penang's position as a modern, competitive industrial hub both locally and globally.

On the other hand, the Kedah State Structure Plan focuses on the development of SEZs in Kulim, aiming to enhance the state's industrial growth. Kulim is positioned as a key catalyst benefitting from spillovers from Penang's development. Supporting this vision, and in alignment with the NPP, the plan includes the proposal for Kulim Airport (KXP), envisioned as a developmental catalyst for Kedah and surrounding areas. The plan identifies four main industrial clusters for Kulim: high-tech, automotive, and

research and development. These clusters aim to foster innovation and diversify the industrial base in the state.

Based on the earlier discussion, it is evident that State Structure Plans (SSPs) are crucial in translating the broader objectives outlined in the National Physical Plan (NPP) into specific, actionable strategies at the state level. These plans facilitate the adaptation and implementation of national directives at the state level, including policies such as the adoption of green energy in new factories and the strategic organisation and clustering of industrial sectors within the state. This approach ensures that national priorities are effectively tailored to meet regional needs and opportunities.

## **2.9 The Impact of FTZs on Malaysia's Economy**

The establishment of free zones has played a crucial role in driving economic growth and promoting regional integration in Malaysia. Free zones help to increase the production of goods for export, attract foreign investment, and generate substantial foreign exchange. These zones also act as economic drivers, offering local companies the chance to grow and diversify the national economy. The creation of the first SEZs in Malaysia, particularly in Bayan Lepas, represented a significant milestone in the country's economic development.<sup>345</sup> The ongoing expansion of these zones aims to create new economic opportunities and strengthen Malaysia's global economic position.

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<sup>345</sup> Rasiyah, "The Industrial Policy Experience of the Electronics Industry in Malaysia."

Table 2-5  
Key Economic Indicators

| Indicators                      | 1990                         | 2000                         | 2010                         | 2020                          |
|---------------------------------|------------------------------|------------------------------|------------------------------|-------------------------------|
| <b>Population<br/>(million)</b> | 18,029,824.00                | 23,194,252.00                | 28,208,028.00                | 32,395,668.00                 |
| <b>GDP (billion)</b>            | RM185.34<br>(USD44.02)       | RM394.86<br>(USD93.79)       | RM1,073.62<br>(USD255.02)    | RM1,418.84<br>(USD337.02)     |
| <b>GDP per capita</b>           | RM10,279.73<br>(USD2,441.74) | RM17,023.82<br>(USD4,043.66) | RM38,060.79<br>(USD9,040.57) | RM43,835.99<br>(USD1,0412.34) |

Source: Department of Statistic Malaysia and World Bank<sup>346</sup>

The table above shows Malaysia's economic growth over a period of three decades, showing a consistent rise in GDP and population. This growth, while not entirely from FTZ development, has somehow been greatly impacted by the deliberate establishment of FTZs. For example, during the economic crisis of 1997-1998, Malaysia quickly recovered, partly due to strong global demand for electronics—a sector predominantly concentrated within the FTZs.<sup>347</sup> These FTZs have effectively attracted investment, especially from the electronic sector; this has positioned Malaysia among the key players in the global electronics market.<sup>348</sup> The presence of these FTZs or SEZs in Malaysia has spurred such ancillary sectors as logistics, creating employment opportunities, enhancing technology capabilities and facilitating the transfer of knowledge and skills.<sup>349</sup>

<sup>346</sup> World Bank, Malaysia Data, *World Bank Open Data*, last modified 2024, <https://data.worldbank.org/country/malaysia>; Department of Statistics Malaysia, GDP Malaysia, last modified 2022, <https://open.dosm.gov.my/dashboard/gdp>.

<sup>347</sup> K. Meesook et al., Malaysia: From Crisis to Recovery, IMF Occasional Papers August, no. 207 (2001): 1–99, <https://www.imf.org/external/pubs/nft/op/207/index.htm>. One of the key factors contributing to this swift recovery was the strong global demand for electronics, which played a significant role in Malaysia's economic rebound. This demand was bolstered by the presence of numerous electrical and electronics industries operating within the FTZs.

<sup>348</sup> Rasiah, "The Industrial Policy Experience of the Electronics Industry in Malaysia."

<sup>349</sup> Athukorala, "Growing with Global Production Sharing : The Tale of Penang Export Hub, Malaysia."

Overall, the establishment of FTZs in Malaysia has had a positive impact on the country's economy by attracting foreign investment, promoting industrial development, and facilitating export-oriented activities. These zones have played a crucial role in diversifying Malaysia's economic landscape, contributing to its resilience and ability to overcome economic challenges.

### **2.9.1 FTZs impact on trade activities**

FTZs have become crucial drivers of economic growth in Malaysia, enhancing the country's status as a major Asian trader, especially in the intermediate goods sector.<sup>350</sup> These zones provide tax incentives, streamlined customs procedures, and advanced infrastructure, which have been instrumental in fostering trade activities and attracting investments. Particularly significant is Malaysia's role in the electronics industry, where FTZs have influenced the country's emergence as a leading exporter of electrical and electronic parts.<sup>351</sup> A testament to this is Malaysia's electrical and electronics (E&E) sector, which is globally acknowledged.<sup>352</sup> Statistically, Malaysia accounts for 7% of global semiconductor production, with major contributions emanating from industrial hubs like Bayan Lepas and Kulim.<sup>353</sup> This highlights the FTZs' pivotal role in Malaysia's economic expansion and global trade prominence.

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<sup>350</sup> Malaysia has emerged as one of the major Asian traders, particularly in the intermediate goods sector, with a substantial 68% share of total country exports. Nur Adilah Hamid, *The Contribution of Processing Trade Activities to Malaysia Domestic Economy*, Universiti Putra Malaysia (Universiti Putra Malaysia, 2016).

<sup>351</sup> In 2000, Malaysia was recognised for its substantial export value, with electronic parts accounting for 40% of its export value and a 70% share of import content. WTO and IDE-JETRO, *Trade Patterns and Global Value Chains in East Asia* : IDE-JETRO (2008), [www.ide.go.jp/English/](http://www.ide.go.jp/English/) Junio 2016.

<sup>352</sup> Malay Mail, MPC: Malaysia's E&E Sector Has Huge Potential to Meet Rising Global Demand, *Malay Mail*, November 11, 2021, <https://www.malaymail.com/news/money/2021/11/11/mpc-malaysias-ee-sector-has-huge-potential-to-meet-rising-global-demand/2020182>.

<sup>353</sup> Claudia Khaw, How Malaysia Fostered a Semiconductors Industry That Brought in Investors like Tesla & Intel, *Vulcan Post*, last modified 2023, accessed October 23, 2023, <https://vulcanpost.com/838121/semiconductors-malaysia-industry-history-growth/>.

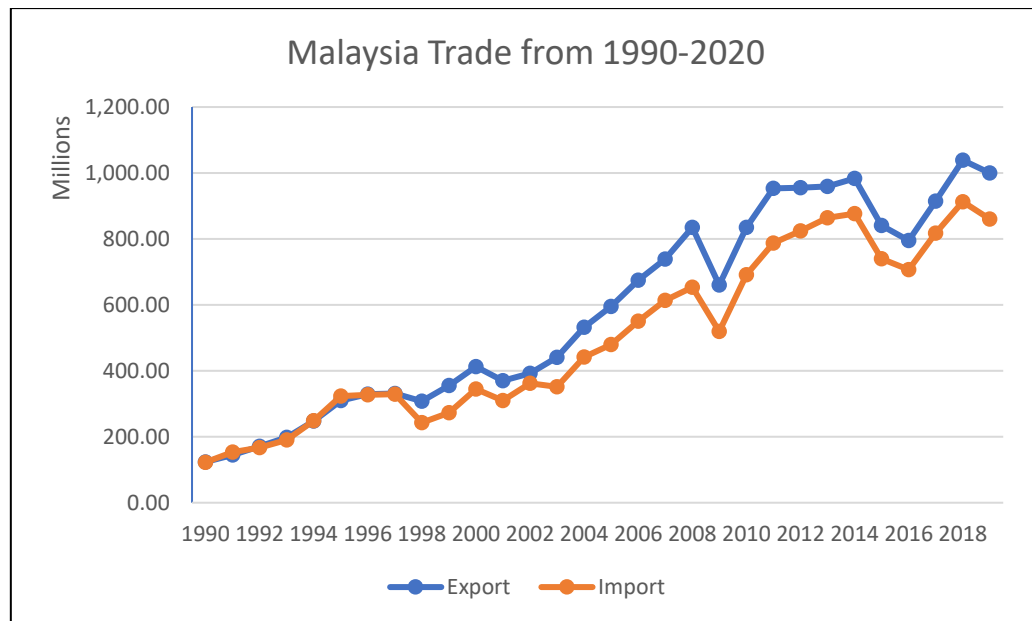


Figure 2-11 Malaysia Trade 1990-2020 (Source: Department of Statistic Malaysia and World Bank)

Figure 2.12 shows Malaysia's export and import values over three decades. There is consistent growth in both exports and imports, indicating a robust expansion of Malaysia's trade activities and integration into the global market.<sup>354</sup> Exports generally outpace imports, maintaining a positive trade balance,<sup>355</sup> suggesting economic health. The graph also highlights dips during the Asian financial crisis in 1997-1998 and the global financial crisis in 2008-2009, followed by rapid recoveries, showcasing Malaysia's economic resilience. Post-2009 data shows exports recovering faster than imports, likely driven by global demand for Malaysian products and services.

<sup>354</sup> Mohammed B Yusoff, Fauziah Abu Hasan, and Suhaila Abdul Jalil, Globalisation , Economic Policy, and Equity: The Case of Malaysia, OECD Development Centre, no. 33 1 (2000): 18, <http://www.oecd.org/dataoecd/54/49/2682426.pdf>.

<sup>355</sup> The trade balance of a country is the difference between the monetary value of its exports and imports over a certain period of time. When a country's exports exceed its imports, it has a trade surplus, meaning it is selling more abroad than it is buying from other countries. Conversely, when a country's imports surpass its exports, it has a trade deficit. Leslie Kramer, How Importing and Exporting Impacts the Economy, Investopedia, last modified 2023, accessed December 2, 2023, <https://www.investopedia.com/articles/investing/100813/interesting-facts-about-imports-and-exports.asp>.



FTZs in Malaysia have significantly stimulated both import and export activities, enhancing the country's engagement in the global supply chain. The Customs Department mandates that 80% of goods processed in LMW within these zones must be exported, while only 20% can be distributed domestically. This export-oriented approach has expanded companies' international market reach and increased outward trade.<sup>356</sup> Additionally, FTZs offer tax exemptions on imported goods, raw materials and spares, incentivizing companies to import and add value within Malaysia's favourable business environment. Overall, FTZs have been instrumental in boosting both exports of intermediate goods and imports, fostering economic progress and reinforcing Malaysia's global trade status.

### **2.9.2 FTZs impact on employment**

The establishment of Free Trade Zones (FTZs) in Malaysia has significantly boosted the country's economy and society by enabling the transfer of technology and the creation of job opportunities. This technology transfer usually involves the introduction of advanced technologies from developed nations, leading to the development of automated machinery by local engineers.<sup>357</sup> These advancements not only support large-scale production but also enhance capabilities within FTZs, developing skilled labour and expanding job prospects.

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<sup>356</sup> Low, "Licensed Manufacturing Warehouse (LMW)."

<sup>357</sup> Technological transfer in Malaysian FTZs is exemplified by local engineers increasingly taking on operational and maintenance roles for machinery, often bolstered by training programs abroad. This engagement is critical for developing local expertise and facilitating the transfer of technical know-how, although it generally pertains to specific production and quality control areas within FTZ companies. FTZs able in shaping skilled labour production through technology transfer, subsequently creating employment opportunities in the market. "Industrialising Malaysia: Policy, Performance, Prospects."

For example, the Northern Corridor Economic Region (NCER) created around 145,000 jobs through investments totalling RM115.09 billion from 2009 to 2019.<sup>358</sup> Companies such as Micron Technology in Batu Kawan, Penang, and Hicom Teck See in the Tanjung Malim Automotive Hub made significant contributions to local employment, providing 2,700 and nearly 5,500 jobs, respectively, in 2019 alone.<sup>359</sup> These examples highlight the crucial role of Free Trade Zones (FTZs) in enhancing local employment and community well-being.

On the other hand, the SEZ concept has helped Malaysia transition from an agriculture-based economy to a more advanced manufacturing-driven one. This aligns with the government's efforts to attract investors while ensuring the welfare of Malaysians. Although challenges such as the use of foreign labour may impact social stability,<sup>360</sup> the positive effects of SEZs cannot be ignored. They have led to a good movement of the economic growth and diversification, improved Malaysia's standing in global trade, and contributed to the growth of skilled labour and job offerings. The success of existing SEZs highlights the potential economic advantages of the proposed SBEZ. This new zone are anticipated to significantly boost Malaysia's economic landscape, particularly in more remote areas where SBEZs are located.

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<sup>358</sup> Northern Corridor Implementation Authority (NCIA), *Laporan Tahunan Wilayah Ekonomi Koridor Utara (NCER) 2019* (Penang, 2019).

<sup>359</sup> Ibid.

<sup>360</sup> Hamzah Abdul Rahman et al., Negative Impact Induced by Foreign Workers: Evidence in Malaysian Construction Sector, *Habitat International* 36, no. 4 (2012): 433–443, <http://dx.doi.org/10.1016/j.habitatint.2012.03.002>.

### 2.9.3 FTZ impact on the cost of living

The impact of Free Trade Zones (FTZs) on the cost of living is a significant aspect of their broader economic influence. The development of SEZs and FTZs can lead to substantial changes in local lifestyles and living costs. Taking Bayan Lepas in Penang as an example, the introduction of Malaysia's first FTZ in the 1970s created rapid economic and physical development in the area. As a result, Penang has become one of the fastest-growing regions in the country.<sup>361</sup> This growth, while beneficial in terms of economic development and job creation, has also led to notable changes in the cost of living, particularly in the island areas of Penang.

One of the impacts of the Free Trade Zone can be seen in the housing market. The region has seen an escalation in investments and workers due to the FTZ, leading to an increase in housing demand. Limited land availability on the island has led to property prices rising significantly. This rise in housing costs is a major contributor to the overall increase in the cost of living.<sup>362</sup> Furthermore, the FTZ's development has driven the growth of support services and industries such as retail, hospitality, and transportation. While this has created more job opportunities, it has also led to higher prices for goods and services in the area, adding to the rising cost of living. The population growth resulting from the FTZ's success has put strain on local

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<sup>361</sup> Azanis Shahila Aman, Four States Outperformed the Country's GDP Growth in 2022, *New Straits Time*, June 23, 2023, <https://www.nst.com.my/business/2023/06/924810/four-states-outperformed-countrys-gdp-growth-2022>.

<sup>362</sup> In terms of food pricing, a lunch meal on the island is priced at a ratio of 3:2 compared to the mainland, meaning it is 50% more expensive. Nurul Atikah Sarji, Is the Cost of Living in Penang Expensive? Locals Weigh In, *Sinar Daily*, 2023, <https://www.sinardaily.my/article/203388/focus/national/is-the-cost-of-living-in-penang-expensive-locals-weigh-in>.

infrastructure and resources, potentially increasing the costs of basic amenities such as water, electricity, and public services.

In summary, although FTZs are one of the mechanisms that promote economic growth and development, they also significantly affect the cost of living, especially in housing, services, and infrastructure. This dual impact emphasises the importance of comprehensive planning and policy-making that considers both the economic benefits and the socio-economic challenges associated with these zones.

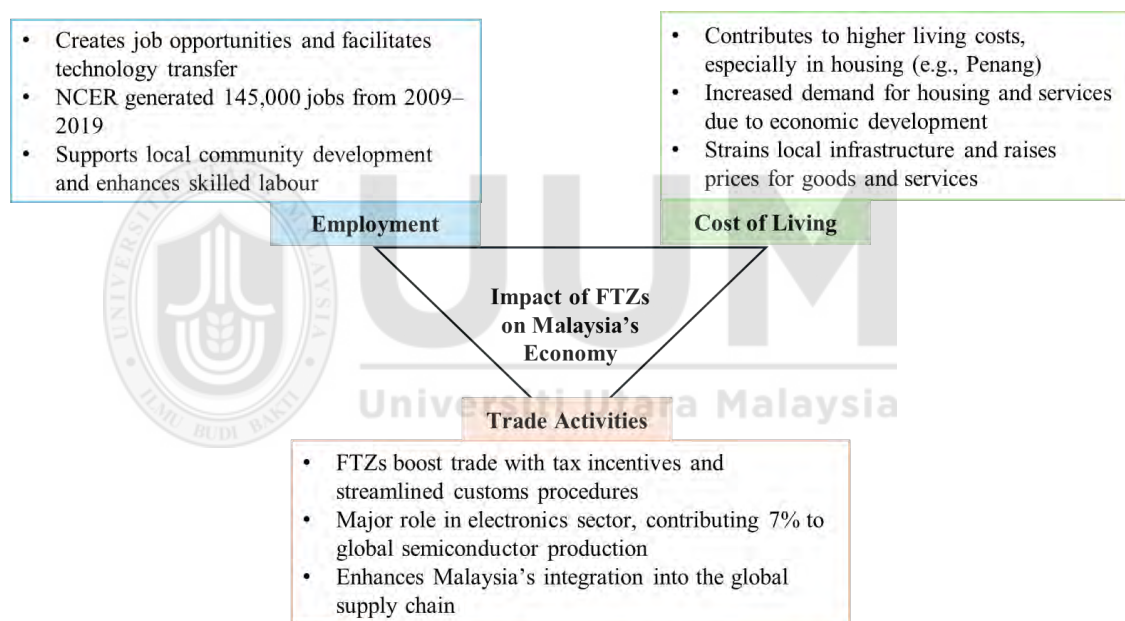


Figure 2-12 Summary of FTZ's Impact on Malaysia's Economy  
(Researcher Own, 2024)

## 2.10 Summary

In conclusion, the establishment of various SEZ concepts in Malaysia has significantly boosted economic growth and delivered substantial benefits. These initiatives have been integrated with the Malaysian government's transformation plans, including Five-Year Plans, together with various policies aimed at enhancing the dynamic economic structure. These strategies have successfully attracted FDI and spurred

economic development by diversifying income sources, creating jobs, facilitating technology transfer, and drawing more investors. The incoming SBEZ in BKH is expected to further amplify these benefits.

However, it is important to ensure that economic progress is accompanied by corresponding physical development for long-term sustainability. The relevant documents and policies related to the physical development plan have been introduced to convert economic strategies into actionable projects that address physical, economic, social, and environmental aspects. PLANMalaysia (previously known as the Department of Town and Country Planning), a government agency under the Ministry of Housing and Local Government, is responsible for integrating and executing these plans, making sure that the physical planning of the country is aligned with national economic goals. The next chapter will further elaborate the vital role and challenges of physical development, with a specific focus on land use planning and the legal frameworks that govern land development.

# **CHAPTER THREE**

## **LEGAL ISSUES IN LAND USE PLANNING IN MALAYSIA AND IMPACTS ON THE DEVELOPMENT AND REGULATION OF SEZS**

### **3.1 Introduction**

This chapter explores urban planning practices in Malaysia, specifically focusing on their integration with the Land Use Planning Regulatory Framework for the SBEZ Bukit Kayu Hitam. The chapter will also address relevant legal issues. Urban planning in Malaysia is governed by the TCPA, which grants local planning authorities the power to effectively manage land use. Parts III and IV of the TCPA specifically empower these authorities to regulate land use planning throughout Malaysia.

In addition, the chapter examines legal matters related to land development as outlined in the National Land Code (NLC), which is crucial for the successful development of SEZs that require extensive land management. Effective planning is essential to avoid underutilisation of land resources and to overcome challenges such as governance issues and ineffective development control, which can result in construction delays and investment losses.

### 3.2 Town and Country Planning under the Federal Constitution

Understanding land development issues and legal cases in Malaysia requires knowledge of the planning system governed by the TCPA and NLC. Malaysia's urban planning, rooted in the 1890s, has evolved significantly, with the TCPA ensuring uniformity of laws and policies.<sup>363</sup> The TCPA, ingrained in the Federal Constitution, specifically originates from Clause (1) of Article 74,<sup>364</sup> and Clause (4) of Article 76.<sup>365</sup> Malaysia, a federal constitutional monarchy, has a three-tier administration system: a federal government, 14 state governments, and 151 local authorities.<sup>366</sup> The Ninth Schedule of the Federal Constitution defines the authority between federal and state governments, with Town and Country Planning under the Concurrent List. The federal government formulates strategic spatial plans for land use and physical development, outlined in Section 6B of the TCPA, which are then implemented by state and local authorities.

However, the implementation of the TCPA is limited to Peninsular Malaysia, as it does not apply to Kuala Lumpur. Instead, urban planning and development in the Federal Territory of Kuala Lumpur are governed by the Federal Territory (Planning) Act 1982

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<sup>363</sup> Land use planning and development control are essential for the optimal utilisation of land, particularly in the face of swift urban expansion. Such development necessitates regulatory oversight through pertinent legislation, ensuring that the transformation of structures and land use within urban spaces is both guided and regulated efficiently. This government oversight is vital in steering the structural transitions that accompany rapid urban growth, maintaining a balance between development needs and sustainable land use practices. Sharifah Zubaidah Al-Junid, Controlling Changes of Use of Land in Malaysia: Dual Authorities and The Dilemma of Certainty vs. Flexibility, in *Land Use Planning and Environment Sustainability in Malaysia: Policy and Trends* (Research Center IIUM, 2006).

<sup>364</sup> Article 74(1) of the FC: without prejudice to any power to make laws conferred on it by any other Article, Parliament may make laws with respect to any of the matters enumerated in the Federal List or the Concurrent List (that is to say, the First or Third List set out in the Ninth Schedule).

<sup>365</sup> Article 76(4) of the Constitution: Parliament may, for the purpose only of ensuring uniformity of law and policy, make laws with respect to land tenure, the relations of landlord and tenant, registration of titles and deeds relating to land, transfer of land, mortgages, leases and charges in respect of land, easements and other rights and interests in land, compulsory acquisition of land, rating and valuation of land, and local government; and clauses (1) (b) and (3) shall not apply to any law relating to any such matter.

<sup>366</sup> Jabatan Kerajaan Tempatan, Statistik PBT Mengikut Negeri, last modified 2023, accessed January 21, 2023, <https://jkt.kpkt.gov.my/ms/SUK%26PBT/Statistik/StatistikPBTmengikutNegeri>.

(Act 267) (FTPA).<sup>367</sup> This distinction places Kuala Lumpur's planning authority directly under federal jurisdiction, with the Datuk Bandar (Mayor) as the sole planning authority, differing from other states where planning powers are shared between local and state governments under the TCPA.

### 3.2.1 History of the Planning System in Malaysia

The development of town planning laws in Malaysia can be traced through three distinct periods: the pre-colonial era, the British colonial period, and the post-independence phase. Each period contributed uniquely to the evolution of planning practices and legal structures, culminating in the establishment of the TCPA, which now serves as the primary legal framework for land use planning in Peninsular Malaysia. The table below outlines the key milestones that shaped the trajectory of town planning law in Malaysia across these three phases.

Table 3-1  
Summary of Key Development of Planning Law Cont...

| Period           | Year | Event                                                                                                                | Significance                                                                                        |
|------------------|------|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| Pre-Colonial     | 1801 | Formation of the Committee of Assessors in George Town, Penang                                                       | Established roads, drainage systems, and well-designed administrative and institutional buildings.  |
| British Colonial | 1890 | Establishment of the Sanitary Board of Kuala Lumpur                                                                  | Local planning authority responsible for overseeing local administration and health systems.        |
|                  | 1917 | Introduction of the Town Improvement Enactment                                                                       | Granted the Sanitary Board increased authority in urban development and public health improvements. |
|                  | 1921 | Appointment of Charles Reade as the first Town Planner by the British Government of the Federated Malay States (FMS) | Provided expert advice on the FMS's town planning system.                                           |

<sup>367</sup> Further elaboration on sub-section 3.2.2.



Table 3-2

*Summary of Key Development of Planning Law Cont...*

| Period                   | Year        | Event                                                          | Significance                                                                                                                                                                                                                                                                                                                                             |
|--------------------------|-------------|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Post-Independence</b> | 1957        | Attainment of independence in Peninsula                        | Initiated self-governance and a period of rapid economic, social, and urban development.                                                                                                                                                                                                                                                                 |
|                          | Early 1970s | A comprehensive review of the town and country planning system | This led to the proposal of a more intricate and functional framework for urban and rural planning.                                                                                                                                                                                                                                                      |
|                          | 1976        | Enactment of the TCPA                                          | Established a standardised planning system across Peninsular Malaysia.                                                                                                                                                                                                                                                                                   |
|                          | 1993        | TCPA (Amendment) 1993 (Act A866)                               | Included provisions related to sewerage in accordance with the Sewerage Services Act 1993 (Act 508).                                                                                                                                                                                                                                                     |
|                          | 1995        | TCPA (Amendment) 1995 (Act A933)                               | Focused on integrating environmental management into planning, including the conservation of topographical features and existing vegetation.                                                                                                                                                                                                             |
|                          | 2001        | TCPA (Amendment) 2001 (Act A1129)                              | Aimed at balancing the authority between the Federal and State governments in town and country planning matters. The amendments introduced the National Physical Planning Council, Regional Planning Committee, and the National Physical Plan, strengthening the coordination and implementation of planning policies at multiple levels of government. |
|                          | 2007        | TCPA (Amendment) 2007 (Act A1313)                              | Incorporated legislation on solid waste management and maintenance of public areas, integrating Solid Waste and Public Cleansing System Act 2007 (Act 672).                                                                                                                                                                                              |
|                          | 2017        | TCPA (Amendment) 2017 (Act A1522)                              | Mandated Social Impact Assessment (SIA) as part of requirements for projects submitted to the National Physical Planning Council, particularly land reclamation and major infrastructure. This aims to promote inclusive development, assess social impacts, and minimise negative effects on communities.                                               |

Source: Compilation of literature by researcher<sup>368</sup>

<sup>368</sup> Sharyzee Mohmad Shukri et al., The Morphology of Early Towns in Malay Peninsula The Morphology of Early Towns in Malay Peninsula, no. July (2018): 3–7; Ahmad Kamal Arifin, Pengasasan Kerajaan Tempatan Di Semenanjung Malaysia Dengan Rujukan Kepada Sanitary Board Kuala Lumpur, 1890-1914., Journal of the Department of History 4, no. 4 (2017); Abdul Latip Nurul Syala et al., The Contextual Integration and Sustainable Development of Kuala Lumpur's City Centre Waterfront: An Evaluation of the Policies, Law and Guidelines, in The World, Engineering, Science and Technology Congress (ESTCON 2010) June 15-17, 2010 (Kuala Lumpur, 2010), 1–7; PLANMalaysia, History of Establishment, last modified 2020, accessed July 1, 2020,

Based on the evolution of the planning system above, the TCPA is currently divided into twelve (12) main parts, as summarised below.

|                         |                                           |
|-------------------------|-------------------------------------------|
| <b>Part I</b>           | <b>: Introduction</b>                     |
| Part II                 | : Policy and Administration               |
| Part IIA                | : Regional Planning Committee             |
| Part IIB                | : National Physical Plan                  |
| <b>Part III</b>         | <b>: Development Plans</b>                |
| <b>Part IV</b>          | <b>: Planning Control</b>                 |
| Part V                  | : Development Charge                      |
| Part VA                 | : Tree Preservation Order                 |
| Part VI                 | : The Appeal Board                        |
| Part VII                | : Purchase Notice and Acquisition of Land |
| Part VIII               | : Development Areas                       |
| Part IX                 | : Miscellaneous Provision                 |
| <b>(emphasis added)</b> |                                           |

The aforementioned enactments and amendments of the TCPA introduced a well-organised hierarchy of three-tier development plans in Malaysia. This hierarchy, comprising the National Physical Plan, State Structure Plan, Local Plan, and Special Area Plan, follows a plan-led approach to implement development control through land use planning, planning control, planning permission, and appeal board mechanisms. These planning frameworks, established by legislative measures, have consistently served as effective instruments for coordinating and managing land-use activities in Malaysia<sup>369</sup>. Therefore, in the context of this research, particular emphasis will be placed on elaborating two significant sections of TCPA, namely Part III and Part IV, as these sections are closely intertwined with land use planning.

<http://www.planmalaysia.gov.my/index.php/en/about-us/plan-malaysia/sejarah-penubuhan>; Goh Ban Lee, A Review of Land Policy and Policy Measures in Malaysia, *Habitat International* 4, no. 4–6 (1979): 471–483; Dasimah Omar and Oliver Ling Hoon Leh, Malaysian Development Planning System : Kuala Lumpur Structure Plan and Public Participation, *Asian Social Science* 5, no. 3 (2009): 30–36; Ainul Jaria Maidin and Nurul Firdaus Salahul Ahamed, Mandatory Health Impact Assessment in Malaysian Land Planning and Development Control System, *Procedia - Social and Behavioral Sciences* 68 (2012): 164–172, <http://dx.doi.org/10.1016/j.sbspro.2012.12.216>; Azila Ahmad Sarkawi and Muhammad Faris Abdullah, Historical Influences to Present Legal Setting of Planning Law in Malaysia, *Planning Malaysia* 3 (2014): 67–80.

<sup>369</sup> Alias Rameli, Foziah Johar, and Ho Chin Siong, Responsiveness Of The Malaysian Planning System In Managing Housing Supply, in *International Conference on Sustainable Housing 2006 (ICSH 2006)* from 18 -19th September 2006 at University Sains Malaysia , Penang, Malaysia, 2006.

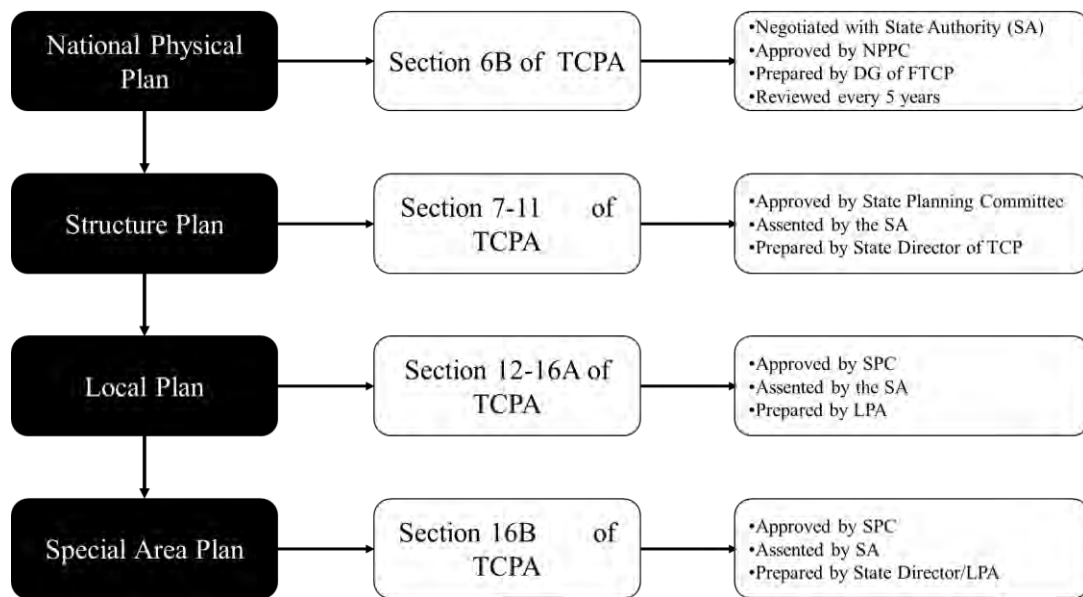


Figure 3-1 Malaysia Development Plan Structure in TCPA<sup>370</sup>

Figure 3.1 above shows that the National Physical Plan, guided by Section 6B, is a collaborative effort approved by the National Physical Planning Council. Sections 7-11 of the TCPA detail the Structure Plan, sanctioned by the State Planning Committee and the State Authority. The Local Plan, under Sections 12-16A, requires approval from the same committee and authority, with the Local Planning Authority preparing the plan.

### 3.2.2 Planning System in Kuala Lumpur

The Federal Territory (Planning) Act 1982 (Act 267) was enacted to establish a comprehensive regulatory framework for urban planning within Malaysia's Federal Territories.<sup>371</sup> In contrast to the Town and Country Planning Act 1976 (Act 172), which governs planning across the states in Peninsular Malaysia, Act 267 centralises planning authority under the federal government. Under this Act, the Datuk Bandar

<sup>370</sup> Ahmad et al., "Malaysian Development Plan System: Issues and Problems, One Decade After Its Reform (2001-2011)."

<sup>371</sup> Government of Malaysia, *Federal Territory (Planning) 1982 (Act 267)*.

(Mayor of Kuala Lumpur) is empowered to carry out planning functions as provided by the law.<sup>372</sup> The Act is structured into several key sections, each delineating specific planning and development controls within the Federal Territories. These sections include:

- I. Introduction
- II. Function and Powers of Commissioner
- III. Development Plan
- IV. Planning Control
- V. Preservation and Planting Tree
- VI. Development Charge
- VII. Appeal Board
- VIII. Purchase Notice and Acquisition Land
- IX. Action Areas and Development Areas
- X. Miscellaneous Provisions

Within the framework of the Federal Territory (Planning) Act 1982 (FTPA), the Commissioner can be considered the equivalent of the Local Planning Authority (LPA) under the Town and Country Planning Act 1976 (TCPA). For instance, Section 6(2)(a) of the FTPA designates the Commissioner as responsible for preparing and implementing development plans, a role undertaken by the LPA under the TCPA.<sup>373</sup> Similarly, while applications for planning permission under the TCPA must be approved by the LPA—an entity that functions as the approving authority—in the FTPA context, such applications are approved by the Commissioner.<sup>374</sup> Furthermore, planning processes under the TCPA involve both the LPA and the State Planning Committee (SPC), whereas, under the FTPA, the Commissioner holds primary authority. The term "Commissioner" in the FTPA refers to the official appointed under

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<sup>372</sup> Section 6 of the FTPA.

<sup>373</sup> Under Section 6(2)(a) of FTPA, the Commissioner is responsible for regulating, controlling, and planning land use and development in the Federal Territory, as well as carrying out any other functions assigned by the Minister. Specifically, the Commissioner may, and must if directed by the Minister, prepare and implement the development plan.

<sup>374</sup> Section 21 of the FTPA.

the Federal Capital Act 1960.<sup>375</sup> In the context of development plans, the FTPA, similar to the TCPA, provides for both a Structure Plan and a Local Plan. As of 2024, the Kuala Lumpur Structure Plan was gazetted in 2023,<sup>376</sup> while the Local Plan has yet to be finalised.<sup>377</sup> The structure and local plans for Kuala Lumpur present a unique planning framework, as both apply to the same geographical area. In most states under the TCPA framework, the Structure Plan covers the entire state, while Local Plans are typically prepared at the district level. However, in Kuala Lumpur, both plans encompass the same jurisdiction, as the city itself constitutes the planning area. The distinction lies in their content and purpose: akin to the Structure Plan under the TCPA, the Structure Plan under the FTPA is policy-driven, outlining broad planning strategies, whereas the Local Plan provides detailed guidance at the lot-based, including land use zoning and implementation strategies.

### 3.2.3 Development Planning in Malaysia

In Malaysia's three-tier government system, the responsibility of providing spatial planning for the country and ensuring balanced development throughout falls on the federal government. A National Development Planning Framework has been established to guide the country's spatial and physical development.<sup>378</sup> This framework consists of three primary planning documents: (1) the National Physical Plan (NPP), (2) the National Urbanisation Policy (NUP), and (3) the National Rural Physical

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<sup>375</sup> Section 2 of the FTPA.

<sup>376</sup> Elill Easwaran, KL 2040 Structure Plan Approved, Some Suggestions Incorporated, *Free Malaysia Today*, 2023, <https://www.freemalaysiatoday.com/category/nation/2023/11/02/kl-2040-structure-plan-approved-some-suggestions-incorporated/>.

<sup>377</sup> Timothy Tuan, DBKL Launches 2040 City Development Plan, Invites Recommendations from Public, *New Straits Time*, 2024, <https://www.nst.com.my/news/nation/2024/02/1016790/dbkl-launches-2040-city-development-plan-invites-recommendations-public>.

<sup>378</sup> PLANMalaysia, *National Physical Plan-3* (Kuala Lumpur, 2016).

Planning Policy (NRPPP). These documents are primarily formulated at the federal level and subsequently disseminated to the state and local authorities.<sup>379</sup>

Furthermore, the use of development plans holds significant importance for future development, as they serve as essential tools for implementing government policies in subsequent actions. Development plans are categorised into two (2) types: structure plans and local plans under TCPA.<sup>380</sup> In general, the implementation of development plans is carried out under TCPA. The National Development Planning Framework (NDPF) operates at three levels: the federal level, where the National Physical Planning Council (NPC) is involved; the state level, where the State Planning Committee (SPC) takes charge; and the local authority level.

The NDPF follows a 'top-down' approach, directed from the federal level to the state level and then to the local authorities, aligning with the country's vision. The NPPC, chaired by the Prime Minister,<sup>381</sup> and the SPC, chaired by the state Chief Minister,<sup>382</sup> hold discussions twice a year regarding planning matters such as zoning, land development (over 100 hectares), the gazetting or revocation of plans, and special development proposals.<sup>383</sup>

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<sup>379</sup> In the National Physical Plan (NPP), where Bukit Kayu Hitam has been identified as one of the catalyst centres for economic development in the state of Kedah, specifically targeting the Northern region of Peninsular Malaysia. PLANMalaysia, National Physical Plan 4.

<sup>380</sup> Part III TCPA 1976.

<sup>381</sup> Section 2A of the TCPA.

<sup>382</sup> Section 2B of the TCPA.

<sup>383</sup> PLANMalaysia, Majlis Perancangan Fizikal Negara, last modified 2022, <https://www.planmalaysia.gov.my/index.php/pages/view/1033>.

### 3.2.3.1 National Physical Plan

TCPA serves as the legal foundation for formulating the National Physical Plan (NPP) in Malaysia.<sup>384</sup> The NPP represents the highest-level planning framework governing the physical development of the country. It comprises a written statement formulating strategic policies, providing a general direction for the nation's physical development.<sup>385</sup> The NPP encompasses physical planning, which translates the strategic policies and national sectoral considerations into the spatial and physical dimensions. By promoting sustainable development, the NPP functions as a crucial guideline for future spatial planning endeavours, considering the country's resources and integrating physical, social, and economic aspects.

Malaysia's National Physical Plan (NPP) was first established in 2005 to guide the country's transition into a developed nation by 2020. It has since evolved through successive iterations, each addressing the needs of a growing economy and its citizens, from affordable housing and efficient transportation to inclusive facilities.<sup>386</sup> The fourth NPP, introduced in 2021, advocates for a 'Comprehensive Spatial Ecosystem,' promoting development that extends beyond major urban centres and fosters regional connectivity.<sup>387</sup> Collectively, the NPP series has been instrumental in integrating physical, social, and economic planning to ensure Malaysia's sustainable and balanced development.

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<sup>384</sup> According to Sub-Section 6B (1) of TCPA, the Director-General of the Town and Country Planning Department bears the responsibility of preparing and submitting the NPP to the National Physical Planning Council (NPPC) for approval.

<sup>385</sup> Subsection 6B (2). Town and Country Planning Act 1976.

<sup>386</sup> PLANMalaysia, *National Physical Plan-3*.

<sup>387</sup> PLANMalaysia, *National Physical Plan 4*.

### 3.2.3.2 State Structure Plan

The State Structure Plan (SSP) assumes a critical role in delineating the overall direction, policies, and recommendations for land use planning within each state, providing a spatial planning framework that addresses specific state-related concerns. Falling under subsection 6 (1) of the TCPA,<sup>388</sup> the SSP interprets the national spatial policies and NPP framework, as well as regional spatial policies such as the Northern Corridor Economic Region (NCER), while incorporating proposed development plans at the state level for urban, town, and rural areas. The SSP serves as a platform for distributing the development plan for each state and proposing significant economic and infrastructure projects, while also acting as a guide for investment, resource allocation, budget distribution, and decision coordination among government and private agencies.<sup>389</sup>

### 3.2.3.3 The Local Plan

The Local Plan (LP), is an integral component of the TCPA's development plan,<sup>390</sup> serving as a crucial tool for exercising greater development control by providing detailed and site-specific information at the local level. With its focus on lot-based planning, the LP offers a more comprehensive framework for land use planning within a specific area.<sup>391</sup> The various zoning designations outlined in the LP play a crucial

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<sup>388</sup> Sub-section 6(1), Town and Country Planning Act 1976.

<sup>389</sup> According to Section 8(3) of the TCPA, the draft SSP outlines the State Authority's policies and general proposals for land development and usage, incorporating strategies for enhancing living conditions, managing traffic, bolstering socio-economic welfare, and fostering economic growth, all under the umbrella of sustainable development. It also delineates the plan's connection to adjacent areas and includes other specified matters by the Council or Committee; Omar and Leh, "Malaysian Development Planning System: Kuala Lumpur Structure Plan and Public Participation."

<sup>390</sup> Section 12 until 16A of the TCPA prescribed about the preparation of the local plan.

<sup>391</sup> According to the Local Plan Manual 2020 Edition, as outlined in Table 2.7, each local plan's map must detail lot numbers for most plots and precisely name locations for accurate land and small structure usage representation. This level of detail is intended to provide the public with a clear visual understanding of land utilisation.



role during the development process. The formulation of the LP involves a negotiation process, resulting in an agreement document among local authorities, residents, and landowners, establishing guidelines for land use within the planning area.<sup>392</sup> Beyond its role in development control, the LP also serves as the foundation for transparent governance and safeguards the rights of the community.<sup>393</sup> Consequently, the LP directly impacts daily life and influences the value of residential properties within the neighbourhood.

The previous discussion briefly outlined Malaysia's planning system history, which primarily adopts a plan-led approach. In this system, development control is guided by development plans for regulating land use and development. Despite the legislative framework and guidance provided by the Manual of Preparation of Local Plans, these practices often come under legal scrutiny and interpretation. The upcoming subsection will dive into the challenges encountered in the planning process within the context of the development plan.

#### **3.2.3.4 Special Area Plan**

A Special Area Plan (SAP) is a detailed and site-specific development plan that serves as a supplementary framework to the Local Plan under Malaysia's town and country planning system. The legal foundation of the SAP is established under Section 16A and 16B of the TCPA,<sup>394</sup> as amended by Act A1129, which mandates the preparation of SAP for areas of strategic importance. While the Local Plan establishes comprehensive zoning and land use policies at the municipal level, the SAP provides

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<sup>392</sup> Mohd Sukuran Taib and Ho Chin Siong, *Planning System in Malaysia, Town And Country Planning* (2008).

<sup>393</sup> Government of Malaysia, *Town and Country Planning Act 1976 (Act 172)*.

<sup>394</sup> Section 16B of the TCPA.

a more detailed and site-specific framework, which functions more like an "Action Plan Area".<sup>395</sup>

As stated in Section 16B(3) of the TCPA, the SAP shall have the effect of a Local Plan, meaning it is recognised as part of the development plan and carries legally binding authority.<sup>396</sup> This ensures that all development within the designated area must comply with its provisions and planning regulations, just as required under a Local Plan. This makes SAPs an essential tool for implementing strategic interventions in locations requiring special planning attention due to their economic significance, environmental sensitivity, or urban renewal needs. Unlike broader planning documents that focus on general policy direction, SAPs provide precise proposals, design controls, and implementation measures,<sup>397</sup> ensuring a coordinated approach to land use, infrastructure provision, and development control. This level of detail makes SAPs an important regulatory instrument, holding the same legal standing as Local Plans in terms of planning enforcement and development approval processes

The SAP provides specific proposals and actions for designated areas identified by the SPC or LPA, with the primary objectives include detailed planning through various development approaches, immediate development, redevelopment initiatives, enhancement and beautification efforts, conservation, and the implementation of tailored management strategies.<sup>398</sup> The key outcomes of an SAP include an Action

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<sup>395</sup> PLANMalaysia Penang, Rancangan Kawasan Khas (RKK), last modified 2024, <https://jpbd.penang.gov.my/index.php/en/services/development-plans/special-area-plan-sap>.

<sup>396</sup> Section 16B(3) of the TCPA

<sup>397</sup> Faizah Ahmad et al., Malaysian Development Plan System: Issues And Problems, *Planning Malaysia Journal* XI (2013): 1–20.

<sup>398</sup> PLANMalaysia Penang, "Rancangan Kawasan Khas (RKK)."

Plan, Layout Plan, and Environmental Sensitive Area (ESA) Management Plan,<sup>399</sup> ensuring a structured approach to urban and environmental planning. There are several types of SAP, each catering to different developmental and conservation needs in ensuring a well-coordinated urban development framework aligned with local planning policies. These types of SAP are as listed below:<sup>400</sup>

- 1) Reconstruction of SAP,
- 2) Heritage preservation,
- 3) Environmental protection, and landscape improvement,
- 4) Preserving natural topography,
- 5) Conserving green spaces and maintaining open areas,
- 6) Enhancing the visual and architectural character of buildings,
- 7) Improvement of communication systems and traffic management.

One of the primary functions of a Special Area Plan (SAP) is to accelerate the implementation of development within designated areas. In rapidly expanding urban centres such as Kuala Lumpur, Johor Bahru, and Penang, SAPs facilitate urban intensification and redevelopment by guiding land use allocation, transportation networks, and mixed-use developments. In heritage conservation zones such as George Town and Malacca, SAPs establish detailed conservation guidelines to ensure that urban growth aligns with historical preservation efforts. A pertinent example is the Heritage Special Area Plan Bandar Taiping 2.0, which serves to reinforce heritage

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<sup>399</sup> PlanMalaysia Johor, Special Area Plan, <https://jpbd.johor.gov.my/index.php/intranet/9-uncategorised/120-special-area-plan>.

<sup>400</sup> Ibid.

preservation and asset management. Its preparation is structured around five key objectives:<sup>401</sup>

- a) Review and enhancement of heritage asset management – Assessing and improving the management and conservation of both built and natural heritage assets in Taiping.
- b) Strategic economic and tourism development – Strengthening business investment, budgeting, and organisational structures to enhance Taiping’s economic position and its identity as a heritage and tourism destination.
- c) Optimisation of physical planning – Enhancing spatial planning to maximise Taiping’s potential as a heritage and tourism city.
- d) Integration with national and international recognition frameworks – Aligning new development components with heritage conservation standards recognised at national and international levels.
- e) Policy coordination – Ensuring compliance with planning policies and guidelines at the national, state, and district levels.

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<sup>401</sup> PLANMalaysia Perak, *Draft Heritage Special Area Plan Bandar Taiping*, 2021.

While Heritage Special Area Plan Bandar Taiping 2.0 primarily focuses on heritage conservation and urban management, the Special Area Plan Kota Raja-Pauh Putra has a distinct set of development objectives:<sup>402</sup>

- a) Agricultural land use and economic modernisation – Strengthening Bandar Arau’s role as an agricultural hub by implementing design strategies that modernise the sector and support economic growth.
- b) Preservation of cultural identity – Enhancing the image of Bandar Arau as a royal town by incorporating distinct design elements that reinforce its heritage and cultural tourism potential.
- c) Educational development – Positioning Bandar Arau and Pauh Putra as educational centres through the establishment of learning institutions in collaboration with industry experts and entrepreneurs, in alignment with the principles of the Industrial Revolution 4.0 (IR4).
- d) Infrastructure and transport enhancements – Improving the traffic system, public transport facilities, and the connectivity of the study area with surrounding regions.
- e) Infrastructure modernisation – Upgrading physical infrastructure to enhance accessibility, efficiency, and the provision of essential utilities.

Compared to the Heritage Special Area Plan Bandar Taiping 2.0, **the** Special Area Plan Kota Raja-Pauh Putra prioritises economic growth stimulation and development acceleration. Its objectives are aligned with the Kangar Municipal Council Local Plan

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<sup>402</sup> PLANMalaysia Perlis, *Draft Special Area Plan Kota Raja - Pauh Putra*, 2022, [epublisiti.townplan.gov.my](http://epublisiti.townplan.gov.my).

2035 (Replacement) and are designed to leverage economic opportunities arising from proximity to Thailand. Furthermore, this SAP emphasises digital infrastructure development to support entrepreneurial growth in line with the Industrial Revolution 4.0 (IR4) framework.

Therefore, this SAP is a crucial planning tool that provides detailed, site-specific guidance, complementing the Local Plan much like how the Local Plan refines the Structure Plan. By addressing targeted development, conservation, and infrastructure needs, SAPs ensure the effective implementation of strategic interventions. Their legally binding status under the TCPA reinforces their role in shaping sustainable urban development. With precise, actionable strategies, SAPs enhance local planning frameworks, ensuring a structured and well-coordinated approach to growth and preservation. The following sections will discuss the legal cases that related to the land development in Malaysia including the planning and land law point of view.

#### **3.2.4 Challenges of Development Plan in the Planning Process**

The development of a plan in Malaysia, as mandated by Part III of the TCPA, involves a collaborative process between various stakeholders to create both Structure and Local Plans.<sup>403</sup> These plans are crucial for managing spatial development and preventing disorganised growth, acting as key references for authoritative planning. The formulation of these plans is an inclusive process, involving public input and technical agency collaboration, ensuring data integration for effective outcomes.<sup>404</sup> However, despite such a systematic approach, challenges and inherent issues can still

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<sup>403</sup> Part III of TCPA.

<sup>404</sup> Section 12 and 13 of the TCPA.

arise within this planning framework. To explore these complexities further, the following discussions will examine a series of legal cases:

#### **3.2.4.1 Conformity of development plans with planning permission**

The formulation and implementation of development plans, as mandated under Part III of the TCPA, are crucial for effective land use planning. Recent jurisprudence, exemplified by the case of *Sunrise Garden Condominium Management Corporation v Sunway City (Penang) Sdn. Bhd. & Ors and Another Appeal* [2023] 2 MLJ 621 (Federal Court, Putrajaya), shows a trend towards enforcing adherence to development plans to ensure proposed developments comply with zoning regulations. However, it is also important to consider past cases that favoured a more flexible approach to these plans. This chapter reviews these significant cases to illustrate the evolving interpretation of development plans in legal contexts.

In one of the earlier cases related to adherence to the development plan during the land development process, *Majlis Perbandaran Pulau Pinang (MPPP) v. Syarikat Bekerjasama-Sama Serbaguna Sungai Gelugor* [1999] 3 MLJ 1, the respondent applied for planning permission from the Penang Municipal Council.<sup>405</sup> The council imposed planning conditions requiring that 30% of low-cost housing units be sold for RM25,000 per unit. The respondent was not satisfied with the condition and sought a review, which was rejected, leading to an appeal to the High Court.

The High Court ruled in favour of MPPP, affirming the pricing condition. However, the Court of Appeal overturned this decision, granting the respondent leave to appeal

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<sup>405</sup> *Majlis Perbandaran Pulau Pinang v Syarikat Bekerjasama-Sama Serbaguna Sungai Gelugor Dengan Tanggungan* [1999] 3 MLJ 1 (Court of Appeal Putrajaya), p34.

and ordering the substantive motion to be heard by another judge. This highlighted the need to reassess the Council's planning permission conditions. The Federal Court allowed the appeal, affirming the applicant's right to judicial review and recognising that the imposed pricing condition might have been inappropriate.

In the case of *YAM Tunku Dato' Seri Nadzaruddin Ibni Tuanku Jaafar v. Mayor of Kuala Lumpur & Anor* [2005] 7 CLJ 41,<sup>406</sup> the second respondent proposed a development to increase density from 30 to 408 people per acre, which exceeded the development plan's allowance of 30 people per acre. Nearby landowners objected to this proposal, prompting the local planning authority to request a revision to reduce the density to 285 people per acre.<sup>407</sup> The revised application was approved, but the applicant took the matter to the High Court.

The High Court recognised that density considerations are integral to local planning policies but are not binding. Judge Raus Sharif J stated:

"Even if there were such a policy, it does not bind the first respondent. Policies are by their nature temporary and are not generally considered binding or giving rise to legitimate expectations, unlike statutes. The only exception to this principle is if the party claiming the benefit of the expectation is able to demonstrate that they acted in reliance on the policy."

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<sup>406</sup> *Yam Tunku Dato' Seri Nadzaruddin Ibni Tuanku Jaafar v Datuk Bandar Kuala Lumpur & Anor* [2005] 5 MLJ 633 (High Court of Malaya, Kuala Lumpur).

<sup>407</sup> Adjoining landowners were given the opportunity to object, and significant concerns were raised about the increase in density. Taking these objections into consideration, the local planning authority, or the first respondent, requested a revision of the proposal to reduce the density to 285 people per acre. Following the submission of the revised plan, the first respondent approved it. However, the original applicant remained unsatisfied with this decision and escalated the matter to the High Court.



Based on the two cases, in the researcher's opinion, they should be examined within different legal contexts, as they are governed by distinct legal provisions. In *YAM Tunku Dato' Seri Nadzaruddin*, the court ruled that the development plan serves as a policy rather than a legally binding instrument. However, this interpretation may vary depending on specific legislative provisions. As discussed, the phrase "take into consideration" in Section 22(2)(a) of the TCPA was interpreted by the court as providing discretion, meaning it does not impose a mandatory obligation. The wording suggests that while decision-makers must consider the development plan, they are not strictly bound to follow it. In contrast, the Federal Territory (Planning) Act 1982 (Act 267.<sup>408</sup>

"The Commissioner shall have power exercisable at his discretion to grant planning permission or to refuse to grant planning permission in respect of any development irrespective of whether or not such development is in conformity with the development plan."

The cases illustrate the delicate balance between adhering to development plans and considering practical land use planning. They suggest that statutory guidelines should be adaptable to specific circumstances, which would facilitate sustainable and practical development. In addition, the development plans should be flexible and able to accommodate changes in socio-economic conditions, especially in SEZs and SBEZs, where development and investment strategies must respond to fluctuating economic climates to remain competitive in the market.

In the context of land development, local plans typically outline specific zoning and land use classifications that dictate permissible developments. Should a proposed

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<sup>408</sup> Section 22(1) of FTPA.

development deviate from these classifications, it would trigger a protracted amendment process. This situation emphasises the importance of adopting a flexible planning approach that facilitates expeditious modifications to meet investor requirements and respond to dynamic market needs. The specific example of SBEZ Bukit Kayu Hitam on this matter will be further elaborated in Chapter 4.

While the previous discussion highlighted that development plans are not legally binding, several other cases have demonstrated otherwise. It has been found that development plans are considered binding documents that need to be complied with when applying for planning permission. For instance, the case *Awang Ismail & Ors v. Kerajaan Negeri Kedah & Ors* [2010] 3 CLJ 962, at the High Court of Malaya in Alor Setar recognised that a gazetted structure plan is a legally binding document.<sup>409</sup> The plaintiff, a resident under the Kedah State Structure Plan, filed a lawsuit to revoke the Kedah State Authority's permission for quarry operations granted to the 5th and 6th defendants. One of the key issues raised was that the 100-acre area leased to the 5th defendant was a water catchment area gazetted as the Mount Jerai Forest Reserve in the Structure Plan, where harmful activities were prohibited to protect the environment and water supply.

The court determined that granting permission for quarry operations and a lease within the Forest Reserve Zone violated Section 22(4) of the TCPA.<sup>410</sup> This, on the other hand, shows that the Kedah State's Authority has been inconsistent in their actions in failing to align with what had been gazetted in the Structure Plan. The court

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<sup>409</sup> *Awang Ismail & Ors v. Kerajaan Negeri Kedah & Ors* [2010] 3 CLJ (High Court of Malaya, Alor Setar), p991.

<sup>410</sup> Section 22(4)(a) of TCPA prescribed that no planning permission shall be granted if it contravenes the development plan. In this case, the Structure Plan prescribed that the forest reserve should be a water catchment area and any activity that can destroy the natural environment and affect the supply of the clean water is not allowed.

acknowledged that the State Authority, which had originally gazetted the Structure Plan, contradicted itself by granting the quarry operation within the Forest Reserve area. Further, the 5th defendant failed to obtain the required planning permission as outlined in Section 19 of the TCPA.<sup>411</sup> The Yan District Council failed to effectively enforce a stop work order, undermining their credibility and the consistent application of laws.

Based on this case, it is crucial that authorities comply with all relevant policies and documents in carrying out their duties, without prioritising income generation over legal prescriptions. As custodians of land use planning, local planning authorities must strictly follow the law. In SEZs or SBEZs, for example, any development must align with established guidelines to ensure sustainable growth.<sup>412</sup> While accommodating investment is important, it should not compromise the sustainability and integrity of the overall development.<sup>413</sup> Therefore, neglecting these principles could result in significant harm to both the environment and community trust in the long term.

Further, in one of the landmark cases in Malaysian planning law, the Federal Court ruled in the *Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City ( Penang ) Sdn Bhd & Ors and Another Appeal* [ 2023 ] 2 MLJ 621 (Federal Court, Putrajaya) which found that the structure plan, being the development plan, holds legal weight.<sup>414</sup> The court emphasised that the outline of the statutory development plan

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<sup>411</sup> Section 19(1) of TCPA stipulates that, aside from local authorities, no person is allowed to start, manage, or implement any development without having first secured the requisite planning permission.

<sup>412</sup> Sulaiman and Maidin, "Development Plans Role in Promoting Achievement of Sustainable Development: A Case Study of the State of Selangor, Malaysia."

<sup>413</sup> Siti Sarah Sulaiman and Maidin Ainul Jaria, The Legal Impact Of Development Plans In Delivering Sustainable Development: A Reference To The Town And Country Planning Act 1976 And The Federal Territory (Planning) Act 1982, OIDA International Journal of Sustainable Development 3, no. 4 (2012): 85–90; Abdul Haseeb Ansari and Ismawi Zen, Towards A Sustainable Land Use Planning: An Appraisal With Special Reference To Malaysia 6, no. July (2006): 1–21.

<sup>414</sup> *Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City ( Penang ) Sdn Bhd & Ors and Another Appeal* [ 2023 ] 2 MLJ 621.

outlined must align with the legal framework established by the TCPA. In this particular case, there were appeals against the Court of Appeal's decision to set aside attempts to invalidate the planning permission granted by Majlis Bandaraya Pulau Pinang (MBPP) for the housing development by Sunway City (Penang) Sdn. Bhd., which involves 43% hill land. Despite objections raised by neighbouring landowners in accordance with Section 21(6) of the TCPA,<sup>415</sup> the local planning authority granted permission without providing an explanation for dismissing the objections.<sup>416</sup> It is essential for authorities to address and explain the reasons behind their decisions.

The appellants appealed to the Penang State Planning Appeal Board,<sup>417</sup> which revoked Sunway's planning permission. However, the High Court overturned this decision, favouring Sunway, citing the Special Projects Guidelines by the State Planning Committee.<sup>418</sup> The appellants then challenged the ruling in the Court of Appeal, which upheld the High Court's decision, confirming the legitimacy of the Special Projects Guidelines and recognising the Pelan Dasar as a local plan, thus maintaining Sunway's planning permission.

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<sup>415</sup> Due to the absence of a gazetted local plan in the area, as required by Section 21(6) of TCPA, the local planning authority informed neighbouring landowners, including the appellants, about their right to raise objections to Sunway's planning permission application..

<sup>416</sup> Section 22(6) of the TCPA mandates that if planning permission is granted, the local planning authority must notify any objectors who have previously submitted objections as per Section 21(6), informing them about the approval. The appellants and neighbouring landowners were then informed of their right to appeal this decision to the Penang State Planning Appeal Board, but no explanation was given by the local planning authority for their initial decision.

<sup>417</sup> Section 23(1)(b) prescribed that if a person raises an objection under subsection 21(6) and is unhappy with the local planning authority's decision regarding their objection, they have the right to apply for a review of the decision by the appeal board.

<sup>418</sup> *Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City ( Penang ) Sdn. Bhd. & Ors and Another Appeal* [ 2023 ] 2 MLJ 621- This permitted the local authority to bestow planning permission without necessitating additional Committee approval. Moreover, the High Court affirmed the legitimacy of the Special Projects Guidelines, confirming they did not contravene the TCPA. It also equated the Pelan Dasar, a zoning implementation plan, with a local plan and deemed the 1996 directive to be compliant with legal norms.

In obtaining the planning permission, section 22(2)(a) prescribes the matters to be taken into consideration in the development plan. For Penang Island, the current challenge is the absence of a gazetted local plan as required by sections 12 to 16 of the TCPA.<sup>419</sup> Although the 'Pelan Dasar' has been used as an alternative, it does not fully meet the statutory requirements of the TCPA,<sup>420</sup> particularly regarding public participation processes.<sup>421</sup> Further discussion on public participation will be presented in the subsequent sub-section.

Further, it is important to ensure that the Pelan Dasar aligns with the Structure Plan as per section 12(8) of the TCPA. This requires the local planning authority to ensure that the proposals in a draft local plan generally adhere to the Structure Plan. However, a conflict arises due to the blanket prohibition on development on hill land or slopes in the Structure Plan, which applies to the subject land. Despite this, part of the subject land was zoned for 'housing' or 'low-density housing' under the Pelan Dasar, resulting in a notable inconsistency with the Structure Plan.<sup>422</sup>

In this context, the absence of a gazetted local plan for Penang Island is a significant issue. A local plan typically offers detailed guidance that translates a structure plan

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<sup>419</sup> Sections 12 through 16 of the TCPA outline the procedural steps for preparation of a Local Plan, serving as the framework for land use planning within the jurisdiction of the Local Planning Authority.

<sup>420</sup> Interview - B2R1 - Planner, Majlis Bandaraya Pulau Pinang (Google Meet).

<sup>421</sup> Section 12A, 13 and 14 prescribed the process of publicity to the public for the development plan.

<sup>422</sup> Within the Penang State Structure Plan 2020, paragraph 4.5.2 outlines the policies pertaining to Hill Land in Penang. This classification designates "Hill Land" as land situated at an elevation of 76 meters or 250 ft above sea level. With regards to Sunway's proposed development, approximately 43% of the total area is comprised of this "Hill Land." The Penang State Structure Plan 2020 also incorporates a comprehensive set of policies under 'Dasar Khusus 3,' entitled 'Hill Land Activity will be Controlled by Enforcing Guidelines on Risky or Sensitive Areas.' This policy encompasses nine measures, with DK3 L4 explicitly enunciating: "Limited development for special projects in areas where the elevation is above 76 meters (250 feet) or exceeding requires strict control by complying with 'Guidelines on Development of Hill Land Area' and any guidelines which are determined by the Government; and to obtain EIA approval and obtain State Planning Committee approval."

into actionable steps.<sup>423</sup> Without a local plan in place, the specifics of allowable development are missing, leading to inconsistencies. This void in detailed planning allows for "ad hoc" planning permissions to be approved, granting excessive flexibility and permitting unsuitable developments in inappropriate areas.<sup>424</sup> Consequently, this can result in developments that do not align with the intended structure plan.

In this context, the researcher wishes to highlight an important perspective drawn from Section 22(2) of the TCPA. Section 22(2)(a) specifies that, when dealing with a planning permission application, the local planning authority (LPA) must consider the development plan. Simultaneously, Section 22(2)(aa) requires the LPA to consider directions issued by the SPC. This structure implies that both the development plan and the SPC's directions hold equal weight in the decision-making process, as the statute places them on the same level of importance. In other words, while the development plan outlines key requirements, the LPA is also bound to consider the directives of the SPC. This suggests a dual obligation, where the LPA must balance both the development plan's provisions and the SPC's directions, given their equal standing within the legal framework. Therefore, this section warrants further examination to clarify whether the development plan and the SPC's directions should genuinely be regarded as having equal weight. A closer analysis is needed to determine if any implicit hierarchies or guidelines within the legislation could establish a clearer priority between these two considerations.

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<sup>423</sup> Suhaini Mohamed Yusoff, Fatimah Yusoff, and Ahmad Fuzi Arshad, *Adaptable Environment: Analysis on Form and Content of the Local Plan in Selangor, Malaysia*, *Environment-Behaviour Proceedings Journal* 1, no. 4 (2016): 179, <http://dx.doi.org/10.21834/e-bpj.v1i4.382>.

<sup>424</sup> Nuarrual Hilal Md Dahlan, *Soil Erosions At Housing Areas In Malaysia: Re-Examining The Planning Law*, *Malayan Law Journal* 3, no. December (2023): cxxxviii–clxxix.

The following case was almost identical to the previous one but with different legislation. This case took place in the Federal Territory of Kuala Lumpur, governed by the Federal Territory (Planning) Act 1982 (FTPA). The recent legal ruling on this matter can be observed in *Datuk Bandar Kuala Lumpur v Perbadanan Pengurusan Trellises & Ors and other appeals* [2023] 3 MLJ 829.<sup>425</sup> In this case, residents of Taman Tun Dr Ismail (TTDI) sought a judicial review to challenge the first respondent's Conditional Planning Approval dated 28.2.2017 and a Development Order dated 13.7.2017. They also sought an order of mandamus directing the first appellant to adopt the draft Kuala Lumpur Local Plan 2020 and publish it in the Gazette per section 16 of the FTPA.<sup>426</sup>

One primary objection raised by the appellants was that the proposed development plan violated the Kuala Lumpur Structure Plan and Kuala Lumpur Local Plan regarding land usage, zoning, and density.<sup>427</sup> The Court of Appeal issued an order of certiorari, quashing the first appellant's decision to grant the development order on 13 July 2017. The court held that the Datuk Bandar was obligated to consider the Comprehensive Development Plan (CDP), the KL Structure Plan, and the KL Local Plan when evaluating any planning permission application. The development order was deemed invalid as these plans were not considered. Mary Lim JCA emphasised

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<sup>425</sup> *Datuk Bandar Kuala Lumpur v Perbadanan Pengurusan Trellises & Ors and Other Appeals* [2023] 3 MLJ 829 (Federal Court, Putrajaya).

<sup>426</sup> The third appellant, Menang Perkasa Sdn. Bhd., had submitted a planning application for a mixed-use development project comprising one block of affordable apartments and eight blocks of luxurious service apartments. The proposed development would involve a significant change of use and density of the land adjacent to Taman Kiara Rimba. Previously, the said land was designated as a public open space, recreational and sports area, green area, and city park under the structure plan. However, under the Local Plan, Taman Rimba Kiara was designated as a city park and public open space with zero development intensity.

<sup>427</sup> The proposed development sought to change the current zoning from a green area to housing, and it was expected to increase the density of TTDI from 74 to 979 persons per acre. Thus, this issue was a significant concern for the appellants, as it would impact the zoning of the area, which, in turn, would indirectly affect the density and traffic flow in the residential area.

the importance of local planning authorities complying with statutory development plans.

“If the Datuk Bandar, the 'authorised producer', so to speak of these plans, **does not consider these plans material considerations, it is of great worry who then will.**” (emphasis added).

The development plan is an important document for guiding development, and its interpretation varies based on different perspectives. Initially, the plan can be seen as flexible, adjusting to specific situations. However, in recent years, it has become more rigid, serving as a binding document that must be adhered to for planning permission. When developing SEZs and SBEZs, it's essential to strike a balance between accommodating investors and adhering to the established plan.<sup>428</sup> The key is to find a middle ground, harmonising growth and regulation, rather than being overly rigid or accommodating to one side.<sup>429</sup> The complexities of SBEZ Bukit Kayu Hitam's development and potential gaps in the Kubang Pasu Local Plan will be further explored in Chapter 4.

#### **3.2.4.2 Conflict between the Development Plan and other by-laws**

This sub-section further discusses the complexities that arise from the interaction between other conflicting by-laws and development plans, highlighted by recent cases such as *Sunway City* and *Perbadanan Tressilieres*. These cases illustrate the authoritative role of development plans in the land use planning process. Revisiting earlier judgments can further explain the intricate legal landscape where multiple laws

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<sup>428</sup> Izuandi Yin and Jamalunlaili Abdullah, The Development Control of Urban Centre in Kuala Lumpur, *Planning Malaysia* 18, no. 3 (2020): 313–325.

<sup>429</sup> Marlyana Azyyati Marzuki, Sustainability Discourse in Participatory Planning: The Case of Malaysia, *International Journal of Urban Sustainable Development* 12, no. 2 (2020): 236–250, <https://doi.org/10.1080/19463138.2020.1719497>.



are inter-related in the land use planning process. As McAuslan said, a single parcel of land can be caught in a web of legal complexities where various laws and by-laws are involved.<sup>430</sup> Therefore, exploring these past cases is crucial for understanding the layers of legalities that may interact or conflict in land development contexts, particularly in SEZs and SBEZ Bukit Kayu Hitam.

The case of *The Ordinary Co Sdn. Bhd. v Lembaga Rayuan Negeri Selangor & Anor* [2014] 7 MLJ 705 (High Court of Malaya, Shah Alam) highlights the conflict between a development plan and the National Land Code (NLC).<sup>431</sup> The plaintiff, owner of Lot 16994 in Petaling Jaya, faced a conflict when the land, designated in the title for commercial use, was zoned as open space in the local plan gazetted by the Petaling Jaya Municipal Council in 2007. Despite an application to rezone the land as commercial development from being open space, which included constructing a five-storey building, the council rejected the application due to non-compliance with the local plan.

Subsequently, the applicant appealed to the Selangor Appeal Board, which dismissed the appeal on the grounds that Section 108 of the NLC does not apply to local plans prepared under TCPA.<sup>432</sup> Displeased with the decision of the Appeal Board, the

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<sup>430</sup> Patrick McAuslan, *Bringing the Law Back: Essay in Land, Law and Development* (Ashgate Publishing Limited, 2003); Noor Asyikeen et al., *Striking a Balance Between Public and Private Interests in Land Acquisition: A Cross-Jurisdictional Perspective*, IIUM Law Journal 30, no. 1 (2022): 202–135. Example of the complexities described by McAuslan is the Penn Central Transportation Co. v. New York City case from 1978 in the United States. Here, the Supreme Court examined the conflict between New York City's landmark preservation laws and the property owners' development rights. The owners wanted to build a skyscraper above Grand Central Terminal, but the city blocked this to preserve the station's historic architecture. This case highlights the complex interplay between historic preservation, property rights, and urban development regulations, reflecting similar legal challenges faced in special economic zones like SEZs and SBEZs..

<sup>431</sup> See also *The Ordinary Co Sdn. Bhd. v Lembaga Rayuan Negeri Selangor & Anor* [2014] 7 MLJ 705 (High Court of Malaya, Shah Alam), p2, p6, p9, p15.

<sup>432</sup> The Board of Appeal stated that the conditions stated in the land title were deemed subordinate to the land-use zoning specified in the Local Plan, prohibiting the applicant from changing the zoning and developing the land.

applicant sought a judicial review at the High Court of Malaya in Shah Alam. The court ruled in favour of the applicant, directing MBPJ to consider the planning application based on the land's categorisation as "Commercial Building" and acknowledging MBPJ's erroneous zoning of Lot 16994 as open space.<sup>433</sup>

However, despite the reliance on Section 108 of the NLC as the basis for the argument that the land title's category supersedes the development zoning, the *Sunway City* case presents a different perspective. The *Sunway City* case serves as a relevant reference to emphasise that the development plan governed by the TCPA is a crucial document that must be adhered to in any development endeavour. Even if the land is categorised as a "Commercial Building," this does not grant absolute rights to the owner for unrestricted development. As aptly stated by Nallini Pathmanathan FCJ in the *Sunway City* case (p47):

"Possession of land title does not entail that the owner of the land has a blank cheque to do whatever he or she pleases with the land. This would have the potential of allowing for unsustainable development outside the purview of the TCPA and the Land Conservation Act (LCA). This, in turn, would defeat the very object and purpose of both the TCPA and LCA and hence negate the intent of Parliament in enacting those statutes."<sup>434</sup>

The case above highlights a key issue in Malaysia's dual systems. On the one hand, the TCPA development plan is one of the key guides in controlling the development,

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<sup>433</sup> The high court further determined that the use condition stated in the land title takes precedence over the land-use zoning in the local plan, as stipulated by Section 108 of the NLC and Section 18(3) of the TCPA. The term "restriction" in Section 108 of the NLC encompasses the limitations imposed by the local planning authority on the landowner. Thus, the Appeal Board committed a legal error by concluding that the land title's category does not supersede the land-use zoning prescribed in the local plan. Ibid.

<sup>434</sup> *Perbadanan Pengurusan Sunrise Garden Kondominium v Sunway City (Penang) Sdn. Bhd. & Ors and Another Appeal* [2023] 2 MLJ 621.

and on the other hand, the NLC at the same time regulates the use of land under the land system framework.<sup>435</sup> A pertinent question arises regarding the land alienation process: does land alienation align with the development plan? For instance, what happens if a plot of land designated for housing under its alienation terms is zoned for agriculture in the official development plan? These contradictions underscore the need for a nuanced reconciliation between development plans and land titles. Addressing these issues requires an integrated, coherent approach to ensure consistent and sustainable development, especially in SEZs and SBEZ Bukit Kayu Hitam. This case exemplifies broader systemic problems that demand immediate and thorough attention.

In the case of *Majlis Perbandaran Subang Jaya v Visamaya Sdn. Bhd. & Anor* [2015] 5 MLJ 554 (Court of Appeal Putrajaya), the importance of development plan zoning over individual land titles is highlighted.<sup>436</sup> The first respondent owned land zoned for "industry" with a "Medium Industry" condition according to the land title. The land was also zoned for industrial use in the local plan. The first respondent requested to reclassify the land for "building" for "commercial building" purposes, which was approved by the State Authority. However, when the first respondent applied to construct commercial service apartments, the appellant rejected it citing conflicting land-use intentions.<sup>437</sup> Appeals to the Selangor State Appeal Board and the High Court were unsuccessful, but the Court of Appeal emphasised the hierarchical nature of

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<sup>435</sup> Sharifah Zubaidah, "Controlling Changes of Use of Land in Malaysia: Dual Authorities and The Dilemma of Certainty vs. Flexibility."

<sup>436</sup> *Majlis Perbandaran Subang Jaya v Visamaya Sdn. Bhd. & Anor* [2015] 5 MLJ 554 (Court of Appeal Putrajaya).

<sup>437</sup> The application was rejected on the basis that the land has been zoned under the local plan for industrial purposes, thus constructing commercial service apartment is in contradiction with the zoning of that particular land.

legislative instruments. It cited the precedence of the NLC over the TCPA and noted that Section 108 of the NLC is not bound by later laws.

Abdul Wahab Patail JCA stated:

"The permitted use in the land title under the NLC must be interpreted consistently with the zoned use of the area where the land is situated."

This means that if a development plan designates land as "industrial" with a "light industry" condition, any conflicting land title condition must align with the development plan. This case underscores the importance of adhering to development plan zoning provisions and ensuring consistency between individual land titles and overarching development guidelines. While the previous case centred on a zoning plan fault, *Majlis Perbandaran Subang Jaya v Visamaya Sdn. Bhd. & Anor* emphasises the legislative framework supporting development plans, providing a holistic understanding of addressing conflicts between land titles and development plans.

In the *Perbadanan Pengurusan Sunrise Garden Condominium* case, a significant difference arose between the Penang Structure Plan 2020, established in 2007, and the Land Conservation Act 1960 (Act 438) (LCA).<sup>438</sup> The Federal Court determined that the State Structure Plan takes precedence as the main framework for any development. However, conflicts still exist, particularly between the development plans and the LCA, which identifies the land as 'hill land' under Section 3 of the LCA. This classification is in line with the Penang Structure Plan 2020.

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<sup>438</sup> *Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City ( Penang ) Sdn. Bhd. & Ors and Another Appeal* [ 2023 ] 2 MLJ 621.

During the planning permission process, the applicant was required to seek permission to develop the "hill land" under the Land Conservation Act (LCA). The State Authority approved the application with conditions, including a RM1,000,000 "compensation" payment for the revocation of the "hill land" status. This approval contradicts the stringent limitations set by both the LCA and the Penang Structure Plan 2020, specifically Policy 3. While Policy 4:Action 3 (DK3 L4) allows exceptions for 'hill land' development under strict regulations, this approval seems to bypass these guidelines.<sup>439</sup>

The complex issue at hand involves the interplay between the State Structure Plan, the LCA, NLC and decisions made by the State Authority. Despite the fact that the land has been designated as "hill land" by both the LCA and the Structure Plan, with both setting out restrictions on various types of development, the State Authority has approved its denunciation under the LCA.

In this context, there is an on-going conflict between the NLC and the development plan under the TCPA. It raised an important legal question especially in relation to Section 108 of the NLC which states:

“Where any land affected by any by-law of, or restriction imposed by, any local authority or planning authority becomes subject by virtue of this Act to any condition which is inconsistent therewith,

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<sup>439</sup> Dasar Khusus, referred to as 'Dasar Khusus 3' or 'Special Basic 3', are laid out for the governance of such hill land, extending from 'Basic Special 3 Step 1' through to 'Basic Special 3 Step 9'. According to Dasar Khusus 3 Langkah 2 (DK3 L2) in the structure plan, the hill land faces a broad prohibition against most types of development, including residential, commercial, and industrial activities. This policy explicitly restricts development in areas gazetted under the LCA, exceeding an elevation of 76 metres, or possessing a gradient steeper than 25 degrees. These stipulations reiterate the point that the hill land in question was initially intended for conservation, as also declared by the LCA.

the condition shall prevail, and the by-law or restriction shall, to the extent of the inconsistency, cease to apply to the land.”

While Section 108 is designed to give precedence to NLC conditions in cases of conflict, the court rulings—such as *Visamaya* and *Sunrise Garden Condominium*—seem to indicate a judicial preference for development plans under the TCPA. In these cases, the courts gave significant weight to zoning regulations and structure plans, which from another perspective, could appear to contradict the prescription of Section 108. This raises the issue of whether these rulings are consistent with the intent of Section 108, which prescribes that NLC conditions should prevail in situations of conflict. The judicial interpretation, by placing more emphasis on development plans, might suggest that development frameworks under the TCPA are being given precedence, creating a potential inconsistency between legal prescriptions and court outcomes.

At the same time, these cases highlight the broader issue of whether Section 108 remains fit for purpose in today's complex land use environment. As development plans play an increasingly critical role in guiding zoning and land allocation, particularly in areas like SEZs, the rigidity of Section 108 may no longer be adequate.

Therefore, it is essential for courts to exercise greater precision when interpreting Section 108, ensuring that its authority is maintained unless there is explicit legislative intent to prioritise development plans. Furthermore, a strong argument exists for amending Section 108 to reflect better modern planning frameworks, allowing for more flexibility and a clearer alignment between the NLC and TCPA. Such amendments could help resolve existing conflicts and provide a more precise legal foundation for future development decisions.

These cases shed light on the potential conflicts between land use planning in development plans and other by-laws. For instance, an area designated for industrial development may encounter challenges in SBEZs related to border safety concerns. Similarly, while an industrial park development plan in an SEZ may support economic goals, it could pose conflicts with environmental regulations. From an economic perspective, these developments attract investors, but it is important to consider potential safety or environmental restrictions. These conflicts highlight the need for a balanced approach, ensuring that development plans align with other legal frameworks to foster sustainable and secure development in SEZs and SBEZs.<sup>440</sup>

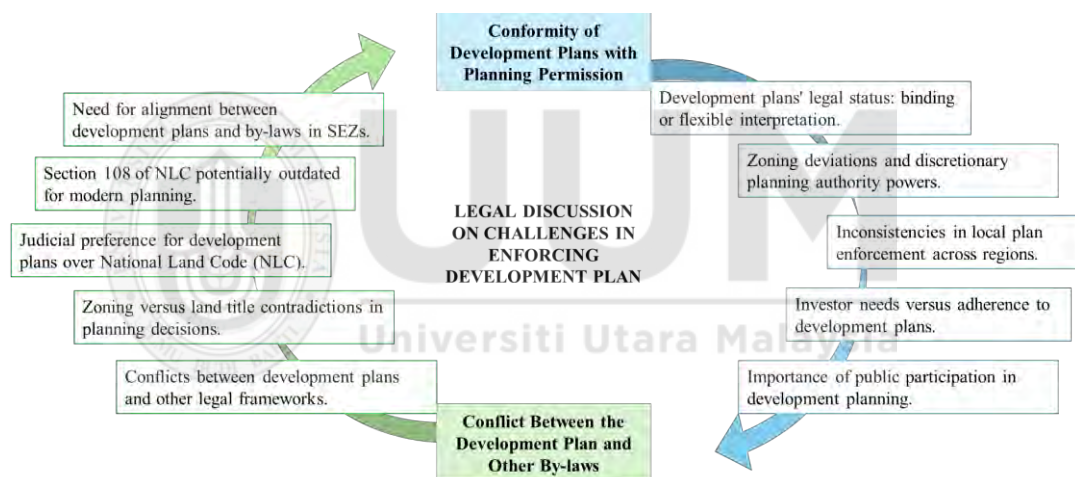


Figure 3-2 Summary of Legal Discussion on Challenges in Enforcing Development Plan (Researcher Own, 2024)

<sup>440</sup> Suhailizan Suliman, Salfarina Samsudin, and Mohd Hamdan Ahmad, Decision Making Principles in Land Development Approval, *Planning Malaysia* 19, no. 4 (2021): 121–134; Interview - G1R4 - Asst Planner, Planning Department MPKP (Personal Interview: 2 March 2023); Interview - G2R2 - Officer, Land and Mines Department Kedah (Google Meet: May 2021).

### 3.2.5 Challenges of Planning Control for Land Use Planning in Malaysia

Planning control is interrelated with land-use planning. It integrates land-use principles and development laws to create detailed plans for sustainable development.<sup>441</sup> Effective governance at all different levels is important for the success of these plans. The planning process is complex and will need to assess the land use, later defining the land-use details as well as involving the stakeholders throughout the process. This approach incorporates various factors, including environmental, economic, and human, to meet evolving societal needs.<sup>442</sup> Additionally, planning permission acts as one of the mechanisms to monitor and regulate activities regardless of any type of land development being carried out.

Part IV TCPA is the legal foundation for this planning system. This part acts as the foundation in guiding the development within the town planning framework. Subsection 18(1) of the TCPA is enforced to prevent development that does not comply with the local plan.<sup>443</sup> These regulations aim to ensure that developments are aligned with the strategic direction established by the LPA through their development plan. Consequently, obtaining planning permission is mandatory for any development before it takes place.<sup>444</sup> However, the granting of such permissions is not straightforward; it hinges on fulfilling certain criteria that can sometimes become a matter of interpretation, thereby opening up avenues for debate and negotiation.

This sub-section will further elaborate on the complexities and challenges faced in the enforcement of strict planning conditions during the planning permission process,

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<sup>441</sup> Ainul Jaria Maidin, Legal Effects of Development Plans in the Land Use Planning and Development Control Process in Malaysia, *The Law Review* (2010): 559–584.

<sup>442</sup> Ahmad et al., “Malaysian Development Plan System: Issues and Problems, One Decade After Its Reform (2001-2011).”

<sup>443</sup> Section 18(1) of te TCPA.

<sup>444</sup> Section 19(1) of TCPA.



which will be illustrated through relevant legal cases that highlight practical planning control under the TCPA.

### **3.2.5.1 Compliance and Challenges in Planning Conditions**

The procedure for applying for planning permission is outlined in Subsection 21(1) of the TCPA, while Subsection 25(1) grants local planning authorities the power to approve, modify, or revoke permissions.<sup>445</sup> Third parties can apply on behalf of landowners with written consent.<sup>446</sup> Section 21(3) allows local authorities to issue directions on permissions for building construction.<sup>447</sup> PlanMalaysia has introduced over thirty physical planning guidelines covering such areas as open spaces, housing, commercial zones, industrial areas, waste management, and environmentally sensitive areas, ensuring sustainable development practices are upheld.<sup>448</sup>

However, despite the local planning authority's establishment of standards and conditions for applicants to meet, challenges can arise. The case of *Bencon Development Sdn. Bhd. v. Majlis Perbandaran Pulau Pinang & Ors* [1999] 2 MLJ 385 (High Court of Malaya, Penang) provides an example of such challenges. In this case, the plaintiff sought planning permission for a mixed development project with over 1,000 residential units to be constructed.<sup>449</sup> The local planning authority imposed a

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<sup>445</sup> Section 21(1) and Section 25(1) of TCPA.

<sup>446</sup> Section 21(2) of TCPA.

<sup>447</sup> Section 21(3) of TCPA.

<sup>448</sup> PlanMalaysia, *Garis Panduan Perancangan*, last modified 2023, [https://www.planmalaysia.gov.my/index.php/database\\_stores/store\\_view/16](https://www.planmalaysia.gov.my/index.php/database_stores/store_view/16).

<sup>449</sup> *Bencon Development Sdn. Bhd. V Majlis Perbandaran Pulau Pinang & Ors* [1999] 2 MLJ 385 (High Court of Malaya, Penang).

condition requiring the widening of an existing bridge.<sup>450</sup> The plaintiff developer appealed this condition to the Appeal Board, citing several justifications:

1. the existing bridge was located outside the proposed development site and on state land,
2. the widening of the bridge would benefit the surrounding developments and alleviate traffic congestion on Jalan Relau, and
3. the plaintiff had to bear the cost of the widening.

However, the appeal was dismissed by the Appeal Board, prompting the aggrieved developer to further appeal to the High Court. The key issue raised by the plaintiff concerned the validity of the condition imposed by the local planning authority regarding the bridge widening. The court ruled that the condition imposed by the local planning authority was reasonable and lawful due to the high-density nature of the proposed development, which would potentially result in significant traffic impact in the area. Quoting Judge Abdul Hamid Mohamed J:

"It is regrettable, speaking from the cases that come to this court, that developers want maximum density but minimum, or nil, contribution towards the upgrading of infrastructure. They, hopefully only some of them, seem only to think of maximising their profits and are not at all concerned about the adverse effects caused by them, for which the local government is usually blamed."

In considering developments submitted for planning permission, particularly with SEZs and SBEZs, it is crucial to be aware of potential specific conditions that may be applied. These conditions are implemented by the Local Planning Authority (LPA)

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<sup>450</sup> Imposition of the planning condition in granting the planning permission as prescribed under Section 22(3) and Section 22(5) of the TCPA.

based on what is deemed necessary for each development, ensuring that all aspects of the project are in line with local regulations and sustainability goals.<sup>451</sup> Such conditions could encompass mandatory road width requirements to accommodate the movement of large trucks, not merely standard vehicles, within the zones. Assessing the necessity of these conditions set by the LPA is vital to ensure they do not impede the SEZ developments but instead, facilitate a mutually beneficial outcome for all involved parties. Consequently, developers should thoroughly familiarise themselves with these conditions early on to prevent any unforeseen challenges that might dissuade them from project commitment in later stages.

In the case of *Majlis Perbandaran Seberang Perai v Tropiland Sdn. Bhd.* [1996] 3 MLJ 94, the scope and enforceability of planning conditions imposed by local planning authorities were illustrated.<sup>452</sup> The developer was initially given approval to construct a three-storey commercial building with conditions to build a monsoon drain and a concrete perimeter drain. Later, an amended plan for a five-storey structure was approved without the drain conditions. Upon completion, the local planning authority refused to issue a Certificate of Occupation (CF) due to non-compliance with the initial conditions. The monsoon drain was only 80% completed, and the perimeter drain was absent.<sup>453</sup>

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<sup>451</sup> Siti Sarah Sulaiman and Ainul Jaria Maidin, *Negotiating Development Through Planning Agreement: Mechanism To Promote Voluntary Compliance of Green Technology and Sustainable Development Indicators*, *Alam Cipta* 8, no. 1 (2015): 22–28.

<sup>452</sup> *Majlis Perbandaran Seberang Perai V Tropiland Sdn. Bhd.* Majl [1996] 3 MLJ 94 (Court of Appeal Putrajaya).

<sup>453</sup> *Ibid.* During construction, the developer submitted an amendment plan to reduce the building's height from 11 storeys to 5 storeys. However, the amendment plan did not include the perimeter drain construction conditions, yet it was still approved. Upon completion of construction, the developer applied for a Certificate of Occupation (CF). The local planning authority refused to issue the certificate, citing non-compliance with the conditions specified in the initial planning approval. The landowner had only constructed 80% of the monsoon drain and failed to create the required perimeter.

The developer, feeling unsatisfied, filed a lawsuit claiming that the conditions were invalid. The High Court ruled in favour of the developer, stating that the local planning authority had acted unreasonably. However, the COA ruled in favour of the local planning authority, deeming their requirements reasonable. The court highlighted that the developer had accepted the conditions by constructing 80% of the monsoon drain and questioned why objections were not raised during the initial planning application.

This example emphasises the importance of planning conditions in promoting responsible development within SEZs and SBEZs. In one scenario, the planning condition may impose a burden on new developers due to their proposed development. However, it is important to recognise that the impact of the development extends beyond just the developers themselves, and also affects the surrounding areas. It is crucial to understand the necessity of the imposed condition, which the applicant must comply with, rather than simply agreeing to it initially with the intention of doing as they please after obtaining planning permission. If the applicant follows their own desires when applying for planning permission, authorities may still need to try to accommodate them to prevent the building from being abandoned,<sup>454</sup> despite Section 20 of the TCPA prohibiting non-compliant development that deviates from the approved plan.<sup>455</sup>

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<sup>454</sup> Interview - B1R2 - Planner, Majlis Bandaraya Pasir Gudang (Google Meet); Hamizah Yakob, Fatimah Yusof, and Hazlina Hamdan, Measuring Effectiveness of Planning and Control, *Asian Journal of Behavioural Studies* 1, no. 4 (2016): 11.

<sup>455</sup> Interview - B1R2 - Planner, "Majlis Bandaraya Pasir Gudang"; Nuarrual Hilal Md Dahlan, Planning Case Law and Legal Issues in Abandoned Housing Projects in Malaysia, in *4th International Conference on Education, Islamic Studies and Social Science Research and International Conference on Science and Technology (ICEISR & ICOST) 2019-Research Education: Opportunities and Challenges for Fourth Industrial Revolution*, 2-3 Sept (Hotel Madani, Medan, Indonesia, 2019).

### 3.2.5.2 Inconsistencies and Enforcement in Planning Approvals

Decisions by local planning authorities can sometimes cause disputes and may not reflect the actual context. In *Klassik Tropika Development Sdn. Bhd. v Lembaga Rayuan Negeri Pulau Pinang & Ors* [2016] MLJU 707, conflicting decisions created problems<sup>456</sup> The main issue was conflicting decisions by the local planning authority. Klassik Tropika, which owned an old bungalow, began demolition without proper approval and was fined. The authority later ordered the bungalow to be rebuilt.<sup>457</sup> However, the developer disregarded this instruction and instead submitted a new application for the construction of two apartment blocks. Although this application was approved, it came with certain conditions.

Local residents contested this approval, which led the Appeal Board to issue a hold on the new planning permission. Klassik Tropika attempted to seek a judicial review but was unsuccessful. In paragraph 31, High Court Judge Lim Chong Fong JC made a statement regarding this matter.

"A planning authority that issues two contradicting decisions concerning the same land, and that seeks to preserve or defend both decisions, creates a prima facie untenable position; barring some exceptional reason (and none has been provided to the board so far). The two decisions cannot both be right at the same time. It is very unusual to find a situation where a local planning authority tries to juggle two conflicting decisions with no wish of relinquishing any of them. But that is precisely what happens here. The circumstances in this case are indeed rare and special."

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<sup>456</sup> *Klassik Tropika Development Sdn. Bhd. v Lembaga Rayuan Negeri Pulau Pinang & Ors* [2016] MLJU 707 (High Court of Malaya, Penang).

<sup>457</sup> *Ibid.*

This case emphasises a crucial issue for land development stakeholders: inconsistent decision-making by local planning authorities, which undermines their credibility. The transition from requiring the reconstruction of a quasi-heritage property to approving a conditional residential project confuses developers and jeopardizes projects. Frequent staff reshuffling may contribute to these inconsistencies.<sup>458</sup> This persistent inconsistency points to deeper systemic issues within planning authorities, disrupting projects and potentially leading to legal challenges.<sup>459</sup>

In addition to this inconsistency, despite legislative efforts to streamline land use planning and development control, delays in development timelines persist due to systemic inefficiencies. To address this, the Ministry of Local Government Development implemented the One-Stop Centre (OSC) system through PlanMalaysia. This platform centralizes planning permission applications and expedites approvals, significantly reducing bottlenecks. Enhanced by electronic submissions, the OSC has improved public service efficiency and overcome obstacles hindering economic growth. These technological and administrative advancements are crucial in attracting foreign direct investment (FDI). The integration of advanced tools, streamlined processes, and increased governmental accountability plays a key role in alleviating internal complexities and ensuring a more efficient and effective public service.

Despite the introduction of the OSC system in 2007, delays in the planning application process persist. A notable example is *MDS Ventures Sdn. Bhd. v Petaling Jaya City*

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<sup>458</sup> Suliman, Samsudin, and Ahmad, “Decision Making Principles in Land Development Approval”; M A Marzukhi et al., *The Effectiveness Of Building Plan Approval. Case Study: Subang Jaya Municipal Council, Selangor* 5 (2019).

<sup>459</sup> Nuarrual Hilal Md. Dahlan et al., *Abandoned Housing Projects in Malaysia: A Planning Law Perspective*, in *AGBA’s 12th Annual World Congress*, 16-19 November 2015 (University of Malaysia Pahang, 2015), 239–247; Marzukhi et al., “The Effectiveness Of Building Plan Approval. Case Study: Subang Jaya Municipal Council, Selangor.”

*Council* [2020] MLJU 2268, where the applicant sought judicial review to approve their housing development application.<sup>460</sup> The applicant submitted the application in 2014 to construct four semi-D houses, having obtained a loan in 2011. The application was rejected in 2016 due to non-compliance with conditions. The applicant appealed and agreed to amend the plan. The Appeal Board instructed the respondent to process and approve the application within three months. However, the respondent demanded a new application and an Environmental Impact Assessment (EIA) report.<sup>461</sup> Frustrated, the applicant pursued a judicial review, and the High Court instructed the respondent to approve the planning permission, which was finally granted in 2019. This case highlights the prolonged nature of obtaining planning permission, which took nearly five (5) years, adding significant financial burden to the applicant.

While refraining from making accusations of corruption, it is important to acknowledge that it may represent a significant factor contributing to the complexity of the planning permission process.<sup>462</sup> Addressing these complexities is crucial, particularly in cases where, for example, the EIA is requested only at a later stage and not during the initial submission of the planning permission. The TCPA grants local authorities broad discretionary powers to regulate planning and development, creating

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<sup>460</sup> *MDS Ventures Sdn. Bhd. v Majlis Bandaraya Petaling Jaya* [2020 ] MLJU 2268 (High Court of Malaya, Shah Alam).

<sup>461</sup> The EIA Report is a legal requirement under Section 34A of the Environmental Quality Act 1974. It serves to apprise developers of the potential negative effects of their projects on both the physical environment and human communities. The submission of an EIA Report is compulsory for activities specified in the Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order 1987. Projects not falling under these prescribed activities are exempt from the EIA submission requirement. Sulaiman Siti Sarah, *Developing A Legal Framework For Negotiating Development Contributions Through Planning Agreement For Promoting Sustainable Development* (International Islamic University Malaysia, 2017).

<sup>462</sup> Rozita Abdul Mutalib, *Pembaharuan Pentadbiran: Perlaksanaan Pengurusan Awam Baru Di Pihak Berkuasa Tempatan*, *Gloabal Governance: Contemporary Issues and Prospect*, no. December (2016); Siti Sarah Sulaiman and Ainul Jaria Maidin, “The Legal Impact Of Development Plans In Delivering Sustainable Development: A Reference To The Town And Country Planning Act 1976 And The Federal Territory (Planning) Act 1982”; Mohd. Nordin Rumaizah, Mohd Ahnuar Ezlina, and Ameer Ali Md. Asrul Nasid, Masrom Naseem, *Examining Corruption Issues In Malaysia Construction Industry: Partaker Perspectives*, *Planning Malaysia* 21, no. 2 (2023): 52–68.

opportunities for abuse of power.<sup>463</sup> This discretion can lead to issues such as unnecessary additional requirements which potentially impact decision-making and delay the planning process.

The imposition of planning conditions has dual implications. On one hand, it ensures sustainable development, but on the other, it can be associated with corruption or "rent-seeking".<sup>464</sup> Individuals might manipulate these conditions for economic benefits, compromising the planning process's integrity and leading to preferential treatment. Within this context, staff from approving agencies might use subtle hints or delays to signal expectations for economic gains or favours.<sup>465</sup>

Applicants must navigate these signals to understand corrupt staff members' true intentions. Small developers often use intermediaries, while larger companies may have liaison officers to deal with compromising officials. Underhanded transactions, ranging from off-hours dealings to overt exchanges, further complicate the planning approval process.<sup>466</sup> Instances like golfing or holiday trips, where developer staff accompany officials, help avoid cash expenses and scrutiny. Top management

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<sup>463</sup> Sinar Harian, Sistem Penggiliran Langkah Selesai Salah Laku Dalam PBT, *Sinar Harian Online*, August 15, 2020, <https://www.sinarharian.com.my/article/96761/berita/nasional/sistem-penggiliran-langkah-selesai-salah-laku-dalam-pbt>; Noor Atiqah Sulaiman, Terima Rasuah Daripada Kontraktor, Dua Bekas YDP Majlis Perbandaran Direman, *Harian Metro Online*, 2021, <https://www.hmetro.com.my/mutakhir/2021/07/733799/terima-rasuah-daripada-kontraktor-dua-bekas-ydp-majlis-perbandaran-direman>; Ainul Jaria Maidin et al., Powers of The Local Authority In Regulating Land Planning And Development Control : Whither Control, *Planning Malaysia* 7 (2009): 133–147.

<sup>464</sup> Rent-seeking refers to the pursuit of economic gains or advantages through unproductive activities, such as lobbying, political influence, or manipulation of the system, rather than through productive and value-creating means. Abdul Rashid Abdul Aziz and Suhaila Ali, Rent-Seeking Practices in the Housing Development Approval Process., *Kajian Malaysia* 39, no. 2 (2021): 25–49.

<sup>465</sup> Ibid.; Suhaila Ali et al., Preliminary Survey of Modelling Rent-Seeking Behaviours (RsB) in Malaysia's Housing Planning Approval Process: Issues and Problems, *International Journal of Academic Research in Business and Social Sciences* 12, no. 7 (2022): 1008–1023.

<sup>466</sup> Abdul Aziz and Ali, "Rent-Seeking Practices in the Housing Development Approval Process."



involvement in dealing with public actors, including payoffs, complicates the process and raises concerns about decision-making integrity in land development.

The challenges discussed above highlight the need for improvements in the planning permission process, particularly on the planning conditions. With the authority given, there is a possibility for misuse and undue influence, especially in cases of corruption and rent-seeking behaviours. These issues require robust reforms and implementation of continuous oversight to maintain the integrity of the planning process, especially within SEZs and SBEZs. As these zones play a vital role in attracting FDI and boosting economic growth, it is crucial to minimise delays and ensure fair conditions to enhance competitiveness and encourage investors to be part of the business cycle. Thus, LPAs should prioritise transparency, adherence to norms, and public accountability. While the use of OSC and electronic submissions has enhanced efficiency, ongoing efforts must be made to eliminate corruption and promote equitable economic expansion.



Figure 3-3 Summary of Legal Discussion on Challenges of Planning Control for Land Use Planning in Malaysia (Researcher Own, 2024)

### 3.2.6 Public Participation in the Malaysian Planning System

This sub-section explores public participation in the planning process in Malaysia, as outlined in the TCPA. Public participation plays a crucial role in two specific situations. Firstly, during the preparation of the development plan,<sup>467</sup> the public has the opportunity to offer input, feedback and objections to the draft development plan.<sup>468</sup> Secondly, as per Section 21(6) of the TCPA, if a planning permission application is made in an area without a gazetted local plan, neighbouring landowners must be notified to voice any objections to the proposed development.

The TCPA mandates a need for public engagement in preparing the development plan. However, the practical implementation of this in the TCPA raises several issues. To the best of the researcher's knowledge, there are not many cases involving publicity in connection with the preparation of the development plan. However, there is one case that highlights the extent that the local planning authority really does its job in ensuring that the public is aware of the process of preparing the development plan.

In the case of *BU Developments Sdn. Bhd. v Selangor Appeal Board & Ors* [2014] 8 MLJ 539 (High Court of Malaya, Shah Alam), the main issues are related to the planning permission process which require section 21(6) to be exercised.<sup>469</sup> The applicant submitted a planning permission request to the Ampang Jaya Municipal Council (MPAJ) for the development of their land, located adjacent to MRR2, as a mixed-use commercial project. Concurrently, MPAJ initiated the publication of the

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<sup>467</sup> Section 2 of the TCPA defines a "development plan" for an area as either the local plan or, in the absence of a local plan, the structure plan for that area.

<sup>468</sup> Section 9, 12A dan 13 of the TCPA which prescribed the need for the publicity in relation to the draft of the development plan to be published for the public to review and make their suggestions and objections.

<sup>469</sup> *BU Developments Sdn. Bhd. v Selangor Appeal Board & Ors* [2014] 8 MLJ 539 (High Court of Malaya, Shah Alam).

draft local plan's preparation, as mandated by Section 12(1) of the TCPA. During the publicity period, the applicant submitted a request to rezone their land, which was previously designated as a mix of commercial and residential, to fully commercial. No objections were raised by any neighbouring landowners. While the planning permission process and the local plan preparation proceeded simultaneously, MPAJ served neighbouring landowners notice under Section 21(6) of the TCPA. At this point, the second respondent raised concerns about potential traffic congestion from the proposed development that will be connected to the already saturated Middle Ring Road 2 (MRR2).<sup>470</sup>

Although this case relates to the planning permission process, the discussion here will not focus on the court's decision but rather on the process of preparing the development plan. The second respondent only raised concerns about traffic congestion after receiving notice under Section 21(6), triggered by the submission of the planning permission application. However, these concerns were not raised earlier during the publicity process, which took place before the planning permission was submitted. This raises questions about the effectiveness of the publicity process during the preparation of the local plan. For instance, did the information fail to reach the second respondent, thus preventing them from participating?<sup>471</sup> Insufficient reach can

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<sup>470</sup> Ibid. The second respondent, who had not objected during the initial publicity phase, raised objections at this stage regarding the road linking the proposed development to the Middle Ring Road 2 (MRR2). MPAJ, considering this issue internal and unrelated to the second respondent's objections, approved the planning permission. Dissatisfied with MPAJ's decision, the second respondent appealed to the Selangor Appeal Board, which ruled in favour of the second respondent and revoked the planning permission granted to the applicant. Challenging this decision, the applicant sought a judicial review at the Shah Alam High Court. The applicant argued that the Appeal Board had considered additional issues not raised by the second respondent and had violated proper procedures by circumventing the appropriate channels for the Development Proposal Report (DPR). The judge subsequently set aside the decision of the Selangor Appeal Board, ordering the processing of all plans and development proposals submitted by the applicant.

<sup>471</sup> Section 13 of the TCPA outlines the requirements for the location and timing of publicity but does not provide detailed mechanisms to ensure that the information reaches all relevant stakeholders effectively.

lead to a lack of public involvement in preparing development plans. Research suggests that public participation in Malaysia's land use planning is less effective due to inadequate information, limited public awareness, and insufficient governmental initiatives.<sup>472</sup> Ensuring effective publicity is essential, as a lack of proper public participation can lead to future disputes and highlights the importance of informing all relevant stakeholders about their rights and opportunities.

Meanwhile, the case *Datin Azizah Bte Abdul Ghani v Kuala Lumpur City Hall & Ors and Another Appeal*, [1992] 2 MLJ 393 (Supreme Court, Kuala Lumpur),<sup>473</sup> involves a situation similar to *the BU Development* case but with different legal contexts. This case is governed by the FTPA. In this case, the plaintiff sought a certiorari order to challenge a development order for Lot 4951. The development involved the construction of two apartment blocks, leading to a significant increase in density from 10 to 44 individuals per acre, as approved by the local planning authority.

The appellant raised concerns about being unable to voice objections due to not receiving notice from the respondent about the proposed development. The plaintiffs asserted that the defendant failed to adhere to Rules 5, 6, and 11 of the Planning (Development) Rules 1970,<sup>474</sup> which mandated notifying the neighbouring landowners

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<sup>472</sup> Khalid Zanudin, Ibrahim Ngah, and Siti Hajar Misnan, Limitations on Community Participation in Planning Decision-Making in Peninsular Malaysia: A Review of Recent Studies, *International Review for Spatial Planning and Sustainable Development* 7, no. 4 (October 15, 2019): 131–147, [https://www.jstage.jst.go.jp/article/irspsd/7/4/7\\_131/\\_article](https://www.jstage.jst.go.jp/article/irspsd/7/4/7_131/_article); Amirulikhshan Zolkafli, Greg Brown, and Yan Liu, An Evaluation of Participatory GIS (PGIS) for Land Use Planning in Malaysia, *Electronic Journal of Information Systems in Developing Countries* 83, no. 1 (2017): 1–23.

<sup>473</sup> *Datin Azizah Bte Abdul Ghani v Kuala Lumpur City Hall & Ors and Another Appeal*, [1992] 2 MLJ 393 (Supreme Court, Kuala Lumpur).

<sup>474</sup> Under Rules 5, 6, and 11 of the Planning (Development) Rules 1970, adjoining landowners must be notified to register objections before a development order is granted. Originally under the 1970 Ordinance, this rule was reintroduced in Section 17(3) of the 1973 Act but not carried forward in the FTPA. According to Maidin and Abdulkadir, “Resolving Disputes Arising from Land Development and Environmental Degradation in Malaysia: Proposals for Reforms.”

about planning permission applications.<sup>475</sup> Although the FTPA does not explicitly require such notification, Section 22(4) required the mayor to consider relevant matters for development planning.<sup>476</sup> Despite the repeal of the 1970 Rules and the 1973 Act, the mayor is obligated to establish a mechanism for processing planning applications under Section 64 of FTPA. The court ruled that, in the absence of guidelines for Section 22(4), existing Rules 5 and 6 of the 1970 Rules do not contradict it. Thus, the court voided the granted development order and required the mayor to reconsider the planning permission application according to the law.

From the above discussion, the relevance to SEZs and SBEZs lies in whether all new planning permission applications require the notification of neighbouring landowners. For instance, if there is no gazetted local plan, this notice is mandatory. However, this raises important questions, such as whether notification is still necessary in areas with an established local plan. This also sheds light on the current practices in Kuala Lumpur, where, despite the approval of developments, the process of informing neighbouring landowners continues to be observed as a practice of good governance. Therefore, Section 21(6) of the TCPA warrants further study to ensure comprehensive and consistent notification practices.

On the other hand, in the context of the public participation process in the development plan itself can be seen in one of the landmark cases in Malaysian planning law,

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<sup>475</sup> Under the Planning (Development) Rules 1970, Rule 5(2) requires notifying adjacent landowners of a planning application. Rule 5(3) allows adjacent landowners 14 days to object. Rule 5(4) requires the Authority to hear objections within 14 days. Rule 6(1) states that if there are no objections and the application conforms, a development order is issued.

<sup>476</sup> Section 22(4) of FTPA mentioned that: The Commissioner, in dealing with an application for planning permission, shall take into consideration such matters as are in his discretion expedient or necessary for purposes of proper planning and in this connection but without prejudice to the discretion of the Commissioner to deal with such application, the Commissioner shall as far as practicable have regard to – (a) the provisions of the development plan and where the local plan has not been adopted, the Comprehensive Development Plan; and (b) any other material consideration.

*Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City (Penang) Sdn. Bhd. & Ors* [2023] 2 MLJ 621 (Federal Court, Putrajaya). This case provides an insight on public participation in preparation of the development plan process.<sup>477</sup> The case highlighted the State Planning Committee's (SPC) direction in issuing Special Project Guidelines, which were one of the key issues in the litigation. The Federal Court found that the LPA's approval in granting planning permission was ultra vires and void due to failure to conduct proper publicity as prescribed under the TCPA.

The FC emphasised the need for transparency and public engagement by pointing out that the guidelines were not made publicly. This led to compromised public participation and a breach of statutory requirements under Sections 11 to 11B of the TCPA.<sup>478</sup> The guidelines were intended to provide detailed information about permitted developments in the Special Project area as per the Penang State Structure Plan (PSSP). Instead of amending the PSSP and making changes publicly available for review and objection, the SPC issued a guideline to interpret "special project." Moreover, the TCPA mandates that once a state structure plan is gazetted, the LPA must prepare a draft local plan, which, in this case, has yet to be finalised and announced. Justice Nalini FCJ highlighted in her judgment in relation to the guideline that interprets the special project as follows:

**The drafting, approval and issuance of the 'special projects guidelines' is in contravention of the express provisions of the TCPA.** The issuance of these guidelines amounted in substance to a variation or alteration of the structure plan in material aspects and so

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<sup>477</sup> *Perbadanan Pengurusan Sunrise Garden Kondominium v Sunway City ( Penang ) Sdn. Bhd. & Ors and Another Appeal* [ 2023 ] 2 MLJ 621.

<sup>478</sup> Section 11(2) of the TCPA stipulates that once the structure plan has been gazetted, the SPC may direct amendments to the structure plan. These amendments can be for either the entire state or specific parts of it. Thus in this situation, the SPC need to amend the Structure Plan to include the details rather than establishing a new guideline as a supplementary document to support that Structure Plan.

contravened ss 11, 11A and 11B which collectively require that **any such variation to a gazetted structure plan must go through the process of ensuring public participation and public awareness of the proposed amendment.** (Emphasis added)

These cases highlight the significance of public participation in the planning process for SEZs in general and SBEZ Bukit Kayu Hitam in particular. Public engagement, mandated by the TCPA, ensures transparency, avoids conflicts, and upholds the rights of stakeholders.<sup>479</sup> While both guidelines and local plans are important, it is essential to apply both approaches in a balanced manner, ensuring that flexibility and accountability are maintained. This approach must involve the public to ensure that the related planning systems are not solely self-serving. Proper consideration of public objections is crucial for responsible development. Even though active public participation can slow down the process, it can ensure transparency, accountability, and legitimacy.<sup>480</sup> It facilitates sustainable and community-centric land use plans.<sup>481</sup> Therefore, thorough public involvement should be prioritised to maximise the positive impact of these economic zones and to respect local communities' rights and interests.

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<sup>479</sup> This democratic approach enhances transparency, mitigates potential disputes, and robustly safeguards stakeholder rights, notably those of proximate landowners. However, this should not be confined to the formulation of development plans alone. A nuanced understanding is needed when examining associated development guidelines. Daniel Tang Kuok Ho, *Public Participation in the Malaysian Environmental Impact Assessment*, no. July (2019); Marzukhi, "Sustainability Discourse in Participatory Planning: The Case of Malaysia"; Jack Tsen Ta Lee, *We Built This City: Public Participation in Land Use Decisions in Singapore*, *Asian Journal of Comparative Law* 10, no. 2 (2015): 213–234; Mohd Azhar and Arifin, "Factors Contributing to The Success and Weakness of Public Participation In Local Plans At Local Authority Malaysia: A Review."

<sup>480</sup> Sulaiman and Maidin, "Development Plans Role in Promoting Achievement of Sustainable Development: A Case Study of the State of Selangor, Malaysia"; Ahmad et al., "Malaysian Development Plan System: Issues and Problems, One Decade After Its Reform (2001-2011)."

<sup>481</sup> Mohd Azhar and Arifin, "Factors Contributing to The Success and Weakness of Public Participation In Local Plans At Local Authority Malaysia: A Review"; Lee, "We Built This City: Public Participation in Land Use Decisions in Singapore."

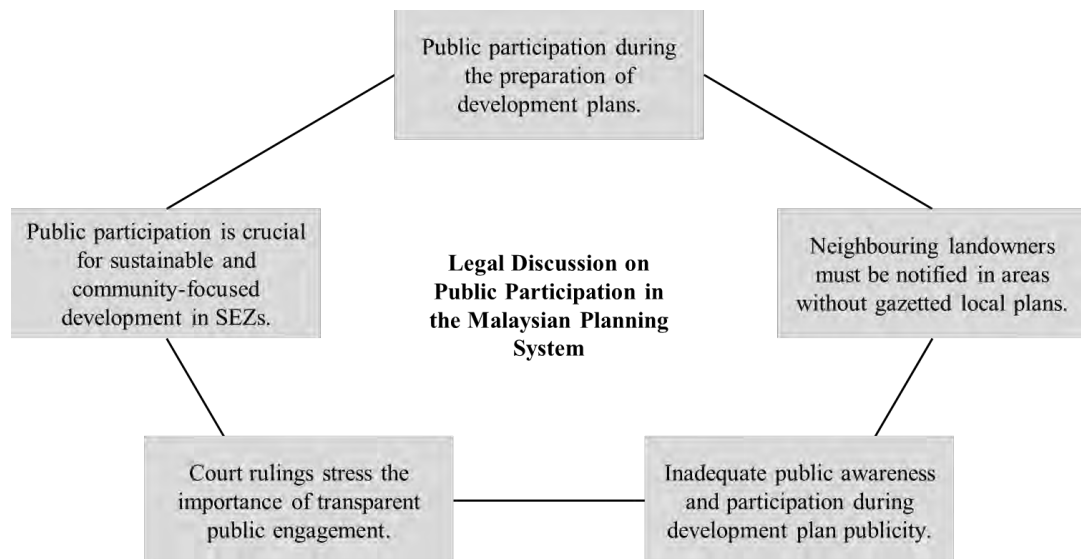


Figure 3-4 Summary of Legal Discussion on Public Participation in the Malaysian Planning System (Researcher Own, 2024)

### 3.3 Land Development under the National Land Code

In the Malaysian context, the authority over land matters rests with the State Authority, as outlined in List II (2)(a) of the Ninth Schedule of the Federal Constitution.<sup>482</sup> However, Article 76(4) empowers the Federal Government, acting through Parliament, to legislate on land management at the central level to ensure consistency across the states.<sup>483</sup> In line with this provision, the Federal Government has enacted several laws, including the NLC itself, Land Acquisition Act 1960 (Act 486), and the Malay Reservations Enactments to standardise land management practices.<sup>484</sup>

At the central level, the Federal Government assumes the role of advisor and coordinator in land administration matters through the National Land Council, as

<sup>482</sup> See Item II 2, State List, Ninth Schedule of the FC.

<sup>483</sup> Azila Ahmad Sarkawi, *The Legal Considerations of Neighbouring Lands in Development Planning: The Malaysian Context* (University of Newcastle, 2006).

<sup>484</sup> Mohd Shukri Ismail, *Land Administration in Peninsular Malaysia – A General Overview*, *Jurnal Pentadbiran Tanah* 1, no. 1 (2011): 1–15.



mandated by Article 91 of the Federal Constitution.<sup>485</sup> It also possesses the authority to approve policies and legislation pertaining to land administration in Malaysia. By establishing the National Land Council, the Federal Government aims to ensure a cohesive and harmonised approach to land development and administration throughout the country.<sup>486</sup> This centralised coordination mechanism plays a crucial role in promoting consistency, transparency, and effective land governance practices across various states.

In this sub-section, the focus will shift to potential legal cases pertaining to SEZ and SBEZ development. It is worth noting, to the best of the researcher's awareness, that up until now, there have been no recorded legal cases in Malaysia directly linked to land issues within the scope of SEZ development.

### **3.3.1 The Power of State Authority in Land Alienation**

Within the framework of the National Land Code (NLC), 'State Authority' is defined in Section 5 as the Ruler or Governor of the respective state.<sup>487</sup> According to Section 40 of the NLC, the State Authority has rights over all the land within the boundary of the state. Meanwhile, in practical terms, the ruler, as clarified in *Lebbey Sdn. Bhd. v Chong Wooi Leong & Anor*, [1998] 5 MLJ 368 (High Court of Malaya, Shah Alam), acts based on the recommendations of the State Executive Council (EXCO), which has

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<sup>485</sup> Section 9 of the NLC outlines the establishment of a council chaired by the federal minister, with members representing various states, aiming to enhance coordination between federal and state governments.

<sup>486</sup> Marlyana Azyyati Marzukhi, Dasimah Omar, and Oliver Ling Hoon Leh, Re-Appraising the Framework of Planning and Land Law as an Instrument for Sustainable Land Development in Malaysia, *Procedia - Social and Behavioral Sciences* 68 (2012): 767–774; Adibah Awang, A Critical Assessment of Provisions of the Federal Constitution with Regard to Federal-State Relationship on Land Law, *International Conference on Contemporary Issues of Law, Syariah & Legal Research*, no. January 2008 (2008): 1–9.

<sup>487</sup> Md Dahlan, "Legal Issues in The Alienation of Lands for Housing Development Projects in Malaysia."

the authority to decide matters related to land, including land alienation under the NLC.<sup>488</sup> As such, the State Authority, represented by the State Executive Council, wields absolute power in the land alienation process as outlined in Section 76 of the NLC, with the discretion to approve or reject applications.<sup>489</sup>

The power to administer land matters is delegated to the State Land and Mines Office at the state level, while the respective Land Office manages these tasks at the district level.<sup>490</sup> Both offices are pivotal in ensuring effective land governance, implementing administration processes, monitoring legal compliance, facilitating transactions, and maintaining accurate records. Their adherence to the NLC and other legislation ensures the orderly and sustainable management of land resources within their jurisdictions.

The development process of SEZs typically involves a considerable land area. In the context of development in Malaysia, there are instances of large-scale developments taking place. To gain a better understanding of this scenario, as previously mentioned, Section 76 of the National Land Code (NLC) grants the State Authority the power to alienate the land. Typically, if the land has been alienated to a financially strong corporation, they will undertake the development. If not, they can pursue development through a joint-venture process.

Nevertheless, a potential issue related to land development matters must be addressed. Consider a straightforward example: the State Authority allocates land to a corporation

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<sup>488</sup> *Lebbey Sdn. Bhd. v Chong Wooi Leong & Anor And Other Applications*, [1998] 5 MLJ 368 (High Court of Malaya, Shah Alam), p1.

<sup>489</sup> Md Dahlan, "Legal Issues in The Alienation of Lands for Housing Development Projects in Malaysia."

<sup>490</sup> PTG Kedah, Fungsi PTG Kedah, 2022, accessed April 21, 2022, <https://ptg.kedah.gov.my/maklumat-korporat/peranan>. The Land Office's core functions include processing land applications, managing revenues, facilitating title registration, overseeing development applications, and enforcing land laws in line with the National Land Code (NLC) and other relevant laws.

for development. This corporation could be the State Economic Development Corporation (SEDC), a state government-owned entity, whose board members are typically part of the EXCO. Furthermore, the chairman is typically the Chief Minister himself, who may be involved.<sup>491</sup> If the SEDC lacks sufficient funding, the land may be developed as a joint venture with a third party.<sup>492</sup> In such cases, there is sometimes political interference within the initial process of land alienation as well as the joint-venture process.<sup>493</sup> Further, in his research, Md. Dahlan discusses instances of housing development abandonment, citing factors such as improper allocation of land to unqualified developers.<sup>494</sup>

In the case *Public Prosecutor v Dato' Saidin Bin Thamby* [2012] 3 MLJ 476 (Court of Appeal Putrajaya), one of the significant aspects to consider is his position as an assemblyman, former member of EXCO, former speaker of the State Legislative Assembly, as well as being within the same political parties as the EXCO members, including the Menteri Besar.<sup>495</sup> The case revolves around the allegation that Datuk Saidin received remuneration for his involvement in securing EXCO approval for a land development application. The EXCO plays a critical role in approving the application and subsequently alienating the land to the specific company. It is worth noting that the respondent is known to be closely associated with the Menteri Besar, who is involved in the approval process. While the Session Court found the respondent

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<sup>491</sup> A. R. Abdul-Aziz et al., Using Institutional Theory and Resource-Based Perspective to Aid Transformation of Housing-Related Public Enterprises in Malaysia, *Habitat International* 34, no. 2 (2010): 196–203, <http://dx.doi.org/10.1016/j.habitatint.2009.09.003>.

<sup>492</sup> Interview - D1R2 - Asst Manager, Master Developer 2 (Google Meet).

<sup>493</sup> Nuarrual Hilal Md. Dahlan, Flood Disasters At Housing Areas In Malaysia: A Planning Law Perspective. Typically, many members of the State Authority (SA) belong to the same political party. The Chief Minister and his dominant political party control the SA. Decisions made by the SA may be influenced by the party's agenda. Thus, the autonomy of the SA's decisions may be compromised by political considerations.

<sup>494</sup> Md Dahlan, "Legal Issues in The Alienation of Lands for Housing Development Projects in Malaysia."

<sup>495</sup> *Public Prosecutor v Dato' Saidin Bin Thamby* [2012] 3 MLJ 476 (Court of Appeal Putrajaya).

guilty of accepting a bribe to facilitate the application process, the COA level later held that the respondent was innocent. Nevertheless, this case underscores the potential impact of political influence on land alienation processes.

Further, it is important to note a potential conflict of interest related to land alienation. A noteworthy example is the case of *Datuk Bandar Kuala Lumpur v Perbadanan Pengurusan Trellises & Ors and other appeals* [2023] 3 MLJ 829, where the focus was on obtaining planning permission for a mixed development on land designated as open space in Kuala Lumpur.<sup>496</sup> The significant issue at hand pertained to the alienation of nearly 25 acres of land. It was brought to light that these arose a conflict of interest as the Mayor of Kuala Lumpur, in his role as a member of the Federal Territory Land Executive Committee, held the authority to make decisions regarding land alienation. Additionally, it was revealed that the Mayor was also a board member of the Federal Territories Foundation, which received the land in question in 2013. The foundation subsequently engaged in a joint venture with Memang Perkasa Sdn. Bhd. for development. In 2015, this joint venture submitted a planning permission application, with the Mayor having the authority to approve or reject it. It is crucial to address such instances to ensure transparency and fairness in decision-making processes.

This scenario highlights a conflict of interest, as the Decision Board (DB) was involved in both the land alienation and the planning permission processes. The DB was aware that the land was designated as green space and that changing its use would contradict the Structure Plan. In addition, if planning permission was denied, the foundation

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<sup>496</sup> *Datuk Bandar Kuala Lumpur v Perbadanan Pengurusan Trellises & Ors and Other Appeals* [2023] 3 MLJ 829.

would have to reimburse over RM60m to Memang Perkasa, potentially skewing decision-making. As a result, it is important to address issues of conflict of interest and political interference that can arise in land alienation, especially when individuals are involved in multiple capacities within the process.

Continuing from the joint-venture case, in the PDC case, for example, being one of the SEDCs of Penang, they have entered into a joint venture with one party to develop Batu Kawan Industrial Park, one of the SEZ concepts in Malaysia. However, the deal was that the land was sold to a third party with a relatively low value. However, the deal was called off. This is one of the issues that may also occur in the development of SEZs or SBEZs, because as mentioned above, sometimes the lands involve the SEDC, which is the entity receiving land alienated to them. However in the end the deal falls through.

In relation to above scenario, an instructive case is *Lembaga Kemajuan Johor Tenggara (KEJORA) v. Fajar Kenari Sdn. Bhd. & Anor* [2017] 10 CLJ 187 A (Court of Appeal Putrajaya).<sup>497</sup> KEJORA<sup>498</sup> through its subsidiary Kejora Properties Sdn. Bhd. (KPSB) entered into joint-venture with Remedy Properties Sdn. Bhd., and Ungku Jamilah Holdings Sdn. Bhd. in which they formed a company named Fajar Kenari Sdn. Bhd. (FKSB). Based on the agreement, once the project land was alienated to KPSB by the State Authority, FKSB would develop the said land. However, the land alienation to FKSB was later revoked.<sup>499</sup>

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<sup>497</sup> *Lembaga Kemajuan Johor Tenggara (KEJORA) v. Fajar Kenari Sdn. Bhd. & Anor* [2017] 10 CLJ 187 A (Court of Appeal Putrajaya).

<sup>498</sup> KEJORA, a statutory body established under the Lembaga Kemajuan Johor Tenggara Act 1972. KEJORA acted as the Land Administrator for the southeast region of Johor, authorised by the State Authority to handle land matters, including applications for alienation of land.

<sup>499</sup> The alienation of the project land to Fajar Kenari was revoked due to KEJORA's decision to cancel the application following its divestment in the joint venture company. Subsequently, KEJORA's

The deals fell through mainly due to the Federal Government's decision to privatise the commercial activities of KEJORA. Later, a sale and purchase agreement between KEJORA and Southern Integrated Agriculture Project Sdn. Bhd. (SIAP) transferred KEJORA's commercial interests and liabilities to SIAP. This privatisation led KEJORA to divest its shares in the joint venture, resulting in the cancellation and revocation of the land alienation application to FKSB.

FKSB filed a suit alleging KEJORA's actions caused the rejection of their application and breached KEJORA's obligation to ensure the alienation of the project land. The Court of Appeal reversed the High Court's decision, allowing KEJORA's appeal. The appellate court concluded there was no conclusive contract obligating KEJORA to ensure the land alienation to Fajar Kenari, finding KEJORA acted only as the Land Administrator, not as a legal agent for Fajar Kenari.<sup>500</sup>

The case above illustrates that during the land development process, there are various challenges that can lead to deal-breakers. Cases involving land, particularly when it will involve state interest, have the potential for challenges to happen. This also applies to SEZs. As mentioned in Chapter 2, some SEZs in Malaysia are developed by the SEDC, similar to the PDC case mentioned earlier. Internal and external factors can significantly impact the land development process. In other words, without land, there can be no plant and, ultimately, no investment.

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attempts to have the land alienated to itself for joint development with Iktikad Unggul Sdn. Bhd. were rejected by the State Authority. Multiple appeals by KEJORA to reinstate the land award to Fajar Kenari were also rejected by the State Authority, leading to the legal dispute and the plaintiff's suit for breach of duty and obligation by KEJORA..

<sup>500</sup> KEJORA was appointed as the Land Administrator under Warta Kerajaan Negeri Johor Bil. 10 Jld. 16 Tahun 1972 and Section 12 of the National Land Code (NLC). Section 12 empowers the State Authority to appoint any individual or entity as the Land Administrator for a designated area. This allows the State Authority to delegate land administration responsibilities to a statutory body, local authority, or government agency.

However, sometimes the State Authority can make mistakes in alienating land by not doing due diligence properly. In the recent case of *Hartalega Sdn. Bhd. & Anor v. Kerajaan Negeri Selangor & Ors* [2022] 7 CLJ 735 (High Court of Malaya, Shah Alam), the complexity of land alienation and its crucial role in fostering economic growth through private investments was underscored.<sup>501</sup> The case highlighted the legal challenges arising from negligence in the land alienation process.

In this case, the plaintiffs aimed to expand their rubber glove factory operations and approached the State Government for approvals and allocations. To attract private investment, the State Government granted approval for the construction of a pump house and water intake facility. However, it was later revealed that the designated land for the pump house was actually earmarked for a major expressway, necessitating relocation and reconstruction. This led to substantial financial losses and additional expenses for the plaintiffs.

The plaintiffs contended that the State Government and relevant land office were negligent in their duty of care by granting land leasehold without ensuring it was free from conflicting gazettes or earmarks. They sought damages for negligence, breach of statutory duty, and breach of legitimate expectation. The High Court held the State Government and land office jointly and severally liable for the damages and losses suffered by the plaintiffs. The court ruled that the negligence in promising land leasehold without verifying potential conflicts constituted a breach of duty of care, resulting in an order for the defendants to compensate the plaintiffs for their losses.

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<sup>501</sup> *Hartalega Sdn. Bhd. & Anor V. Kerajaan Negeri Selangor & Ors* [2022] 7 CLJ 735 (High Court of Malaya, Shah Alam).

This case highlights the importance of thorough land alienation processes and the accountability of the SA for potential wrongful acts, breaches of duty, and negligence.<sup>502</sup> The SA, represented by officers such as the State Director of Lands and Mines, Registrar of Land Titles, and Land Administrators, can be held collectively responsible for negligence or wrongful acts.<sup>503</sup> Making poor decisions throughout the process can lead to financial losses and can damage investor confidence.

Recognising the crucial link between land alienation and land use planning, it is important to emphasise the need for effective planning to prevent conflicts and ensure alignment with development goals outlined in Subsection 2(1) of the TCPA.<sup>504</sup> The NLC does not mandate state authorities to consult technical agencies or planning authorities,<sup>505</sup> risking poorly planned alienation processes.

The importance of integrating land use planning into land alienation can be seen in this *Hartalega* case. Proper planning needs to be executed to evaluate existing gazettes and development proposals to avoid conflicts. For SEZs, state authorities must diligently uphold their duty of care and adhere to proper procedures, fostering transparent decisions that encourage investment and promote economic growth.<sup>506</sup> Prioritising

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<sup>502</sup> Ibid.

<sup>503</sup> This means that if these officials are found negligent or fail to fulfil their duties properly, it is the state authority that may be held responsible. The liability arises from instances where officers did not provide comprehensive information, conduct adequate investigations, or seek advice from relevant technical agencies concerning the capability of lands and developers assigned by the state authority for land development projects. Md. Dahlan, "Alienation of Land for Housing Development Projects in Malaysia and New South Wales, Australia: A Comparative Legal Analysis [2016] 1 MLJ Xliii."

<sup>504</sup> Amirul Haffiz Ariff, Salfarina Samsudin, and Mohd. Hamdan Ahmad, Surrender and Re-Alienation Approval Process: A Review of Emerging Issues and Way Forward from Evidence Base, *Journal of Critical Reviews* 7, no. 16 (2020): 699–707; Subsection 2(1) is referred to as "carrying out of any building, engineering, mining, industrial or other similar operation in, on, over or under land, the making of any material change in the use of any land or building or any part thereof, or the subdivision or amalgamation of land".

<sup>505</sup> Md. Dahlan, "Alienation of Land for Housing Development Projects in Malaysia and New South Wales, Australia: A Comparative Legal Analysis [2016] 1 MLJ Xliii."

<sup>506</sup> Rameli, Johar, and Siong, "Responsiveness Of The Malaysian Planning System In Managing Housing Supply"; Sulaiman and Maidin, "Development Plans Role in Promoting Achievement of Sustainable Development: A Case Study of the State of Selangor, Malaysia."



careful land alienation strengthens investor confidence and supports sustainable development.

### **3.3.2 Land Use Category and type of land to be developed**

In the preceding sub-section, the focus was on the development plan and its close association with designated zoning. It is noteworthy that within the development plan, areas are assigned specific zoning classifications based on their intended land use category. Similarly, the National Land Code (NLC) also establishes distinct categories for land use. Section 52 of the NLC specifically states that titled land is subject to three primary categories: "agriculture," "building," and "industrial".<sup>507</sup> These land-use categories are explicitly designated as "express conditions" (*syarat nyata*) in the land title. To ensure the proper implementation of these land use categories, the NLC provides comprehensive guidelines in Sections 121 and 122, which outline the specific details and requirements.<sup>508</sup> Additionally, Sections 115, 116, and 117 of the NLC elaborate the restrictions imposed by the state on registered proprietors, offering further insight into the framework governing land use and the obligations of landowners.<sup>509</sup>

In the land development process, particularly within the scope of mixed-use development encompassing SEZs and SBEZs, a procedural path unfolds. This trajectory involves the meticulous preparation of layouts under Section 21B of the

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<sup>507</sup> NLC - Section 56.

<sup>508</sup> Ibid - Section 121 and 122 .

<sup>509</sup> Ibid - Section 115, 116 and 117.

TCPA.<sup>510</sup> This orchestration divides land lots into smaller units in alignment with the intended development activities for distinct areas.

Within the framework of the NLC, a mechanism exists to expedite land development: the process of Surrender and Re-alienation, outlined in sections 204A to 204H.<sup>511</sup> This procedure orchestrates the modification or variation of conditions, restrictions, and land categories via Section 124 of the NLC, concurrently with subdivision (Section 135 to Section 139) or amalgamation (Section 146 to Section 150).<sup>512</sup> Managed by the District Land Office, this process culminates in the registration of the land under the landowner's name on the title document. It is a collaborative endeavour involving various stakeholders such as registered surveyors, planners, the State Authority, and the Land and Mines Office, joining together to expedite development procedures.

Section 204B of the NLC prescribes the power of the State Authority to approve the surrender and re-alienation of land in the context of mixed use development. The SA must ensure that this carried out using the approved layout during the planning permission process at the local planning authority.<sup>513</sup> This construct encompasses the surrender of adjoining lands under final or qualified titles, jointly owned by the same landowners. Through this mechanism, specific portions of the land undergo re-alienation, transitioning to the State Authority before reverting back to the landowner in different parts or units. The primary objective of this manoeuvre is to enable the

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<sup>510</sup> Section 21B of TCPA mandates preparation of layout plan for proposed development.

<sup>511</sup> Suliman, Samsudin, and Ahmad, "Decision Making Principles in Land Development Approval."

<sup>512</sup> Ariff, Samsudin, and Ahmad, "Surrender and Re-Alienation Approval Process: A Review of Emerging Issues and Way Forward from Evidence Base."

<sup>513</sup> Section 204B of NLC; Marzukhi, Omar, and Hoon Leh, "Re-Appraising the Framework of Planning and Land Law as an Instrument for Sustainable Land Development in Malaysia."

State Authority to recalibrate the land category, aligning it with submitted layouts under Section 21B of TCPA as well as the government's gazetted development plan.<sup>514</sup>

This could entail changing the land from agricultural to commercial or industrial use. Post-transition, the land, now subdivided or amalgamated, is returned to the landowner with specified categories and conditions. This aligns with planning permissions from the local authority's One-Stop Centre (OSC) and the development plan. However, issues arise when land with individual titles or converted land does not meet the permissible activities for that land category.

The case of *Sunrise Benchmark v Pentadbir Tanah Pejabat Tanah Dan Galian Wilayah Persekutuan KL* [2014] 1 CLJ 260 (High Court of Malaya, Kuala Lumpur) highlights the significance of obtaining planning permission based on the designated land use category specified in the land title.<sup>515</sup> This appeal, brought under Section 418 of the National Land Code (NLC), seeks to rectify an error on the Master Title of Geran Mukim 8434, Lot 63115. The Plaintiff argues that the Master Title, which limits development to residential use and excludes commercial lots, contradicts the amended Development Order issued by Dewan Bandaraya Kuala Lumpur (DBKL), which permits both residential units and commercial lots. The Plaintiff had previously applied under Section 380 of the NLC to rectify the error but was unsuccessful, leading to the current appeal seeking to overturn the Defendant's decision and rectify the Master Title.

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<sup>514</sup> Ariff, Samsudin, and Ahmad, "Surrender and Re-Alienation Approval Process: A Review of Emerging Issues and Way Forward from Evidence Base"; Section 204D(1)(d) of NLC prescribed a proprietor seeking to surrender their title must submit a written application to the Land Administrator using Form 12d including an approved copy of the layout plan for the lot or lots, indicating the portions and units for re-alienation.

<sup>515</sup> *Sunrise Benchmark v Pentadbir Tanah Pejabat Tanah Dan Galian Wilayah Persekutuan KL* [2014] 1 CLJ 260 (High Court of Malaya, Kuala Lumpur).

The High Court carefully examines the provisions of the NLC and concludes that the State Authority, as stipulated in Section 120 of the NLC, possesses the authority to impose express conditions and restrictions on alienated land. It is noted that the Plaintiff's own application, approved by the State Authority, specified the land's use as residential only. Additionally, the court highlights Condition 37 of the Original Development Order, which limits the facilities on the land exclusively to the occupants of the condominium scheme and prohibits commercial activities accessible to the public.

Considering these factors, the court determines that the Amended Development Order, which sanctions the construction of a two-storeyed shophouse in violation of the express condition on the Master Title, as well as the RS Plan no. RS522/2004, were erroneous. The court emphasises that the appropriate course of action for the Plaintiff would have been to submit a fresh application to the State Authority, seeking to include the commercial land use category alongside the existing residential designation.

Ultimately, the court dismissed the Plaintiff's appeal, emphasising that it lacks jurisdiction to override the statutory powers of the State Authority in imposing express conditions and restrictions on land alienation. This case underscores the significance of adhering to the designated land use categories and complying with the conditions set by the State Authority, as they profoundly influence the development process and instil confidence in investors in the context of the SBEZ and its future development.

One notable case featured the alienation of land categorised as reserve land but should have been reserved for commercial purposes. The alienation process was stalled, as a part of the land had had a water tank erected on it, which was for mixed-use

development. The legal case titled *GK Land Sdn. Bhd. v Mega 3 Housing Sdn. Bhd. & Anor And Another Appeal* [ 2018] 2 MLJ 101 (Court of Appeal Putrajaya) is notable for its intricate complexities.<sup>516</sup> The case involves GK Land Sdn. Bhd. as the appellant, while Mega 3 Housing Sdn. Bhd. and State Authority of Perak as the respondents.

At the initial stage, Pembangunan Triang Sdn. Bhd. (PTSB), which then applied for the land to be developed for mixed use development. The application was made pursuant to section 124A, which provides a procedure to a registered proprietor who wished to change his land from agricultural to a commercial and residential purpose. The proprietor made a simultaneous application to sub-divide his land and to vary the category or condition of land use, under section 124(1)) of the National Land Code (NLC). PTSB further sold the land to GK Land. Further, GK Land entered into agreements with Mega 3 Housing as the developer.

The gist of this case can be traced back to a dispute between GK Land Sdn. Bhd. and Mega 3 Housing Sdn. Bhd. over the construction of a reserved water tank on a specific segment of land known as the "Tapak Gerai" lot. GK Land contends that Mega 3 Housing's actions violated their joint venture agreement, asserting that the installation of the water tank on the Tapak Gerai lot contradicted the terms of their agreement. This issue sheds light on the intricate interplay between legitimate expectations and contractual obligations.

Following this, GK Land initiated legal proceedings by filing a lawsuit in the High Court, seeking damages from Mega 3 Housing. Mega 3 Housing's response introduces another layer of consideration involving legitimate expectation and negligence in duty.

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<sup>516</sup> GK Land Sdn. Bhd. v Mega 3 Housing Sdn. Bhd. & Anor and Another Appeal [ 2018 ] 2 MLJ 101 (Court of Appeal Putrajaya).

They argue that the Tapak Gerai lot was designated for public utility, asserting that it was intended to be surrendered to the state government as state land under section 136(1)(c)(i) of the National Land Code (NLC).<sup>517</sup> This assertion potentially hints at a breach of legitimate expectation, as GK Land's interpretation of ownership clashed with Mega 3 Housing's understanding of the land's designated purpose. Furthermore, the involvement of the Pahang State Government, intervening and counterclaiming against GK Land, underscores the intricate nature of this case and introduces aspects of governmental responsibilities and duties.

In this context, the focus of the researcher's inquiry does not centre on the contractual dispute between GK Land and Mega 3 Housing. Instead, the emphasis is placed on the construction of a water tank on land allocated for the "Tapak Gerai." In this context, the issue carries implications for legitimate expectation and negligence in fulfilling that expectation. Despite the approved layout during the planning permission process explicitly designating certain areas as public utility land, including a 'Tapak Gerai' lot, none were specified for a 'water tank.' This raises questions about the approval process and how a water tank could be erected on land not designated for such use, thereby touching on the potential negligence in adhering to proper land use categories.

The court's decision to uphold the Pahang State Authority's counterclaim, confirming the classification of the Tapak Gerai lot as state land, illuminates the governance dimension of legitimate expectation. Despite a directive from the State Executive Council specifying that no subdivisional titles should be issued for public utility land

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<sup>517</sup> Section 136(1)(c)(i) prescribed that approval for subdivision by the State Director or Land Administrator cannot be granted unless the conditions are met, including obtaining necessary approval from the relevant planning authority. In this case, the planning permission has been obtained and the issuance of the title is according to the approved layout plan during planning permission

within the development zone, as outlined in section 124A(3) of the NLC, the Pejabat Daerah dan Tanah Bera proceeded to issue a total of 692 subdivisional titles, including ten for public utility lands.<sup>518</sup> The alignment of land use designations with government regulations holds a crucial role in land management and administration, showcasing how regulations can significantly impact legal cases and property rights. Moreover, the case prompts inquiries into the issuance of land titles and the government's role in adhering to its own directives. The issuance of subdivisional titles for public utility lands by the Land and District Office of Bera, despite a directive from the State Executive Council, underscores potential negligence in fulfilling administrative duties. This scenario further emphasises the convergence of negligence in duty and adherence to regulations within the broader landscape of land administration and development.

The issuance of subdivisional titles, including those intended for public utility lands, by the Pejabat Daerah dan Tanah Bera, despite a specific directive to the contrary, not only reveals potential government negligence but also holds significance within the context of SEZ development. This scenario illuminates a departure from established procedures, raising concerns about due diligence in overseeing land administration processes crucial for SEZ planning. The failure to adhere to regulatory guidelines in this case reflects the risk of bureaucratic oversight that could undermine the strategic development of SEZs. Effective governance is paramount to prevent instances of non-compliance, as such lapses not only can disrupt SEZ development but can also erode investor confidence, ultimately impeding the economic benefits these zones are designed to generate.

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<sup>518</sup> Section 124A(3) of NLC stipulates that the approval for both land subdivision and land use applications, as stated in subsection 124(1), is contingent upon the applicant satisfying all conditions specified under subsection 124(5) within a timeframe set by the State Authority..

### 3.3.3 Land Acquisition

The Land Acquisition Act 1960 (Act 486) ("LAA") came into effect in Peninsular Malaysia in 1960 and has since undergone several amendments. The LAA empowers SA to acquire land for specific purposes through a uniform land acquisition procedure applicable across all states. It also provided a streamlined process for the expedited acquisition of land required for urgent development without neglecting the compensation in a fair way. In most developing countries, access to suitable land is crucial for the country's growth, but the acquisition process is a legal necessity. Land acquisition usually takes place in the implementation of large-scale projects, such as the development of SEZs. For example, in Malaysia, land was acquired for the establishment of Cyberjaya, an SEZ in Malaysia.

Section 3(1) of the Land Acquisition Act 1960 is crucial for SEZ projects, as it empowers the SA to acquire land for economic development or public benefit. Section 3(1)(b) allows land acquisition for the purposes of economic development and for public use.<sup>519</sup> This discretionary power enables alignment with broader economic goals, such as establishment and expansion of SEZs. However, it also raises concerns about accountability, transparency, and potential legal disputes over the interpretation of 'economic development' or 'public purpose'.<sup>520</sup>

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<sup>519</sup> Section 3(1) of the Land Acquisition Act 1960 states: "the State Authority may acquire any land which is needed – (a) for any public purpose; (b) by any person or corporation for any purpose which in the opinion of the State Authority is beneficial to the economic development of Malaysia or any part thereof or to the public generally or any class of the public; or (c) for the purpose of mining or for residential, agricultural, commercial, industrial or recreational purposes or any combination of such purposes."

<sup>520</sup> Siti Hasniza Rosman, Abdul Hadi Nawawi, and Rohayu Ab Majid, Issues and Obstacles in the Development of Malay Reserve Land, *Planning Malaysia* 19, no. 3 (2021): 226–236; Nor Asiah Mohamad, Buying Properties in Malaysia? Highlight on Laws, Policies and Their Implication on Foreign Land Ownership, *Journal of International Trade Law and Policy* 6, no. 2 (November 30, 2007): 54–62, <https://www.emerald.com/insight/content/doi/10.1108/14770020780000556/full/html>.



Table 3-3  
Example of Land Acquisition Project

| No | Project                                            | Total Lots | Area (Hectares) | Total Compensation |
|----|----------------------------------------------------|------------|-----------------|--------------------|
| 1  | Federal Government Administrative Centre Putrajaya | 473        | 4,389.91        | RM 694,251,155.00  |
| 2  | Information Technology Project (Cyberjaya)         | 364        | 2,827,834.30    | RM1,057,226,149.08 |
| 3. | Kuala Lumpur Karak Highway                         | 65         | 36.6039         | RM 12,494,066.01   |
| 4  | Kuala Lumpur – Putrajaya Dedicated Highway         | 149        | 103.8173        | RM 75,748,954.90   |

Source (Ahmad, 2003)<sup>521</sup>

The table above presents some land acquisition projects in Malaysia under Section 3(1) of the LAA 1960, targetting various development needs. Cyberjaya, aimed at mimicking the so-called Silicon Valley, required compensation of almost RM1 billion. Putrajaya, serving administrative functions, incurred nearly RM700 million for compensation. Meanwhile, the Kuala Lumpur–Putrajaya Dedicated Highway acquired 149 lots, with compensation nearing RM75 million. These examples demonstrate the adaptability of the LAA 1960 in acquiring the land for public purposes. However, the land acquisition process often faces challenges such as ensuring fair compensation, accountability, and transparency. These issues require careful scrutiny, particularly in the development and expansion of SEZs.<sup>522</sup>

<sup>521</sup> Alinah Ahmad, *Kepentingan Akta Pengambilan Tanah 1960 Sebagai Mekanisma Pemangkin Pembangunan Negara*, in *Seminar Pentadbiran Dan Perundangan Tanah Untuk Pegawai Daerah/Pentadbir Tanah Semenanjung Malaysia (15-16 Disember 2003)* (Institut Tanah dan Ukur Negara, 2003), 1–22.

<sup>522</sup> Nicholas K Tagliarino et al., *Compensation for Expropriated Community Farmland in Nigeria: An In-Depth Analysis of the Laws and Practices Related to Land Expropriation for the Lekki Free Trade Zone in Lagos*, no. August 2017 (2018).

In the case of *Syed Omar Bin Abdul Rahman Taha Alsagoff v Government of Johor* [1979] 1 MLJ 49 (Federal Court of Malaya) a legal dispute arose regarding the land acquisition proceedings by the Johor State Authority.<sup>523</sup> The appellants raised concerns about legality and validity of the land acquisition. The said lands were designated within a "special area" in the inspection plan, which the appellants claimed did not match the declared purposes of port, housing, and industrial development.<sup>524</sup> Additionally, they also contended that the Government acted in bad faith by acquiring more land than necessary.

The court, however, dismissed the appeal, holding that the declaration under section 8 of the LAA was conclusive evidence that the lands were needed for the specified purposes.<sup>525</sup> The court found that discrepancies in the inspection plans shown were not sufficient to invalidate the acquisition. Furthermore, the broader acquisition of land was justified to accommodate other facilities like roads and open spaces. The court's decision upheld the legality of the acquisition proceedings, emphasising the priority of public needs over private interests. The appeal was dismissed, and costs were awarded to the respondent, the Government of the State of Johor.

Further, in the legal case of *Honan Plantations Sdn. Bhd. v. Kerajaan Negeri Johor & Ors* [1998] 5 MLJ 129 (Johor Bahru High Court), the dispute involved the land

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<sup>523</sup> *Syed Omar Bin Abdul Rahman Taha Alsagoff v Government of Johor* [1979] 1 MLJ 49 (Federal Court of Malaya).

<sup>524</sup> The appellants raised issues concerning the inconsistency between the inspection plan and the Gazette Notification. The inspection plan, a draft layout prepared for public viewing, marked their lands within a "special area" intended for recreational purposes such as beaches, boating, and camping. This designation conflicted with their developed beach and holiday resort. However, the Gazette Notification, published under Section 8 of the Land Acquisition Act, declared that the lands were needed for constructing a harbour, housing, and industry.

<sup>525</sup> Section 8 of the LAA mandates the State Authority to issue a formal declaration, published in the Gazette as Form D, when it determines that land is needed for public purposes. This declaration must clearly state the purpose of the acquisition, such as for the construction of a harbour, housing, and industry, and include a detailed list of the specific lands required.

acquisition process exercised by the State Authority of Johor.<sup>526</sup> This was to construct an additional causeway linking Malaysia and Singapore and develop a new township in Gelang Patah. The plaintiff, Honan Plantations, contested the acquisition and stated that they had previously secured an 'in-principle' approval from the Menteri Besar of Johor for a mixed-use development on the said land. The plaintiff claimed that this initial approval indicated the potential benefits of their proposed development, making the State Authority's acquisition beyond its legal power (*ultra vires*). However, the court clarified that the 'in-principle' approval was not formalised by the Executive Council (Exco), making it non-binding. Thus, the plaintiff's accusations of bad faith were deemed unsustainable.

The judiciary ruled in favour of the State Authority, emphasising its significant powers under the Land Acquisition Act 1960, which permits land acquisitions for economic or public objectives. The Act does not mandate a pre-acquisition hearing, and appropriate compensation for the dispossessed landowner was assured. The court dismissed the plaintiff's allegations as 'obviously unsustainable,' affirming the Act's role in empowering the State Authority to promote economic development and public welfare.

In the case of *Ahmad Bin Saman v. Kerajaan Negeri Kedah* [2003] 4 MLJ 705 (Court of Appeal Putrajaya), the interpretation of the LAA can be viewed from another perspective.<sup>527</sup> This case involved the State's acquisition of land in Langkawi for tourism development. The appellant raised valid concerns about the phrase 'public purpose' in Section 3 of the Act and the sufficiency of the State's declaration. The

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<sup>526</sup> *Honan Plantations Sdn. Bhd. v. Kerajaan Negeri Johor & Ors* [1998] 5 MLJ 129 (High Court Johor Bharu).

<sup>527</sup> *Ahmad Bin Saman V Kerajaan Negeri Kedah* [2003] 4 MLJ 705 (Court of Appeal Putrajaya).

appellants argued that “tourism industry” might not qualify to be considered as for “public purpose” under section 3 of the LAA.

The court affirmed that the tourism industry qualifies as a 'public purpose' under Section 3(a) of the LAA. The tourism industry brings benefits, such as revenue, employment, and infrastructure development. Furthermore, the court found the government's declaration that the land was needed for the 'Tourist Industry at Telok Burau' sufficiently clear. The court dismissed the appellant's claim of vagueness, emphasising that determining the adequacy of specifying a public purpose relies on the specific facts and circumstances of each case.

The court further elaborated the government's legitimate interest in acquiring the land for tourism development, acknowledging its potential for significant economic contributions and aligning it with national economic goals. The status of Langkawi as a popular tourist destination further justified the acquisition. Consequently, the court concluded that the land acquisition was legally sound and served the public interest, and thus dismissed the appeal with costs.

The ongoing legal disputes bring to light the complexities of the discretionary powers granted under the Land Acquisition Act 1960. While the Act allows State Authorities flexibility in acquiring land for economic purposes, it raises ethical and legal considerations regarding the individual landowners' rights. There is a potential for misuse of these powers under the guise of 'economic development,' leading to unjust land grabs, which is crucial for SEZs and SBEZs regardless of location.<sup>528</sup>

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<sup>528</sup> Land acquisition for SEZs has led to contentious issues in several countries, including India, South Africa, and China. Initially, these lands are earmarked for SEZs or economic development purposes. However, as developments progress, not all the acquired land is used for the intended SEZ projects. In

Further, the judiciary's role, as seen in the *Ahmad Bin Saman v. Kerajaan Negeri Kedah* case, is vital in defining 'public purpose.' A question to ponder is whether a high-tech park or a manufacturing plant within an SEZ also be justified as serving a 'public purpose'? This underscores the necessity for the state to provide specific and transparent objectives when acquiring land, ensuring adherence to legal standards. Lastly, the importance of institutional checks on the State's powers is evident. To guarantee economic and social fairness while respecting communal and individual rights, it is essential to establish robust checks and balances for land acquisitions in SEZs and SBEZs. A more rigorous oversight and transparent processes could prevent misuse of power and ensure that land acquisition is conducted fairly, benefitting the public and minimising disputes.

The above cases highlight the significant role of land acquisition for public use. However, the definition of 'public purpose' is open to interpretation. While land can be acquired for development, but questions remain about the actual utilisation of the land post-acquisition. The case of *United Development Company Sdn. Bhd. v The State Government of Sabah & Anor* [2011] 7 MLJ 209 (High Court Kota Kinabalu) highlights issues on land acquisition and its subsequent non-utilisation.<sup>529</sup> The State Government of Sabah acquired land from United Development Company in 1979 for

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some instances, parts of this land end up being sold for purposes unrelated to the SEZs, deviating from the original objectives of the acquisition. Michael Levien, *The Land Question: Special Economic Zones and the Political Economy of Dispossession in India*, *Journal of Peasant Studies* 39, no. 3–4 (2012): 933–969; Honita Cowaloosur, *Land Grab in New Garb: Chinese Special Economic Zones in Africa: The Case of Mauritius*, *African Identities* 12, no. 1 (2014): 94–109, <http://dx.doi.org/10.1080/14725843.2013.868674>; Chigurupati Ramachandraiah and Ramasamy Srinivasan, *Special Economic Zones as New Forms of Corporate Land Grab: Experiences from India*, *Development* 54, no. 1 (2011): 59–63.

<sup>529</sup> *United Development Company Sdn. Bhd. v The State Government of Sabah & Anor* [2011] 7 MLJ 209 (High Court Kota Kinabalu).

a 'Skim Penempatan Semula' (Relocation Scheme), with compensation for RM1.0 million (USD250 thousand).

However, the land acquisition was only officially completed 17 years later through a Gazette Notification, with no development taking place even after 31 years. The plaintiff sought to return the land, arguing the acquisition was ultra vires Section 3 of the Land Acquisition Ordinance (LAO) and Article 13 of the Federal Constitution. Additionally, they claimed that the land acquisition was mala fide due to the land's non-use for its intended purpose. The court ruled that the State Government's actions were unlawful and mala fide, noting the absence of development and delay in finalising the acquisition. This case raises significant questions about the legitimacy and ethics of land acquisitions that are not followed by their stated public purpose, emphasising the need for transparency and accountability in such processes.

The key question stemming from this case is: what are the criteria for carrying out a land acquisition process for the "public purpose"? Does the government have a clear plan when acquiring land? Even if they have a plan, do they have the resources to develop the acquired land? This issue is particularly relevant in India, where valuable agricultural land is often acquired but left unused, leading to wastage.<sup>530</sup> In some cases, the land could have been utilised by farmers if not acquired, but instead, it becomes underutilised, and towards the end, instead of being used for industrial purposes, the land is sold for other purposes.

The above discussion highlights the challenges involved in land acquisition for public purposes. While the SA holds broad powers to acquire land for economic development,

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<sup>530</sup> Parwez, "A Study on Special Economic Zone Implicated Land Acquisition and Utilisation."

there is often a gap between acquisition and actual development, leading to land hoarding, underutilisation, and missed economic opportunities. Abandoned lands pose additional challenges, as they neither contribute to economic development nor social well-being, thereby undermining the credibility of the SEZ model.

On the other hand, achieving economic growth sometimes requires sacrifices, such as the compulsory acquisition of private land. However, this raises questions about fair compensation and whether the acquired land benefits local residents. Effective planning is crucial to ensure that the acquired land is developed for its intended purposes without compromising economic and social objectives, and at the same time, preventing disparities between developed and surrounding areas. This balance is essential to foster sustainable development and long-term returns on investment while respecting the rights and needs of affected landowners and local communities.

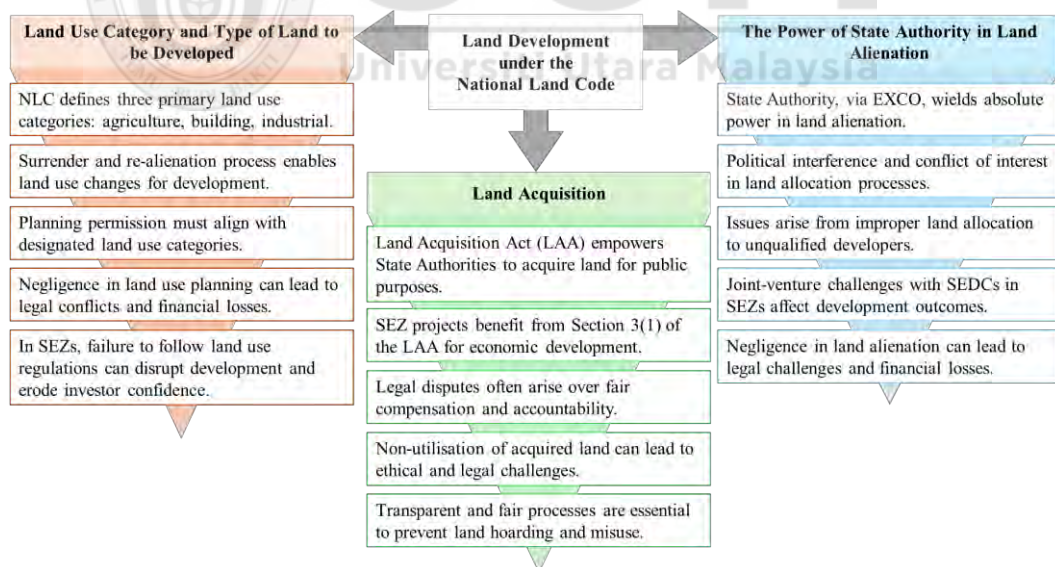


Figure 3-5 Summary of Legal Discussion on Land Development under the National Land Code (Researcher Own, 2024)

### **3.4 Summary**

The development plan and planning control is a mechanism used by the local planning authorities to execute the policy and guidelines for land use planning in the country. Despite the acts, policies and guidelines that have been set out to ensure that the development can run well while remaining sustainable, the issues and problems related to the land use planning issue still occur as a result of the effectiveness and strength of the development plan itself as well as the strength of the planning control as prescribed in the act. Cases such as those discussed above show that there is something lacking in the system itself, which indirectly affects the implementation and enforcement of the related policies crafted by the authorities. In addition, the readiness of the existing system to ensure the development of SBEZ Bukit Kayu Hitam should be looked at carefully to avoid issues that would give the investor a bad picture of the country's economic system. Therefore, it is proposed to study further the issues related to land use planning from TCPA and NLC perspectives, which might arise and affect the development of SBEZ Bukit Kayu Hitam.



## **CHAPTER FOUR**

### **THE SPECIAL BORDER ECONOMIC ZONE IN BUKIT KAYU HITAM**

#### **4.1 Introduction**

This Chapter will provide an in-depth overview of the SBEZ BKH, focusing on the legal challenges encountered during its development. This chapter begins by outlining the current status of the SBEZ BKH and its significance within Malaysia's planning framework. Subsequently, it delves into legal issues identified through in-depth interviews with key stakeholders and on-site field observations. These issues, ranging from regulatory inconsistencies to land use conflicts, are then systematically analysed with reference to relevant legislation and legal cases. The analysis aims to establish a clear connection between the practical challenges faced on the ground and the existing legal framework. By doing so, this chapter highlights the gaps in current regulations and offers a foundation for proposing legal reforms to support the sustainable development of SBEZ BKH.

#### **4.2 Overview of the SBEZ BKH**

Malaysia plays a central role in global trade by connecting high-value markets such as Africa, the Middle East, Europe, China, Japan, and the United States. Therefore, Malaysia occupies a strategic trading location by connecting the Pacific and Indian

Oceans. Malaysia's maritime strength is bolstered by its air, sea, and inland ports, serving as crucial links for various industries. For instance, the SBEZ in BKH, located along the Asian Highway 2 (AH2), benefits from this extensive road network, connecting regions within Malaysia and stretching from Singapore to Bangkok, Thailand. The AH2 Highway strengthens the SBEZ's geographical reach and complements Malaysia's maritime routes, creating a robust logistical hub supported by both maritime and land-based transport capabilities, including cross-border rail freight.



Figure 4-1 Map of Asian Highway (AH2)

The strategic significance of this SBEZ extends beyond Malaysia's borders. Positioned at the Malaysia-Thailand border, it promises reciprocal economic growth. Southern Thailand, rich in such industries as rubber, agriculture, and fisheries, is nearly 1,000 km away from Bangkok's key ports. The SBEZ, only 200 km from Penang Port and about 600 km from Port Klang, offers a more efficient and cost-effective alternative for Southern-Thailand industries.<sup>531</sup> Raw materials from Southern Thailand can be

<sup>531</sup> Interview - D1R1 - COO, Master Developer 1 (Google Meet: April 2021).

processed or repackaged in the SBEZ and shipped through Malaysian ports to global markets, enhancing efficiency and reducing costs.

It is crucial to recognise the SBEZ as a potential trans-shipment hub for Southern Thailand and an important economic opportunity for Malaysia. This collaboration can yield significant benefits for both nations, offering a streamlined pathway for commodities to access global markets. Overall, Malaysia's distinctive geographical location, developed infrastructure, and beneficial partnership with Thailand positions the SBEZ to evolve into a transformative economic hub.

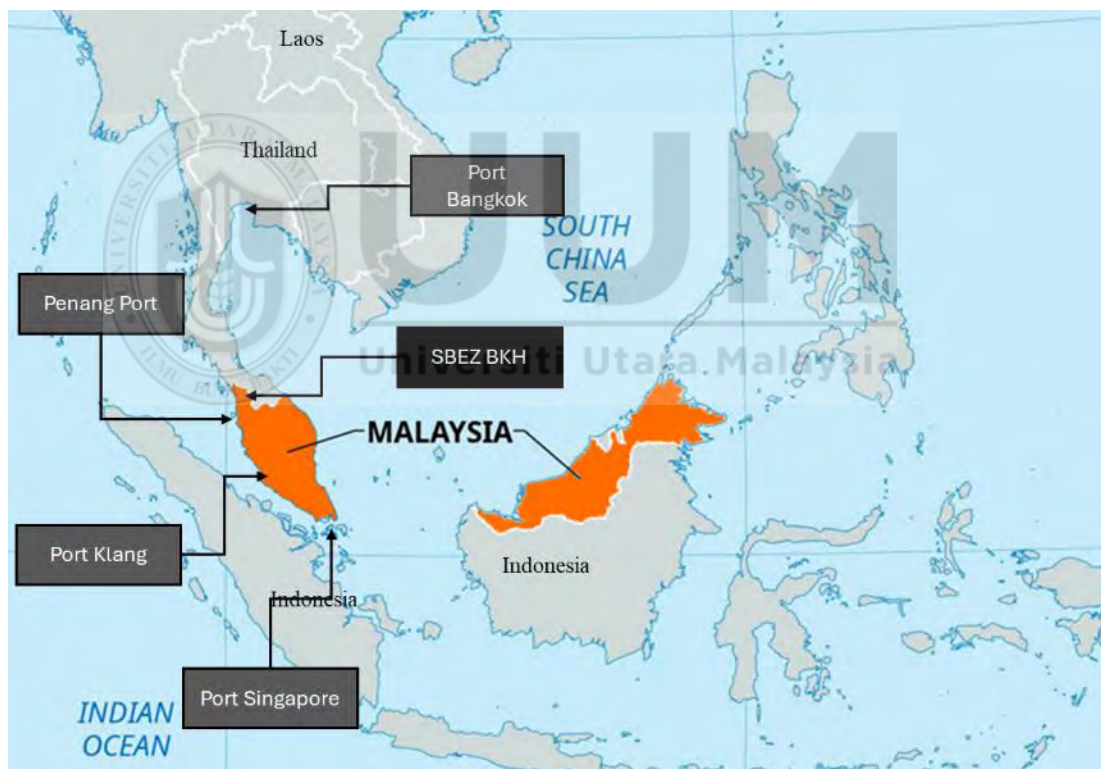


Figure 4-2 Location of SBEZ

The SBEZ BKH holds substantial potential because of its advantageous location along the AH2 route and its role as a border link between Thailand and Malaysia. Being close to the resource-rich southern region of Thailand further enhances its potential. To

realise the SBEZ's full potential, it is essential to implement specific policies that are not just broad ideas but which generate concrete directives.

Various official documents lay out the plan for the SBEZ's development, transforming rhetorical commitments into real progress. Key documents such as the National Physical Plan, Kedah State Structure Plan 2035, and Kubang Pasu Local Plan 2035 play crucial roles in shaping the SBEZ's future.<sup>532</sup> These plans will be discussed in detail below, highlighting the comprehensive policy framework supporting the SBEZ's growth.

#### **4.2.1 The SBEZ BKH under the National Physical Plan 4 (“NPP4”)**

An interview with an officer from PLANMalaysia Kedah reinforced the significance of NPP4 within Malaysia's spatial planning framework.<sup>533</sup> The officer explained that Malaysia's planning system operates at three main levels: the National Physical Plan (NPP), Structure Plan, and Local Plan. The NPP serves as a guiding framework for spatial planning across Peninsular Malaysia, where national-level issues and strategies are addressed and subsequently adopted by state governments. These strategies are then translated into the Structure Plan and further refined in the Local Plan, ensuring a structured and cohesive approach to development planning.

The National Physical Plan 4 (NPP4), launched in 2022, is a crucial document in Malaysia's land use planning system, influencing federal, state, and local policies. It outlines holistic, dynamic, resilient, and competitive development planning.<sup>534</sup> NPP4

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<sup>532</sup> PLANMalaysia, Rancangan Fizikal Negara 4, 2021; PLANMalaysia Kedah, Kedah State Structure Plan 2035, 2019; Majlis Perbandaran Kubang Pasu, Rancangan Tempatan Majlis Daerah Kubang Pasu 2020, 2011.

<sup>533</sup> Interview - G1R3 - Officer, PLANMalaysia Kedah (Alor Setar, Kedah: April 2021).

<sup>534</sup> Ahmad et al., “Malaysian Development Plan System: Issues and Problems, One Decade After Its Reform (2001-2011).”

designates BKH as one of Kedah's catalyst centres, supporting the government's proposal to develop the SBEZ. Additionally, BKH has been earmarked for agricultural business expansion and to strengthen border collaboration with Thailand. The plan includes complementary development in Changlun and strengthens transportation links, including a proposed new rail line, to facilitate cargo trans-shipment.<sup>535</sup> This integration of policies at different levels ensures a comprehensive approach to BKH's development.

#### **4.2.2 SBEZ Bukti Kayu Hitam NCER Strategic Development Plan (2021-2025)**

The Northern Corridor Economic Region (NCER) which Strategic Development Plan (2021-2025), led by the Northern Corridor Implementation Authority (NCIA), ensures balanced regional development. NCIA, in this context, is the agency that will manage in terms of the investment and to promote the investment itself towards SBEZ. At the same time, NCIA is the joint-venture agency that will collaborate with PKNK to develop some portion of the SBEZ area. The NCER Blueprint 2.0 identifies seven growth nodes (as per Figure 4.3), leveraging natural resources and transportation networks. BKH, as a designated growth node, serves as a key transit point for goods, particularly from southern Thailand. Its planned functions include logistics, warehousing, and processing, supported by integrated facilities such as Butterworth ports and Penang International Airport.

The Northern Corridor Economic Region (NCER) Strategic Development Plan (2021-2025), led by the Northern Corridor Implementation Authority (NCIA), aims to ensure

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<sup>535</sup> PLANMalaysia, Rancangan Fizikal Negara 4.

balanced regional development.<sup>536</sup> NCIA is responsible for managing investment promotion and facilitation within the SBEZ, while also collaborating with PKNK in a joint venture to develop specific areas within the zone. The NCER Blueprint 2.0 identifies seven growth nodes, leveraging natural resources and transportation networks. Bukit Kayu Hitam (BKH), designated as one of these nodes, serves as a major transit point for goods, particularly from southern Thailand,<sup>537</sup> supported by integrated logistics and transportation infrastructure, including Butterworth ports and Penang International Airport.<sup>538</sup>

Within the SBEZ, the proposal highlights two major components: the Global Research Centre (GRC) and the Modern Industrial Park, which aim to strengthen research capabilities and industrial development. Additionally, Bukit Tangga New Integrated Agriculture Centre and Bukit Kura New Agriculture Centre are planned to enhance modern agricultural activities.<sup>539</sup> The SBEZ will also facilitate border trade, host an education hub, and develop a logistics hub to improve regional connectivity. Further, the Kedah Science and Technology Park is expected to drive technological advancements, while an energy generation project (IPP) will support sustainable power supply. These initiatives collectively position the SBEZ as a key driver of economic activity and cross-border trade in the region.

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<sup>536</sup> Northern Corridor Implementation Authority (NCIA), *The Northern Corridor Economic Region Development Blueprint 2016–2025 (Blueprint 2.0)*.

<sup>537</sup> Zainuddin et al., “A Review on Development Challenges for an Inland Port At Malaysia-Thailand Border.”

<sup>538</sup> As part of the Logistic and Connectivity strategic plan under NCER, the border development will tap into the existing cross-border ecosystem while leveraging the use of the seaport and airport at Penang for import and export activities. Northern Corridor Implementation Authority (NCIA), *NCER Strategic Development Plan (2021-2025)*.

<sup>539</sup> Ibid.



Figure 4-3 Seven Growth Nodes under NCER Blueprint 2.0

(Source: NCER Blueprint)

#### 4.2.3 The SBEZ BKH in the Kedah State Structure Plan 2035

The Kedah State Structure Plan 2035 (RSNK 2035) sets out key policies and proposals for land use planning in Kedah, aligning with the National Physical Plan and the Northern Corridor Economic Region (NCER) strategies. Bukit Kayu Hitam (BKH) has been designated as a high-impact economic project, aimed at attracting both local and international investors.<sup>540</sup> As one of the state's major towns, alongside Sungai Petani, Kulim, and Kuah, BKH is planned to be developed with comprehensive infrastructure and supporting facilities that reflect its strategic importance in national and cross-border trade.<sup>541</sup> The NCER Blueprint 2.0 positions BKH as a key growth node, leveraging its geographical location, transportation links, and trade potential.

<sup>540</sup> RSNK 2035, Chapter 2 - Part 5: High Impact Project.

<sup>541</sup> Under Thrust 2 RSNK 2035: Spatial Harmony, a policy on the convergence of growth for development priority areas was formed. The urban hierarchy was re-evaluated so that the urban nucleus

One of the critical infrastructure projects planned for BKH is the construction of a rail line that will connect it with existing railway networks in Kodiang and Anak Bukit.<sup>542</sup> This connection will establish a direct link to Penang Port, allowing BKH to function as an inland port, facilitating cargo transshipment and supporting industrial expansion. This rail connectivity, coupled with other logistics and transportation improvements, aims to strengthen BKH's role as a regional trade and distribution hub, enhancing economic efficiency and cross-border collaboration with Thailand.

Beyond logistics, the development of Bukit Kayu Hitam Special Border Economic Zone (SBEZ) includes a range of proposed projects to drive economic diversification. One key initiative is the establishment of a halal industry cluster, which will position BKH as a centre for halal product manufacturing, certification, and trade.<sup>543</sup> This aligns with Malaysia's goal of becoming a global leader in the halal economy. Additionally, BKH will serve as a logistics and shipment hub, catering to increasing demands for efficient cross-border goods movement. An Integrated Public Transport Terminal is also proposed, improving local and cross-border passenger mobility and strengthening transport links within the region.

Further, BKH is set to develop into a modern services hub, supported by the introduction of private higher education institutions. This initiative aims to attract students and professionals, fostering knowledge-based industries and workforce development in the area.<sup>544</sup> Another key proposal is the transformation of Bukit Kayu

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can be built more intensively and efficiently over the long term, considering safety and the environment. Ibid.

<sup>542</sup> Under Thrust 2: Spatial Harmony - Strategy 1.1: Improving the communication network between development axes and urban nuclei.

<sup>543</sup> Under Thrust 1: Economic Prosperity - Strategy 1.1 Developing Major Industrial Hubs and Industrial Area Clusters.

<sup>544</sup> Under Thrust 1: Economic Prosperity - Strategy 1.3 Strengthening the Service Sector .



Hitam into an international shopping and tourism destination through the establishment of the Kedah Premium Outlet.<sup>545</sup> Inspired by Johor Premium Outlet, this retail hub is expected to attract major global brands, increasing tourism spending and commercial activities in the region.

The industrial development strategy for BKH focuses on multiple sectors to ensure balanced economic growth. Identified industries include Component R&D & Manufacturing, Agro-Science, Advanced Materials, Biotechnology, Green Technology, Halal Science, and ICT. Additionally, the plan emphasises the growth of manufacturing and processing industries, particularly in food and agricultural product processing, alongside the expansion of transportation, logistics, and warehousing services. These initiatives aim to create high-value job opportunities, encourage technology-driven industries, and enhance economic resilience.

Overall, these planned developments reinforce Bukit Kayu Hitam's position as a key economic, trade, and industrial hub in Kedah, with strong connectivity, diverse investment opportunities, and a well-integrated infrastructure system. The alignment of land use planning with federal and regional strategies ensures that BKH will continue to play a significant role in Malaysia's economic expansion and cross-border trade with Thailand.

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<sup>545</sup> Under Thrust 1: Economic Prosperity: Strategy 1.5 Increasing the Internationalization of Kedah Tourism Products and Services.

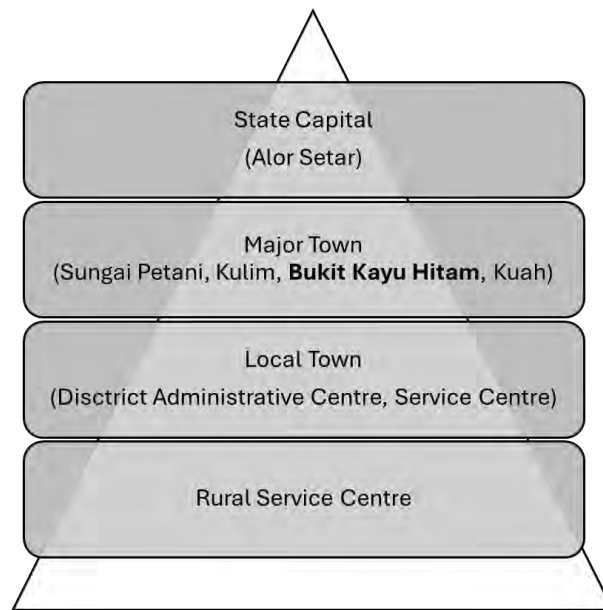


Figure 4-4 Settlement Centre Hierarchy Source (RSNK 2035)

#### 4.2.4 Kubang Pasu Local Plan 2035 (KPLP 2035)

The Local Plan is an official document that translates the general policies and recommendations contained in the state structural plan into a more detailed form. Preparation of Local Plans by Local Authorities has been provided under TCPA 1976. Based on Section 16 of the TCPA 1976, Kubang Pasu Local Plan (KPLP) 2035 (Replacement) is prepared to replace the Kubang Pasu District Local Plan 2020 which was gazetted in 2011<sup>546</sup>.

The KPLP 2035 district includes the entire Kubang Pasu District. The district shares a northern border with Thailand, and Kota Setar and Pokok Sena districts lie to the south. The State of Perlis and the District of Padang Terap border the Western and Eastern portions of the Kubang Pasu area, respectively. Kubang Pasu District, with a total area

<sup>546</sup> Section 16 TCPA 1976; PLANMalaysia, Senarai Warta Rancangan Tempatan, 2021, <https://www.PLANMalaysia.gov.my/index.php/agensi/penerbitanPLANMalaysia/rancangantempatan/2349-jadual-status-pewartaan-rt-4-0-keseluruhan-1/file>.

of 94,596.50 hectares, is the fourth-largest district in the State of Kedah<sup>547</sup>. This district falls under the administrative authority of the Kubang Pasu Municipal Council (MPKP), which is the Local Planning Authority (PBPT) for the entire district under Section 5 (1) of TCPA 1976. The distribution of the land use activities as per year 2020 are shown in Table 4.1.

Table 4-1  
*Land Use Distribution of Kubang Pasu District*

| Type of Land Use                  | Size      | Percentage |
|-----------------------------------|-----------|------------|
| Agriculture                       | 51,254.86 | 51%        |
| Residential                       | 19,201.81 | 19%        |
| Commercial                        | 616.12    | 1%         |
| Industrial                        | 1,941.51  | 2%         |
| Institution and Public Facilities | 4,138.53  | 4%         |
| Infrastructure and Utilities      | 1,985.05  | 2%         |
| Open Space and Recreation         | 570.08    | 1%         |
| Transportation                    | 1,997.89  | 2%         |
| Water Bodies                      | 511.65    | 1%         |
| Forest                            | 17,446.14 | 18%        |
| Total                             | 99,663.64 | 100%       |

(Source: LPKP 2035)

Table 4-1 presents the land use distribution in Kubang Pasu District, where agriculture dominates with 51,254.86 hectares (51%), underscoring its role in the local food security plan (Thrust 4 of the Local Plan). With potential for agro-processing industries, strategies for sustainable agriculture, value-added production, and supply chain integration could enhance the SBEZ's economic growth. Residential and commercial land use collectively cover 20% of the total area, while industrial land use

<sup>547</sup> PLANMalaysia Kedah, *Kedah State Structure Plan 2035*.

accounts for 2%. This distribution reflects a balanced mix of land uses, supporting various economic activities in the district. To increase economic growth and attract more FDI to Kubang Pasu, KPLP has developed a strategic framework comprising four main thrusts. The two cores can be connected to the growth of SBEZ BKH, which is Core 1 (Competitive Economy), and Core 2 (Infrastructure Reliability and Efficiency). These cores emphasise economic and infrastructure development for Kubang Pasu.<sup>548</sup> SBEZ is viewed as an area that will foster economic growth and provide employment opportunities for the surrounding community. In addition, the integration between the existing SBEZ and the Universiti Utara Malaysia (UUM) development is viewed as a catalyst for the expansion of the BKH region.<sup>549</sup> SBEZ will not only focus on industrial development, but UUM, the nearest educational institution, will also benefit from academic-industrial collaboration.

Under Thrust 1 (Competitive Economy), the KPLP aims to establish an economic hub within the BKH Free Zone Jitra-Darulaman Economy Hub.<sup>550</sup> The proposal for the BKH Free Zone is anticipated to bolster BKH's position as a premier business and service centre that promotes regional and national growth and transforms it into a dynamic international hub. Figure 4.5 shows the distribution of the land uses for the entire Kubang Pasu. As seen on the upper part of the map, most areas have been designated under industrial and commercial zoning.

The discussion above has briefly outlined the position of the SBEZ in several planning documents. This section will provide more detail on the development of SBEZ Bukit Kayu Hitam (BKH). Covering nearly 11,800 acres, the SBEZ is strategically located

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<sup>548</sup> Four cores have been formulated under local plan MPKP.

<sup>549</sup> Proposal of Knowledge Based (K-Based) under Thrust 1: Initiative 1 of Local Plan MPKP.

<sup>550</sup> Ibid.

at the border, directly connected to Thailand and adjacent to the Immigration, Customs, Quarantine Complex (ICQS) BKH. The land is primarily owned by three major entities: the Federal Land Commissioner, Northern Gateway Sdn. Bhd. (NGSB), and the Kedah State Development Corporation (PKNK). NGSB, a subsidiary of the Ministry of Finance, holds approximately 4,600 acres, while PKNK, the State Economic Development Corporation (SEDC) for Kedah, owns nearly 7,000 acres. The Federal Land Commissioner manages around 200 acres.

The SBEZ comprises several key components as shown under the below Figure 4-6. NGSB owns Precincts 1 and 6, while Precinct 2, under federal ownership, is closely linked with the ICQS. The remaining land belongs to PKNK. NGSB has branded its development as Delapan East and West, with a few plots the Delapan East project already under development. Meanwhile, Precinct 7, known as the Kedah Science and Technology Park (KSTP), is owned by PKNK and developed in partnership with the Northern Corridor Investment Authority (NCIA). The masterplan for the SBEZ has been formulated under the leadership of PLANMalaysia Kedah. A general masterplan has been submitted for approval and will be incorporated into the local plan as part of the overall concept masterplan.

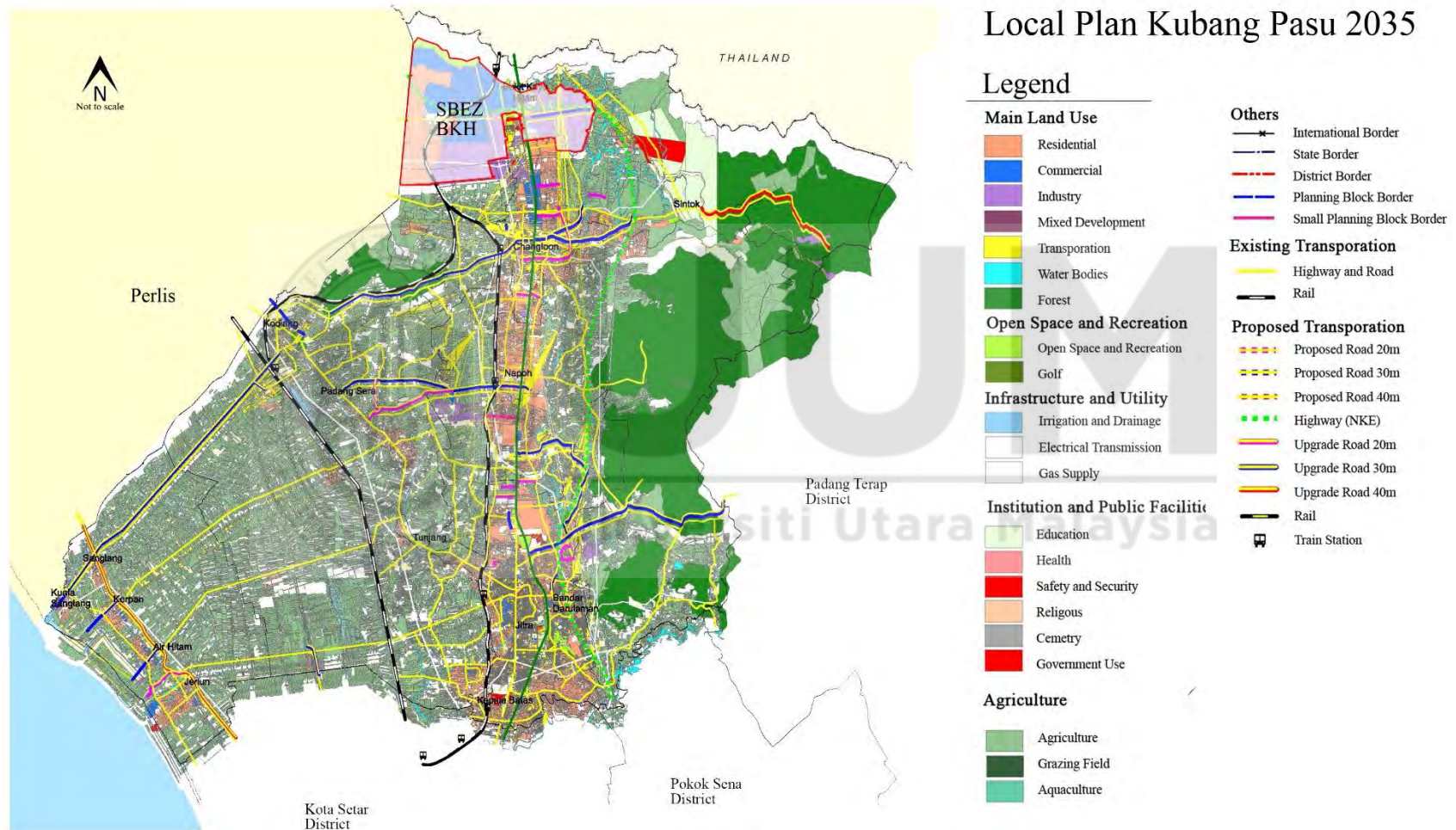


Figure 4-5 Zoning Plan Kubang Pasu District

### Proposed Master Plan Special Border Economic Zone (SBEZ) Bukit Kayu Hitam

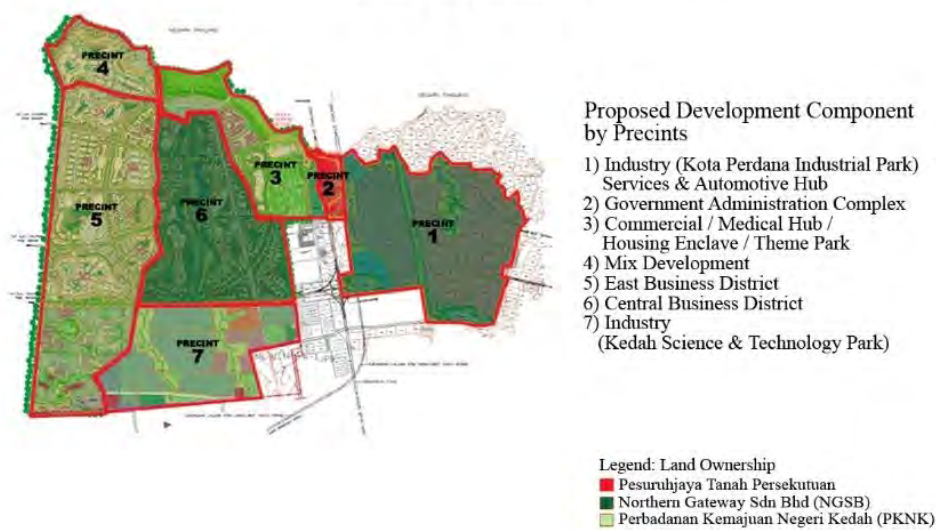


Figure 4-6 Proposed MasterPlan for SBEZ BKH

#### 4.3 The Legal Issues

Before diving into the specific issues surrounding the development of SBEZ BKH, it is essential to provide a brief overview of the land development process in Malaysia as a whole, with a particular focus on SBEZ BKH under the jurisdiction of MPKP. The development of SBEZ BKH follows a series of stages, namely (1) the application for approval of land requirements, (2) the application for planning permission, (3) the application for subdivision/consolidation/break-in, (4) the building plan approval application, and (5) the certificate of completion and compliance (CCC) application. This research is confined to the scope of land development governed by the TCPA 1976 and NLC. Consequently, the ensuing discussion will primarily concentrate on stages one to three.

Through an analysis of interviews and secondary data, several critical issues have been identified, focusing on land use planning and its correlation with the TCPA 1976 and the National Land Code 1965. These issues can be categorised into two primary components: Land Law and Planning Law.

#### **4.3.1 Challenges in enforcing the development plan**

Part III of TCPA 1976 sets forth a comprehensive regulatory framework for the implementation of development plans in Malaysia.<sup>551</sup> In the case of the SBEZ BKH, a more detailed analysis will be conducted in the context of the local plan, despite development plans being typically divided into the Structure Plan and Local Plan. The discussion below will further elaborate the main issues under this point as follows:

##### **4.3.1.1 Data Deficiencies and Database Utilisation in the Development Plan**

The Development Plan, as outlined in Chapter 3, serves as the primary guiding document for the planning process within a nation. For the establishment of SEZs and SBEZs, adherence to the guidelines specified in the TCPA is mandatory. However, concerns have been raised regarding the adequacy of data and information in these development plans, particularly by those involved in land development and SBEZ initiatives.

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<sup>551</sup> Pursuant to Section 6B of the TCPA 1976, the National Physical Plan is a written statement that establishes strategic policies for determining the general directions and trends of the country's physical development. Similarly, the structure plan formulates policies regarding the development and use of land in a specific state. Both the National Physical Plan and Structure Plan provide general guidelines for sustainable development. However, a more detailed and specific guideline is provided by the local plan for a particular local area.



An investor in the SBEZ BKH highlighted a significant issue regarding the rigidity of land-use zoning that constrained their project. The investor (D2R1) expressed frustration, stating,<sup>552</sup>

*“Our proposed development is to create a so-called one-stop centre for a logistic hub, comprising various activities such as commercial facilities, logistic hubs, warehouses, and even educational institutions. Our initial plan was to develop all of these concurrently, but the land-use zoning did not allow that. The land-use class order for institutions is not included.”*

This concern reflects the broader issue of the Land Use Class Order, which determines permissible activities within designated zoning areas and can significantly delay the planning permission process. Planning officers confirm that if a development proposal contradicts the permitted use as per the local plan, it cannot proceed without an amendment to the zoning.

Consultants have also identified challenges in dealing with these rigid zoning guidelines. One consultant, representing a client seeking to develop a 400-acre factory within a special zone, noted that their application was rejected due to zoning restrictions that did not allow for staff housing within the factory premises.<sup>553</sup> The consultant argued that exceptions should be made in such special zones, especially when housing is integral to the operation. Another planner further supported this view.<sup>554</sup>

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<sup>552</sup> Interview-D2R1-Manager, Investor (Face-to-face interview: January 2022).

<sup>553</sup> Interview - C1R2 - Planner, Planning Consultant 2 (Google Meet: April 2021).

<sup>554</sup> Interview - C1R3 - Planner, Planning Consultant 3 (Google Meet: April 2021).

*“My view is that if we want to be involved in this special zone in the future, we can be more flexible. We might be able to do something like Singapore; for example, it has zoning for business parks, and in the development plan, they say that the business park is guided by the Special and Detailed Control Plan.”*

The zoning allocation and provisions within the local plan are essential for ensuring that planning permissions and development processes proceed smoothly. However, interviews have revealed concerns about the lack of comprehensive data in the development plan, which can hinder effective decision-making. As part of the local plan preparation process, Focus Group Discussions (FGDs) are conducted to gather input from technical agencies such as BPEN and NCIA. These discussions are intended to ensure that the plan aligns with actual development needs. However, the effectiveness of these consultations is often limited by inconsistent participation and the lack of decision-making authority among agency representatives. These challenges raise concerns about the quality of input incorporated into the plan and highlight the need for a more structured and effective approach to public and agency involvement.<sup>555</sup>

*"Whenever we make a local plan, we call the agencies to give their input. The problem is that during FGDs over 2-3 sessions, session 1 may have officer A, session 2 may have officer B, and session 3 may have officer C. This lack of consistency sometimes results in unfocused input. Often, the main issue at the FGD is that the attending officers cannot make any decisions, as they are not the superior officers."*

Planners have also raised concerns about the traditional focus of local plans on physical layouts, with economic and investment considerations often integrated only

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<sup>555</sup> Interview - C1R1 - Planner, Planning Consultant 1 (Google Meet: Apri 2021).

at the later stages.<sup>556</sup> This approach can result in a disjointed planning process, particularly problematic for SEZs and SBEZs where economic imperatives should guide planning decisions from the start.

Another issue in the preparation of local plans is the reliance on external consultants due to a lack of manpower within the Local Planning Authority (LPA). While consultants are necessary to supplement the LPA's capacity, their input has sometimes been unsatisfactory. An LPA representative acknowledged that while external consultants are hired to address the resource gap, the quality of their work often fails to meet the required standards.<sup>557</sup> This problem is exacerbated by the lack of detailed information in the local plans, which frequently leaves the public and stakeholders without a clear understanding of the rationale behind certain proposals.

A planning consultant managing planning permission submissions noted that local plans often lack the necessary details to support proposed projects.<sup>558</sup> They cited an example from the area near Bukit Kayu Hitam, where a proposal to build a railway was included in the local plan without clear justification. This lack of detail not only impedes public understanding but also raises concerns about the transparency and effectiveness of the planning process. According to the interviewed planner:<sup>559</sup>

*"In our experience managing the planning permission process, we need to refer to the local plan. However, the local plan itself lacks the necessary information to support the proposed project."*

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<sup>556</sup> Interview - C1R3 - Planner, "Planning Consultant 3."

<sup>557</sup> Interview - G1R2 - Officer, OSC Department MPKP (Kubang Pasu, Kedah: April 2021).

<sup>558</sup> Interview - C1R3 - Planner, "Planning Consultant 3."

<sup>559</sup> Interview - C1R2 - Planner, "Planning Consultant 2."

A further issue is Geographic Information Systems (GIS), which are increasingly recognised as essential tools in preparing detailed and comprehensive local plans. The GIS provides a sophisticated platform for storing and managing zoning data, which is crucial for integrating various types of information, including land use zoning and land attributes. However, the accuracy and quality of GIS data have been a source of concern. Based on an interview with an official from MPKP's Planning Department (G1R4), it was revealed that there is a discrepancy in the GIS system of the local plan prepared by the consultant.

“One of the issues faced is that in the local plan, or in the zoning of each area, the colour for the respective zoning has been changed in the GIS system, but some details or attributes have not been updated. For example, in one area, the zoning coloured is for industry (in the hard copy of local plan), but when we click on the GIS system, the zoning details still show agriculture. This presents a challenge, as we need to refer to both the hard copy local plan and the zoning details in the GIS system. Eventhough we have Guideline that has been issued by PLANMalaysia for this GIS in preparation of local plan, but there is still some error in the database itself.”

The official further added that one of the main issues related to GIS data is the consultant appointed for the task. In some cases, planning consultants who does not have expertise in GIS are appointed, they will then hire sub-consultants to handle GIS-related tasks. The data provided by the sub-consultants is usually good. But there are instances where some of the consultants just use in-house staff to do GIS work in order to maximize profits, which leads to data problems.

This issue related to GIS system management for the preparation of the local plan is also supported by an experienced planner (C1R3) involved in local plan preparation.<sup>560</sup>

*"To be honest, our consultant does not have an expert in GIS, so when we receive tenders to prepare the local plan, we always hire sub-consultants who are experts in GIS because we believe that GIS is core to preparing the local plan. From there, we can conduct various analyses. Some other consultants do it in-house, as they want to earn more profits. Like us, quality of work is the most important factor."*

The integration of Geographic Information Systems (GIS) in the preparation of development plans is essential, particularly for SEZs and SBEZs, which involve complex and evolving land use requirements. Despite its potential, the use of GIS in planning remains limited, with conventional methods still dominating.

A consultant explained that development plans are typically prepared based on a Terms of Reference (TOR) set by the State Authority, PLANMalaysia, or the Local Planning Authority (LPA). These plans address challenges, potentials, and key issues to guide local development strategies. However, GIS is often underutilised due to the need to comply with existing procedural requirements set by planning authorities. A planner highlighted that while GIS is incorporated to some extent, it is not fully leveraged for analytical purposes.

The application of GIS is particularly critical in large-scale developments like SBEZs, which span extensive areas and require detailed spatial data. GIS can integrate various datasets—such as financial projections, commercial and industrial supply, and utility

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<sup>560</sup> Interview - C1R3 - Planner, "Planning Consultant 3."

infrastructure—to support evidence-based planning. Unlike conventional manual methods, GIS enables spatial modelling and predictive analysis, improving decision-making accuracy. For instance, GIS-based Multi-Criteria Analysis (MCA) or Multi-Criteria Decision Making (MCDM) can be employed to assess the suitability of land use, identify optimal development zones, and predict future growth patterns.

Furthermore, GIS can facilitate risk assessments by mapping flood-prone areas, disease hotspots, and environmentally sensitive zones, helping planners make informed decisions to minimise environmental and social impacts. However, a planning officer acknowledged that,<sup>561</sup>

*“We now possess more data beyond just maps. However, we still do not fully utilise this integrated data for analysis, such as using MCA or MCDM.”*

This underscores the need for greater adoption of GIS-driven analytical tools to enhance the efficiency, accuracy, and adaptability of development planning, particularly in economic zones with diverse and rapidly evolving needs.

PLANMalaysiaHe further emphasised the importance of developing a centralised database, which would enable better integration of investor capabilities with physical planning data. He expressed concern:<sup>562</sup>

*“...whether other agencies will be willing to share their databases, as it has been quite challenging to implement in my experience.”*

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<sup>561</sup> Interview - G1R3 - Officer, “PlanMalaysia Kedah.”

<sup>562</sup> Ibid.

In conclusion, while the preparation of local plans for SEZs and SBEZs is fundamentally linked to comprehensive and detailed planning, the current rigid zoning practices often hinder the development process, necessitating lengthy amendments to local plans. The lack of detailed information within these plans further undermines transparency and public understanding, while the limited integration of advanced tools such as GIS hinders effective planning. To ensure the successful development of SEZs and SBEZs, it is essential to adopt a more flexible and data-driven approach, leveraging GIS and ensuring quality outputs from consultants. This approach would accommodate the unique needs of SEZs and SBEZs, ultimately fostering more effective and efficient development outcomes.

#### **4.3.1.2 Challenges of executing the development plan**

The previous section examined the effectiveness of the development plan and its impact on the development of the SBEZ BKH and SEZs in general, focusing primarily on the content of the plan. This section, however, will shift focus to how the development plan influences its own implementation.

Although the development plan is intended to guide the growth and progress of the SBEZ, it is not being fully leveraged as a tool for attracting investment. For instance, a PLANMalaysia officer noted that despite the potential of these legally binding documents, they are often overlooked as instruments for investment promotion. He further elaborates that effective leadership is crucial for implementing the development plan and ensuring its success in achieving the plan's objective. For example:<sup>563</sup>

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<sup>563</sup> Ibid.

*"For instance, a former Chief Minister of Selangor once leveraged the State Structure Plan as a promotional tool overseas. He effectively marketed the industrial park highlighted in the State Structure Plan as a business opportunity, thus utilising the document as a de facto business plan for the state."*

However, political factors can also influence the process of preparing the development plan, as confirmed by a planner involved in creating the Kubang Pasu Local Plan:<sup>564</sup>

*"There's no denying that political factors can significantly impact the preparation of this development plan document. Policies and projects may change in response to current political trends."*

Political influences further complicate the execution of the development plan. The preparation and implementation of the plan have been affected by shifting political landscapes, as evidenced by the SBEZ project, which, despite being initiated in 2001, was only incorporated into the Kubang Pasu development plan around 2018. A planner involved in the Kubang Pasu Local Plan acknowledged that political factors often lead to changes in policies and projects, depending on the current political climate.<sup>565</sup> This has caused delays and uncertainty, as noted by an NGSB officer who expressed concerns about the project's viability due to frequent changes in government, which have left the SBEZ in a state of limbo for years.<sup>566</sup> Such political instability undermines

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<sup>564</sup> Interview - C1R1 - Planner, Planning Consultant 1 (Google Meet: April 2021). The planner mentioned that in some cases, politicians may want to propose something in their area to enhance their political standing. However, if there is a change in government, some initial proposals may be subject to change based on the priorities of the new administration..

<sup>565</sup> Interview - G1R1 - Planner, Planning Department MPKP (Jitra, Kedah: April 2021).

<sup>566</sup> Interview - D1R1 - COO, "Master Developer 1."



the continuity and consistency needed to drive the SBEZ forward, leading to investor hesitation and stalled development. This situation was supported by PKNK officers:<sup>567</sup>

*"We once had investors from China who invested almost 300-400 acres of land in KSTP, but in the end, they withdrew. One of the factors is the availability of infrastructure, and these investors sometimes they don't want to invest in all this infrastructure."*

In addition to these challenges, the geographical isolation and inadequate infrastructure of the SBEZ are significant impediments to its growth. The remote location of BKH, far from major economic centres such as Johor Bahru and Penang, limits its accessibility and integration into established supply chains.<sup>568</sup> This isolation makes it difficult for businesses to operate efficiently within the zone, affecting logistics and industrial development. As highlighted by the COO of NGSB, the absence of a robust supply chain is a major obstacle to attracting and sustaining industrial activities:<sup>569</sup>

*"In terms of industrial growth, one mustn't overlook the crucial role a robust supply chain play. It essentially acts as the spinal column that supports overarching industrial activities. Indeed, we are actively seeking 'anchor' companies that could potentially draw in supplementary supply chains. Our aim is to establish a comprehensive value chain system. However, given that this area is still in its developmental phase, achieving this fully integrated business ecosystem may take some time."*

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<sup>567</sup> Interview - D1R2 - Asst Manager, "Master Developer 2."

<sup>568</sup> Interview - G1R3 - Officer, "PLANMalaysia Kedah."

<sup>569</sup> Interview - D1R1 - COO, "Master Developer 1."

The financial and operational impact of infrastructure delays is significant, as both potential investors and existing businesses may be hesitant to commit to an area lacking essential facilities. Reliable road networks and industrial utilities, such as high-capacity power supply and water treatment facilities, are among the critical infrastructure typically expected to be in place. Without these, the ability to attract diverse industries is compromised, leading to higher operational costs, longer time-to-market, and reduced economic competitiveness for the SBEZ. The lack of a developed industrial ecosystem exacerbates these challenges. The SBEZ was envisioned as a strategic location that could leverage raw materials from southern Thailand, yet it lacks the necessary interrelated industries to support a functional supply chain.<sup>570</sup> For example, creating a holistic Halal food supply chain would require auxiliary industries such as Halal-certified food processing units, packaging facilities, and Halal-compliant logistics firms, none of which are currently present in the area. This absence of a multi-tiered supply chain hinders the economic progress of the SBEZ, making it difficult to attract diverse industries and creating barriers to the zone's long-term viability.

These interconnected issues—underutilisation of the development plan, political influence, infrastructure deficiencies, and the lack of an industrial ecosystem—collectively hinder the execution of the SBEZ's development plan. Without addressing these challenges, the SBEZ risks falling short of its potential as a driver of economic growth in the region. It is essential that these barriers are overcome to ensure the successful and sustainable development of the SBEZ, enabling it to fulfil its intended role in Malaysia's broader economic strategy.

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<sup>570</sup> Ibid.

### **4.3.2 Challenges in enforcing the planning control mechanism**

The requirement for planning permission by the TCPA 1976 is spelt out under Section 18 to Section 31A of Part IV - Planning Control. Planning permission can be seen as the process of allowing any activity to take place on land and buildings or to permit any change on the use of land and buildings. The planning permission is indeed necessary so as to control proper development of land and buildings and to implement the proposals of the development plan accordingly.

#### **4.3.2.1 Legal Challenges in Balancing Public Interest and Developer Needs in Planning Conditions**

In Chapter 3, an in-depth analysis was conducted on the significance of planning conditions in the planning permission application process. This section explores the difficulties associated with implementing these conditions within the SBEZ at BKH. Input from diverse stakeholders uncovered an intricate interaction between government directives, developer considerations, systemic inefficiencies, and the far-reaching implications of these challenges on the development process.

The planning permission process serves as a means for the government to protect public interests. Planning conditions are crucial tools in ensuring that developments adhere to broader societal objectives, as highlighted by officer at MPKP,<sup>571</sup>

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<sup>571</sup> Interview - G1R2 - Officer, "OSC Department MPKP."

*“From the government's view, decisions are made for the public interest. Developers may feel they are not responsible for things outside their development area, but every development has a broader impact. So that's why we (government agencies) that approved this put the conditions for the development.”*

This perspective underscores the government's role in imposing conditions for development projects, taking into consideration long-term community and environmental impacts. However, these broader mandates often lead to conflicts with developers who are primarily focused on their specific project requirements. Developers often view these planning conditions as overly burdensome, especially when they perceive them as not aligned with the practical needs of their projects.<sup>572</sup> This tension is evident in the experiences shared by respondents.

For example, Respondent G1R3 pointed out that while local authorities incorporate safety and environmental considerations into their decisions, developers often find these conditions restrictive.<sup>573</sup> The challenge becomes more pronounced when developers feel that the imposed conditions are excessive. This sentiment was supported by Respondent C1R1, who mentioned that the committee required them to provide a wider road than they deemed necessary.<sup>574</sup> A planner from the consultant further emphasised this issue by describing how planning conditions that required developers to accommodate neighbouring developments affected their project's exclusivity and traffic management.<sup>575</sup>

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<sup>572</sup> Interview - G1R1 - Planner, “Planning Department MPKP.”

<sup>573</sup> Interview - G1R3 - Officer, “PLANMalaysia Kedah.”

<sup>574</sup> Interview - C1R1 - Planner, “Planning Consultant 1.”

<sup>575</sup> Interview - C1R3 - Planner, “Planning Consultant 3.”

*"During the application for planning permission at MPKP, we were requested to provide a road that will be used as access to exit from the development located next to our plot. We need to cater to the next plot development in our area. In other words, it can channel the traffic to move out from the next plot development to the main road, through our area. It is unfair for our client if they want to have an exclusive area in which we want to restrict traffic movement."*

Given the tension between government requirements and developer needs, there is a clear necessity for flexibility and negotiation within the planning permission process. Strictly enforcing planning conditions can lead to significant conflicts, emphasising the necessity for a more cooperative approach. A planner from the consultant acknowledged the rationale behind certain conditions, such as staff quarters in industrial zones, but advocated for the importance of negotiation.<sup>576</sup> He suggested that the local authority should remain flexible to prevent imposing excessive burdens on developers.

Supporting this need for flexibility, the planner officer from MPKP highlighted the issues that arise when developers initially agree to conditions but later request modifications. He explained:<sup>577</sup>

*"We often discuss conditions with developers, aiming to be accommodating. However, some developers agree to conditions initially, then request changes and appeal for modifications, which is concerning. This issue arose in Kubang Pasu. While minor adjustments are considered, significant changes are usually not allowed."*

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<sup>576</sup> Interview - C1R2 - Planner, "Planning Consultant 2."

<sup>577</sup> Interview - G1R1 - Planner, "Planning Department MPKP."

This scenario illustrates how the lack of initial flexibility can lead to complications later in the process, potentially stalling developments and creating further conflicts. The conflict between government mandates and developer needs is exacerbated by systemic inefficiencies within the planning permission process. The One Stop Centre (OSC) system, intended to streamline the planning process, has been criticised for inefficiencies, particularly due to the dual requirement for both online and hardcopy submissions.<sup>578</sup>

*“As consultants, we sometimes feel curious that despite the existence of an online system, we are still required to submit hardcopies of our plans within three days of making the online submission. We do understand the need for hardcopies for evidence, but there are some LPAs that have fully online.”*

These inefficiencies are further compounded by inconsistent practices among agencies. Another planning consultant pointed out that while the OSC system is intended to centralise input and comments, agencies often revert to traditional letters for follow-up, which significantly slows down the process.<sup>579</sup> This inconsistency not only frustrates developers but also undermines the efficiency that the OSC system was designed to achieve.

In addition to systemic inefficiencies, the planning permission process is further hampered by incomplete reviews and staffing shortages within the Local Planning Authority (LPA) and other technical agencies. These issues contribute to delays and a lack of thoroughness in the review process, creating additional obstacles for developers. The OSC officer highlighted that the quality and timeliness of reviews are

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<sup>578</sup> Interview - C1R3 - Planner, “Planning Consultant 3.”

<sup>579</sup> Interview - C1R2 - Planner, “Planning Consultant 2.”

often compromised due to the heavy workloads faced by agency staff.<sup>580</sup> The officer from JKR emphasised the importance of pre-consultation in minimising issues during the OSC process, noting,<sup>581</sup>

*“From my perspective, pre-consultation proves beneficial as it minimises issues encountered during the OSC process. When consultants fail to engage in pre-consultation, it often necessitates significant amendments afterward, potentially requiring redesigning and modifying substantial portions of the area.”*

The lack of comprehensive reviews not only delays the process but also leads to frequent requests for additional information, extending the timeline for obtaining planning permission. This iterative process, where developers are asked to provide more details or make adjustments, is often a result of incomplete Development Proposal Reports (DPRs) and inadequate pre-consultation. As the officer from JPS stated, missing or incomplete technical details often require further follow-ups, which extend the review process and add to the developers' frustration.<sup>582</sup>

The challenges in balancing planning conditions with development needs within the SBEZ at Bukit Kayu Hitam highlight a complex web of legal and procedural issues. The tension between the government's broad mandates and developers' practical concerns is exacerbated by systemic inefficiencies and resource constraints. These issues not only create significant hurdles in the planning permission process but also risk undermining the development objectives of the SBEZ. Addressing these

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<sup>580</sup> Interview - G1R2 - Officer, “OSC Department MPKP.”

<sup>581</sup> Interview - G3R1 - Engineer, Jabatan Kerja Raya Kubang Pasu (Personal Interview: January 2023).

<sup>582</sup> Interview - G3R2 - Asst Engineer, Jabatan Pengairan Dan Saliran Kubang Pasu (Personal Interview: January 2023).

challenges is crucial to ensuring that planning conditions serve their intended purpose without unduly burdening developers or hindering the overall development process.

#### **4.3.2.2 Challenges of Managing Post-Development Issues Through Effective Planning Control**

The previous discussion focused on planning control within the planning permission process, including the imposition of conditions and associated delays before construction begins. This sub-section will now analyse how these planning conditions, set during the permission stage, influence subsequent planning control mechanisms post-development.

Resident concerns, particularly regarding traffic and safety in the SBEZ BKH area, have also affected decision-making. Despite raising these issues with authorities, residents have seen little to no response or action. One resident expressed frustration, noting that multiple meetings with the local authority to raise their concerns have yielded no feedback or visible improvements, leaving them feeling helpless and struggling to find alternatives.

Echoing this sentiment, a resident from Taman Temin 2 shared:<sup>583</sup>

*"When driving here, extreme caution is needed due to the rush of trucks. The authority informed us that these trucks form part of the main road traffic as they need additional insurance to enter Malaysia, but previously, an agreement exempted trucks from Thailand from this requirement."*

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<sup>583</sup> Interview - P1R4 - Resident of Taman Temin, Local Resident 4 (Personal Interview: 11 March 2023).



This situation underscores the residents' growing frustration with the local authority's apparent neglect of their concerns. Despite their efforts to engage and communicate, they feel ignored and powerless, raising doubts about the authority's commitment to safeguarding their well-being. The frequent, unregulated movement of trucks through the area poses serious safety risks and calls into question the authorities' dedication to enforcing necessary standards. The ongoing neglect of these traffic and safety concerns not only undermines public trust but also poses a significant threat to the long-term viability of the SBEZ as a safe and sustainable development. Figure 4.7 illustrates the accidents that have occurred within the residential area due to the truck traffic mentioned above.



Figure 4-7 Trucks from Thailand had an accident near the residential area

Figure 4-8 illustrates the challenge of container trucks using residential service roads after clearing the BKH ICQS checkpoint. At junction J1, routes lead to Alor Setar, SBEZ, and residential areas. Despite the intended path towards the industrial area at J2 via the brown road, numerous trucks veer left at J1 into residential areas along the red road, leading to safety hazards and traffic congestion. This diversion results in traffic jams, particularly from J1 to P1, disrupting both traffic flow and residential life.



key areas like Changlun Town. The JKR official emphasised the severity of the situation.<sup>585</sup>

*"The Level of Service for the road in the Changlun Town area can drop to 'F' during peak times, from its usual 'C' or 'D'."*

This mirrors the concerns of the local community. One resident near BKH SBEZ remarked:<sup>586</sup>

*"The congestion in Changlun Town is a significant issue. The wait at traffic lights is already long, and it's worrying to imagine it getting worse with more industrial development."*

Another resident noted that traffic near Changlun Town sometimes backs up for 2 kilometers, expressing apprehension about future congestion.<sup>587</sup> Additionally, the lack of safe infrastructure, such as a dedicated motorcycle lane, further heightens the risk, as another resident described the fear of sharing the road with lorries, especially without an emergency lane.<sup>588</sup> Confirming this, a JKR official mentioned plans to upgrade the road, though this may be a protracted process.<sup>589</sup> The inefficiencies in current traffic management hint at broader repercussions, including environmental concerns and the well-being of residents.

As discussed, the industrial park developed by PKNK is part of the SBEZ Bukit Kayu Hitam. BKH also raises significant safety and security concerns, particularly theft, smuggling, and other transnational crimes. These risks highlight the need for stringent

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<sup>585</sup> Interview - G3R1 - Engineer, "Jabatan Kerja Raya Kubang Pasu."

<sup>586</sup> Interview - P1R2 - Society Chairman, Local Resident 2 (Personal Interview: 10 March 2023).

<sup>587</sup> Interview - P1R3 - Restaurant Operator, Local Resident 3 (Personal Interview: 10 March 2023).

<sup>588</sup> Interview - P1R1 - Society Chairman, "Local Resident 1."

<sup>589</sup> Interview - G3R1 - Engineer, "Jabatan Kerja Raya Kubang Pasu."

planning controls and conditions, with agencies urging developers to implement robust security measures. This is due to the SBEZ's development attracting economic opportunities, increasing the risk of criminal activities. A Customs officer emphasised the importance of strong security systems and dedicated personnel to maintain stability, noting that when development occurs near the border, theft becomes a major concern.<sup>590</sup> If the industrial area is going to include factories and storage for valuable items, comprehensive monitoring and dedicated security personnel are essential. Failure to implement stringent security measures could turn the SBEZ into a hotbed for illegal activities, jeopardising both the safety of residents and the economic prospects of the entire region.

This view is shared by the PDRM (Malaysian Police), who acknowledge limitations in staffing amidst growing responsibilities:<sup>591</sup>

*"The presence of security personnel does not imply any neglect on our part as law enforcement officers. However, having dedicated security or police assistance specifically for the entire area can significantly improve surveillance."*

This statement underscores the importance of incorporating security considerations into land use planning. Effective zoning and infrastructure planning within the SBEZ can mitigate security risks by designating areas for law enforcement facilities, ensuring controlled access points, and strategically placing industrial activities to facilitate monitoring. The allocation of security outposts, surveillance systems, and road

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<sup>590</sup> Interview - G3R4 - Officer, Kastam DiRaja Malaysia - Bukit Kayu Hitam (Personal Interview: January 2023).

<sup>591</sup> Interview - G3R3 - Officer, Polis Diraja Malaysia - Bukit Kayu Hitam (Personal Interview: January 2023).

networks designed for effective patrol coverage can enhance safety while supporting economic activities. Moreover, the development of worker accommodation facilities within regulated zones can prevent informal settlements, reducing potential security risks.

Proactive measures are crucial to prevent the SBEZ from becoming a hub for illegal activities such as smuggling. Certain areas within the zone could potentially serve as transit points for criminal activities, making strategic planning essential to minimise security risks through the careful placement of factories and roads. In addition to infrastructure considerations, it is crucial to implement robust monitoring systems to protect the area from potential criminal activities. Given the expected influx of a diverse workforce, an immigration officer recommended establishing centralised worker dormitories to facilitate the proper accommodation and management of foreign workers, ensuring better oversight and reducing the risk of illegal settlements, overcrowding, and potential security concerns. A police officer added, in support of this view,<sup>592</sup>

*"Safety and security are paramount for a large industrial area like SBEZ. It is crucial to provide dedicated worker dormitories for foreign workers to ensure organised housing and minimise unintended social disruptions with the local community. ."*

The current Local Plan for Bukit Kayu Hitam does not adequately address post-development challenges within the SBEZ, leading to significant concerns regarding town and land use planning. Issues such as traffic congestion, safety hazards, and security risks remain unresolved, demonstrating the absence of comprehensive

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<sup>592</sup> Ibid.

planning controls and enforcement measures. Without proper land use strategies incorporated into the Local Plan, these challenges are likely to escalate, posing risks to public safety, economic sustainability, and the long-term viability of the SBEZ. Strengthening the planning framework is essential to prevent these issues from undermining the success of the development.

Equally significant are the potential environmental impacts often associated with large-scale developments like the SBEZ. With the extensive area encompassed by this project, the likelihood of environmental degradation is substantial, as evidenced by other industrial zones where development has resulted in pollution and other ecological complexities. Addressing these environmental considerations is imperative to ensure that the SBEZ does not mirror unmitigated industrial expansion at the expense of environmental sustainability.

Local residents have voiced significant concerns about the potential environmental impacts of the SBEZ development. One resident highlighted the uncertainty surrounding the future, noting that while the current air quality in BKH is satisfactory, there is apprehension about what the next 10-20 years may bring.<sup>593</sup> Another resident expressed a more specific worry:<sup>594</sup>

*"The vast 10,000-acre SBEZ, with potential industrial developments, raises concerns about pollution from chemical products, smoke, and other industrial by-products, which could affect our health and contribute to higher temperatures in the area."*

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<sup>593</sup> Interview - P1R1 - Society Chairman, "Local Resident 1."

<sup>594</sup> Interview - P1R2 - Society Chairman, "Local Resident 2."

In response to these concerns, a DOE official assessed the current environmental status, noting that the BKH SBEZ development, being in its early stages, does not yet present significant pollution-related issues. The existing PKNK industrial area also currently poses no environmental challenges. However, the official acknowledged potential future risks, stating,<sup>595</sup>

*"While we at the DOE consistently monitor environmental factors, we are apprehensive about possible future environmental issues in the SBEZ area. Our primary focus is on the implementation of risk-reduction measures."*

An official from PLANMalaysia reassured residents and the DOE, explaining that the planned industrial development within the SBEZ will focus on technology-based industries designed to minimise pollution.<sup>596</sup> Emphasising a commitment to eco-friendly practices, such as the Green Building Index and green industries, the official aimed to alleviate concerns about environmental impact.

One specific environmental concern raised by residents is the potential impact of the SBEZ's expansion on local water management, particularly regarding water discharge and the risk of flooding. A resident added historical context, stating:<sup>597</sup>

*"Considering past incidents, like the floods in the Changlun area in 2017 and 2010, our worry is about managing the water from the industries. With an increase in industrial activity, understanding where this water will be released and its impact is crucial."*

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<sup>595</sup> Interview - G3R6 - Officer, Department of Environment Kedah (Google Meet: April 2023).

<sup>596</sup> Interview - G1R3 - Officer, "PLANMalaysia Kedah."

<sup>597</sup> Interview - P1R1 - Society Chairman, "Local Resident 1."

Another resident echoed this concern, emphasising that with much of the area already developed, the possibility of flooding is a significant worry, alongside concerns about air pollution and odours.<sup>598</sup> Without proactive measures, these issues could lead to long-term environmental degradation, ultimately undermining the sustainability and safety of the entire region.

The ongoing post-development challenges in the Bukit Kayu Hitam SBEZ, such as traffic congestion, safety hazards, and environmental concerns, underscore the inadequacy of current planning controls and enforcement measures. Despite conditions set during the planning permission stage, these issues persist, largely due to a lack of responsive action from authorities and insufficient alignment between development plans and on-the-ground realities. These inadequacies not only jeopardise the safety and well-being of local residents but also pose a threat to the long-term sustainability and success of the SBEZ.

#### **4.3.3 Public Participation Process in Preparation of the Development Plan and Planning Permission**

Public participation is essential for the development of a local plan, as stipulated by the TCPA 1976. Section 12A of the TCPA 1976 requires local planning authorities to publicise the draft local plan, its objectives, and the proposed matters within it. This engagement facilitates community involvement in decision-making processes, allowing them to express their opinions, concerns, and suggestions.

In the context of the Kubang Pasu Local Plan, there is a critical need for public awareness regarding the 12,000-acre development at BKH due to the significant

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<sup>598</sup> Interview - P1R4 - Resident of Taman Temin, "Local Resident 4."



impact of the SBEZ development on local residents. Public participation is essential in identifying community concerns and opportunities, ensuring a more inclusive and well-informed development strategy. However, the effectiveness of outreach efforts remains uncertain, as publicity was mainly conducted through social media and website postings, with a limited initial publicity period. The most recent draft Local Plan was only publicised for one month, from 19 March to 18 April 2018, raising concerns about whether the engagement process was sufficient to gather meaningful public feedback.<sup>599</sup>

*"We advertise on social media, the media that is commonly used. That's what we can do. Posting it on the website. Going to knock on every landowner's door is impossible, very impossible, and no one has ever done it."*

This researcher has reviewed the social media and determined that the local authority has made a very minimal effort in publicising the preparation of the local plan.<sup>600</sup> While it is the case that there is no legal requirement to use social media as prescribed by the TCPA, this lack of engagement with the public raises concerns about good governance and best practices within the LPA. This sentiment is echoed by Respondent 3, who remarked:<sup>601</sup>

*"Now people do everything near Facebook. I've also joined the Kubang Pasu group on Facebook. If they post it there, maybe people will know about it."*

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<sup>599</sup> Interview - G1R1 - Planner, "Planning Department MPKP."

<sup>600</sup> MPKP, Pemeriksaan Awam Ke Atas Rancangan Tempatan Majlis Perbandaran Kubang Pasu 2035 (Pengubahan 1), *Facebook Page*, last modified 2021, <https://www.facebook.com/MPKubangpasu/posts/pfbid02VFy6w52yekmRuduDQBWwbf2cef8kzAdLMWxTRoLDNSAzQ6ZgEJ13wtMQg9Gsj7dYl>.

<sup>601</sup> Interview - P1R2 - Society Chairman, "Local Resident 2."

This statement underscores the importance of utilising modern communication channels such as social media to effectively reach and inform the community, which aligns with the principles of good governance and best practices. However, the potential for effective communication through social media seems not to have been fully utilised by the local authority, and the physical publicity required by the act appears to be focused on meeting legal obligations rather than genuinely engaging the public. This indicates a lack of effort in involving the community in the planning process, as noted by one of the local resident, who highlighted a significant gap in outreach efforts;<sup>602</sup>

*"I've never seen this thing (referring to the local plan). This is the first time I know that we have this kind of plan for our residential area"*

Another respondent observed an exhibition at C-Mart but opted not to participate due to lack of awareness regarding its objective.<sup>603</sup> These incidents indicate the wider problem of inadequate public involvement and emphasise the necessity for improved communication tactics to guarantee comprehensive information dissemination and community participation in the planning phase.

These comments indicate that while the local authority might be fulfilling legal obligations, their methods of public engagement and communication are not effectively reaching or informing the community, particularly in the critical planning processes related to the preparation of the local plan in this context.

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<sup>602</sup> Interview - P1R4 - Resident of Taman Temin, "Local Resident 4."

<sup>603</sup> Interview - P1R2 - Society Chairman, "Local Resident 2."

This highlights a broader issue in the preparation of local or development plans, where the Local Planning Authority (LPA) appears to lack meaningful public involvement. Another aspect of the planning process that involves the public is outlined in Section 21(6) of the TCPA, which limits participation to adjoining landowners. Since the Local Plan of Kubang Pasu has already been gazetted, the requirement to notify adjoining landowners under Section 21(6) no longer applies. However, it is crucial to emphasise that public participation should not be restricted to immediate landowners alone, especially in large-scale projects like the SBEZ. Although the SBEZ area has been demarcated in the Local Plan, it lacks detailed planning guidelines, serving only as a broad zoning designation rather than a well-defined development framework. This absence of specific policies, land use conditions, and planning control measures creates uncertainty in how the area will be developed and regulated. Moreover, while the respondents may not be directly adjacent to the SBEZ, they reside in surrounding areas and are significantly affected by its development. Regardless of whether a Local Plan has been gazetted, the broader public should have an opportunity to participate in the planning process, as large-scale developments impact not just immediate neighbours but the wider community. When exploring local awareness of the SBEZ BKH development, responses indicate a significant gap in public understanding and engagement, as illustrated by one respondent, who stated::<sup>604</sup>

*“I've heard they want to make a factory area all near here, but that's all I know. When you (referring to the researcher) showed me this plan, then I knew the big project. We (residents) here will be like an island in the big project, right?”*

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<sup>604</sup> Interview - P1R1 - Society Chairman, “Local Resident 1.”

This highlights a lack of communication, leaving residents unclear about the full extent of the development. Another respondent noted that they were once called to the Municipal Council for a briefing on the project, but it only happened once, and they still do not know the details of the project.<sup>605</sup> One respondent that operate a restaurant expressed:<sup>606</sup>

*“I heard this area was going to have factories, but that is the only thing I know. So my shop is here right? (referring to the local plan).”*

Another local resident further highlighted his disappointment at not being genuinely engaged by the authorities on this matter:<sup>607</sup>

*“We've lived here for years, but no one from the council has ever come to explain what these changes mean for us. It's like they're making decisions without caring how it affects our lives.”*

Based on the concerns and expressions from the community, it is evident that public involvement in the planning process is crucial. The planning decisions made by authorities have a significant impact on everyone within the affected area, and therefore, the community's input is vital. Involving the public ensures that the decisions reflect the actual needs and values of those who live there. When the public is excluded from the process, there is a risk of creating a disconnect between the planners and the community, leading to decisions that may be ineffective or even harmful. Such exclusion can result in planning outcomes that fail to address local concerns or miss critical insights that only residents can provide. Thus, meaningful

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<sup>605</sup> Interview - P1R2 - Society Chairman, “Local Resident 2.”

<sup>606</sup> Interview - P1R3 - Restaurant Operator, “Local Resident 3.”

<sup>607</sup> Interview - P1R1 - Society Chairman, “Local Resident 1.”

public participation is essential for achieving well-rounded, effective, and community-driven development plans.

#### **4.3.4 Land Administration**

Land development in Malaysia involves the active participation of the State Land and Mines Office (PTG) and the Land and District Office (PTD). Specifically, in the case of SBEZ BKH development, the jurisdiction lies with PTD Kubang Pasu and PTG Kedah. As previously highlighted, the process pertaining to land development adheres to the regulations outlined in the National Land Code 1965. Considering the straightforward nature of this development, this section will delve into two significant issues related to land development, specifically the delays encountered in the land development process governed by the NLC.

##### **4.3.4.1 Challenges of Land Alienation in Government-Linked Projects**

The interviews conducted with respondents established that the land designated for the development of BKH SBEZ is primarily owned by two entities: PKNK (State Development Economic Company), under the Kedah State Government, and Northern Gateway Sdn. Bhd. (NGSB), a subsidiary of the Ministry of Finance, Malaysia. Initially, the entire 11,800-acre area was under PKNK's ownership, having been alienated to them by the Kedah SA. An officer from PTG Kedah explained that PKNK's land, spanning 4,600 acres, was subsequently sold to Tan Sri Syed Mokhtar Bukhary for the development of a Tax-Free City;<sup>608</sup> however, the plan did not

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<sup>608</sup> Interview - G2R1 - Officer, District Land Office (Google Meet: May 2021).

materialise due to various factors. This was further confirmed by an official from NGSB, who stated:<sup>609</sup>

*"In the 1990s, Tan Sri Syed Mokhtar acquired this land for Kota Perdana's development, envisioned as a Duty-Free City. The concept was briefly introduced but was short-lived, as Northern Gateway later came under the Ministry of Finance's ownership, including all its assets."*

This situation underscores the complexity and challenges associated with land alienation in the BKH SBEZ, particularly when dealing with Government-Linked Companies (GLCs). The initial transfer of land from the Kedah SA to PKNK, followed by its partial sale to Tan Sri Syed Bukhary, reflects the intricate processes involved. A PTG Kedah officer elaborated the general practice, explaining that when land is alienated to GLCs, the SA's exclusive power is exercised with the aim of fostering development that catalyses regional impact.<sup>610</sup> The expectation is that such land will generate returns, such as Quit Rent, to the SA, rather than remaining undeveloped and ownerless. However, the officer also noted:<sup>611</sup>

*"Often, these lands remain undeveloped, leading to negative perceptions of the SA. There have been instances where landowners, after acquiring the land, mortgaged it to banks for financing other projects, particularly those with better infrastructure, thus delaying development."*

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<sup>609</sup> Interview - D1R1 - COO, "Master Developer 1."

<sup>610</sup> Interview - G2R2 - Officer, "Land and Mines Department Kedah."

<sup>611</sup> Ibid.

The discussion of these challenges highlights the critical importance of consultation and planning in the development process, especially for projects like this special zone. The failure of this project underscores the need for thorough planning and consultation, particularly with the planning department. Land Office officer noted that the protocol of land processes includes consulting with the planning department.<sup>612</sup> However, discrepancies often arise between planning and the specifics of land, especially at the Federal and State levels. At times, Federal guidelines must be followed, while State policies may introduce different development strategies, leading to conflicts. The key challenge lies in achieving harmonisation between these levels.<sup>613</sup>

The involvement of the Menteri Besar, as the state head and Chairman of PKNK, in the planning process further complicates the situation. An officer from PLANMalaysia Kedah explained,

*"Initially, a segment of this SBEZ was planned for residential development. However, with the appointment of the new Menteri Besar, there was a shift in policy. He advocated for more industrial areas to facilitate greater employment opportunities."*

This shift illustrates how political influence can shape the direction of development within SEZs, reflecting the significant power held by state leaders in guiding land use decisions. The recurring challenges in land alienation to GLCs, particularly evident in the BKH SBEZ, suggest a broader issue where development plans often do not come to fruition as intended. The failure to effectively consult planning departments to harmonise state and federal guidelines further compounds these challenges. An official

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<sup>612</sup> Interview - G2R1 - Officer, "District Land Office."

<sup>613</sup> Interview - G2R2 - Officer, "Land and Mines Department Kedah."

from PTD Kubang Pasu highlighted the role of political influence in these processes, stating:<sup>614</sup>

*"Political influence in land alienation is undeniable. Expedited alienation processes are not uncommon to ensure completion before elections, sometimes subtly involving politics."*

This sentiment was echoed by a PTG Kedah official, who added:<sup>615</sup>

*"Political decisions heavily influence land alienation policies. While some cases may take years, others can be expedited within a year under the SA's directives."*

The case of Kota Perdana serves as a poignant example of the pitfalls of land alienation without proper long-term planning. The land, originally owned by PKNK and later sold for the development of a Duty-Free Zone, did not make the expected progress. Despite the SA's approval of the sale to Northern Gateway, the project ultimately failed to advance. An officer from NGSB pointed out that this was a missed opportunity, stating:<sup>616</sup>

*"This SBEZ development area is strategically positioned to capitalise on raw materials from southern Thailand, where facilities to process these materials are absent."*

This observation suggests that the initial planning did not adequately consider the strategic significance of the location, particularly in terms of regional economic integration. Moreover, it appears that the planning department's input was not

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<sup>614</sup> Interview - G2R1 - Officer, "District Land Office."

<sup>615</sup> Interview - G2R2 - Officer, "Land and Mines Department Kedah."

<sup>616</sup> Interview - D1R1 - COO, "Master Developer 1."



sufficiently integrated into the land alienation process. There is an implication that the development, facilitated through the land alienation process by the SA, may not have been fully aligned with the established structure plan and local plan under the state's development vision. The core issue in the BKH SBEZ centres on the problematic execution of land alienation, where ambitious development plans consistently fail due to inadequate planning and overpowering political influence. This flawed approach to alienating land, especially to entities like PKNK, results in a disconnect between proposed projects and their practical implementation. The failure to effectively consult planning departments and harmonise state and federal guidelines further exacerbates these challenges. Such systemic inefficiencies in managing the land alienation process lead to underdevelopment and misalignment with broader developmental objectives, underscoring a critical need for reform in the practice of land alienation and its associated planning mechanisms.

#### **4.3.4.2 Surrender and re-alienation process**

The surrender and re-alienation process, as outlined in the NLC, is an integral component of land development within the SBEZ BKH. This process typically begins with the submission of layout plans through the One-Stop Centre (OSC) system, where multiple land lots are amalgamated into a single parcel. Once the layout plan is approved, the planning permission plays a crucial role in land subdivision, particularly in large-scale developments such as the SBEZ BKH. For example, within this special zone, large parcels of land are divided into smaller plots according to the specific type of development intended. Following the finalisation of the approval process by the Local Planning Authority (LPA) through the OSC system, the application is forwarded to the Land Office for further processing.

However, consultants often question the necessity of undergoing multiple types of land applications during the land matter process. One consultant expressed concerns about this issue:<sup>617</sup>

*“In this land matter, sometimes I don't understand the process that we need to use which section in the National Land Code. Some of us have to use Section 124, some have to use 197, some have to use Section 204. We seem to be using too many sections for works involving land matters.”*

This view was supported by another consultant who recommended simplifying land development applications and decreasing the mandatory number of sections. He also mentioned that some countries focus their land administration on administrative functions such as land registration rather than imposing additional processes.<sup>618</sup> When inquiring at the land office about the land development of the SBEZ, the officer mentioned that the development of the SBEZ is under Section 204 due to the involvement of several lots. Furthermore, the land in the SBEZ is currently under Qualified Title and has not transitioned to Full Title.

Moreover, in addition to the intricacies of land development under the NLC, a consultant elaborated on delays in land matters:<sup>619</sup>

*The process involving this land is quite complex. In terms of the centralisation of power, sometimes it is necessary to reach the exco meeting level, which sometimes often delays the process.*

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<sup>617</sup> Interview - C1R3 - Planner, “Planning Consultant 3.”

<sup>618</sup> Interview - C1R1 - Planner, “Planning Consultant 1.”

<sup>619</sup> Interview - C1R3 - Planner, “Planning Consultant 3.”

Another consultant further stated that:<sup>620</sup>

*“In the process of dealing with the land office, they have their own way of doing things. Like, if it's the OSC, they've got their set timelines. But it all comes down to the working culture that has been in place for ages. And there are many individuals involved in the process.”*

This consultant also pointed out factors that lead to delays, such as the lack of site visits or insufficient staffing, even after submitting detailed planning reports.<sup>621</sup> Other consultants have also expressed concerns regarding the slow pace of Land Office procedures, particularly in issuing individual land titles. As one consultant stated:<sup>622</sup>

*"When it comes to the Land Office, things tend to move at quite a slow pace. Sometimes it takes over a year, and that's a problem for developers who want to sell their land. Without individual titles, how can we sell something that's not certain? It creates a lot of uncertainty."*

A planning officer from PLANMalaysia acknowledged that while the OSC effectively expedites the planning stage for developments such as SBEZ, delays often occur when the process reaches the Land Office, particularly with title-related matters.<sup>623</sup> The officer explained that although the OSC facilitates concurrent applications, including surrender-realienation and layout plan submissions, the land-related processes cannot always be expedited due to procedural changes. Despite these challenges, the officer

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<sup>620</sup> Interview - C1R1 - Planner, “Planning Consultant 1.”

<sup>621</sup> Ibid.

<sup>622</sup> Interview - C1R2 - Planner, “Planning Consultant 2.”

<sup>623</sup> Interview - G1R3 - Officer, “PLANMalaysia Kedah.”

noted that recent improvements in Kedah have aimed to shorten the approval process by up to six months.

An officer from the Kedah PTG further elaborated that the application approval process typically takes three to nine months, but the overall timeframe, including land title registration, can extend to about a year.<sup>624</sup> The officer highlighted that the overwhelming volume of registrations, especially for large-scale developments, is a significant strain on the system. To address these delays, the Land Office has appointed additional deputy registrars to help manage the workload. The officer mentioned:<sup>625</sup>

*"To be honest, we really don't want to slow down the process, but the influx of registrations we deal with on a daily basis is quite overwhelming, especially when it comes to large-scale developments."*

In the context of SBEZ BKH development, officials from the Land Office emphasised the project's importance due to its significant impact on Kedah's economy. As a result, the SA can expedite the process, ensuring that high-priority projects receive the necessary attention and resources to proceed efficiently. One official noted:<sup>626</sup>

*"In the case of SBEZ, since it has a significant impact on Kedah's economy, the SA can give us clear instructions at PTG and PTD to expedite the process. So when we receive instructions for a special case like this, we prioritise it and make sure to speed up the process."*

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<sup>624</sup> Interview - G2R2 - Officer, "Land and Mines Department Kedah."

<sup>625</sup> Interview - G2R1 - Officer, "District Land Office."

<sup>626</sup> Ibid.

In conclusion, the development process for SBEZ BKH reveals significant challenges within the land approval and title registration system. Bureaucratic delays, entrenched working practices within land offices, and the overwhelming volume of registrations associated with large-scale projects contribute to prolonged timelines, creating uncertainties for developers and stakeholders. Despite efforts to streamline these procedures, the complexities involved in land-related matters for projects as expansive as the SBEZ suggest a need for continuous review and refinement of these processes to ensure more efficient and effective development outcomes.

#### **4.4 Legal Analysis**

From the issues previously identified, this section will further analyse these challenges by examining relevant sections of the applicable Acts, key legal cases, and other pertinent references. The analysis will focus on how specific legislative provisions either contribute to or hinder effective land use planning and development in SEZs, with particular emphasis on the SBEZ. Additionally, by reviewing judicial interpretations and landmark rulings, this section will explore the practical implications of these laws in SBEZ development.

##### **4.4.1 Challenges in enforcing the development plan**

The following section will discuss the challenges in enforcing the development plan and its related sub-themes, focusing on the difficulties faced in ensuring compliance and alignment with planning objectives.

#### 4.4.1.1 Data Deficiencies and Database Utilisation in the Development Plan

The legal framework guiding development plans in Malaysia, particularly under the TCPA, is critical for ensuring sustainable urban growth. Section 12 of the TCPA outlines the mandatory content for local plans, including maps, written statements, and proposals for land use, environmental protection, and infrastructure. However, significant concerns have been raised about the adequacy and comprehensiveness of these development plans, particularly in the context of SEZs and the SBEZ.

A major issue is the lack of detailed justifications within these plans. Section 12 of the TCPA does not explicitly mandate that development plans include clear explanations or justifications for proposed land uses, which is particularly problematic in SEZs and SBEZs. In these areas, where the stakes are high and the development implications are far-reaching, the absence of thorough justifications can undermine stakeholder confidence and lead to legal disputes. The case of *Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City ( Penang ) Sdn Bhd & Ors and Another Appeal* [ 2023 ] 2 MLJ 621 (Federal Court, Putrajaya) illustrates this point well.<sup>627</sup> The Federal Court highlighted how the inadequacy of the structure plan—specifically its failure to provide sufficient information—led to the introduction of Special Project Guidelines that ultimately contravened the TCPA. This case underscores the need for development plans that are not only prescriptive but also explanatory, offering stakeholders a clear understanding of the reasoning behind land use decisions.

The inadequacy of information in development plans is compounded by delays and the continued use of outdated plans. Despite amendments to the TCPA in 2001, which

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<sup>627</sup> *Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City ( Penang ) Sdn Bhd & Ors and Another Appeal* [ 2023 ] 2 MLJ 621.

aimed to involve federal, regional, state, and local authorities in spatial planning, many local planning authorities in Malaysia still struggle with the timely adoption and implementation of these plans. This has led to inefficiencies and the potential for legal complications as outdated plans may no longer align with current development needs or policy objectives. The delay in adopting new plans exacerbates the disconnect between planning authorities and the realities on the ground, further diminishing the effectiveness of development plans.

Public participation in the planning process also remains inconsistently applied across different regions in Malaysia. The TCPA outlines the process for public engagement, but in practice, the involvement of key agencies is often inconsistent, and the compliance by Local Planning Authorities (LPAs) can be superficial. This results in development plans that do not fully reflect the needs and concerns of the communities they are intended to serve. For instance, in Kuala Lumpur, while the Federal Territory (Planning) Act 1982 requires public involvement, research has shown that community engagement is often limited to formal procedures rather than meaningful participation. Effective public participation requires ongoing engagement and access to information throughout the planning process. Without this, development plans are likely to remain disconnected from the stakeholders they are meant to benefit.

Moreover, the existing legal framework under the TCPA does not adequately incorporate modern technological systems, such as Geographic Information Systems (GIS) and centralised databases, into the planning process. This omission is critical, as these tools are essential for ensuring that development plans are based on accurate, comprehensive, and up-to-date information. The TCPA's current focus remains largely on the physical preparation of plans, without mandating the use of these

advanced technologies. The absence of such tools can lead to discrepancies in land use planning, as seen in the case of *The Ordinary Co Sdn Bhd v Lembaga Rayuan Negeri Selangor & Anor* [ 2014 ] 7 MLJ 705 (High Court of Malaya, Shah Alam), where inconsistencies between different land use systems caused significant legal complications.<sup>628</sup> A centralised database integrated with GIS would allow for more consistent and reliable planning, reducing the likelihood of such conflicts.

The need for comprehensive data is further highlighted by the risks associated with inadequate planning. In the case of *Steven Phoa Cheng Loon & Ors v. Highland Properties Sdn Bhd & Ors* [2000] 4 MLJ 200, the collapse of a building was partly attributed to insufficient consideration of soil conditions.<sup>629</sup> Although this case did not directly involve the use of digital databases, it underscores the importance of having detailed, accurate data to inform land use decisions. A more integrated approach, leveraging GIS and centralised databases, could provide valuable insights into site suitability, environmental risks, and development potential, thereby improving the overall quality and safety of urban development projects.

The challenges within Malaysia's development planning practice extend beyond the issues directly related to SEZs and SBEZs. For example, local authorities face significant challenges in planning and managing open spaces, with issues such as limited land availability, inadequate funding, and weak policy compliance hindering the ability to provide and maintain public spaces that meet the needs of the community. These issues reflect a broader problem within the legal and institutional framework,

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<sup>628</sup> *The Ordinary Co Sdn Bhd v Lembaga Rayuan Negeri Selangor & Anor* [ 2014 ] 7 MLJ 705.

<sup>629</sup> *Steven Phoa Cheng Loon & Ors v. Highland Properties Sdn Bhd & Ors* [2000] 4 MLJ 200.



where the lack of stringent enforcement and resource allocation undermines the goals of sustainable urban development.

Additionally, the idea of establishing regional planning authorities in Malaysia has been proposed to address issues of resource efficiency, regional imbalances, and sustainable development. However, the legal and institutional framework for such authorities remains underdeveloped. Challenges such as state autonomy, political will, and the scope of authority complicate the establishment of effective regional planning bodies, which are crucial for coordinated development across state boundaries.

Given these challenges, there is an urgent need for reforms to the TCPA to address the identified gaps. Mandating the inclusion of justifications for all proposed developments within local plans, particularly in SEZs and SBEZs, would enhance transparency and reduce the risk of legal disputes. While the TCPA provides a foundational structure for land use planning in Malaysia, it falls short of addressing the complexities of SEZs, SBEZs, and broader urban development challenges. The lack of detailed justifications in development plans, inadequate public participation, delays in plan adoption, and the failure to integrate modern technological tools all contribute to a planning process that is less effective than it could be. By reforming the TCPA to include these elements, Malaysia can ensure that its development plans are comprehensive, transparent, and capable of supporting sustainable and legally sound urban growth.

#### **4.4.1.2 Challenges of executing the development plan**

Section 4.4.1.5 explores the challenges hindering the launch of the SBEZ, with a particular focus on infrastructural issues. A key factor identified is the location of the SBEZ itself. Unlike Kulim in Kedah,<sup>630</sup> which benefits from infrastructural and accessibility spillovers due to its proximity to Penang, the SBEZ Bukit Kayu Hitam faces significant infrastructure challenges. During the research, it was found that essential infrastructure, particularly electricity supply, has not yet been provided within the SBEZ area, raising concerns about the readiness of the zone to support large-scale industrial and commercial activities. Additionally, connectivity remains a major limitation, as the only existing road linking BKH to Penang is frequently congested at certain points, impacting the smooth movement of goods and people. Unlike other industrial zones that have benefited from well-developed transport networks, the SBEZ lacks dedicated infrastructure to support its intended role as a key economic hub. These gaps in electricity supply and transportation networks highlight the need for significant infrastructure investments to ensure the SBEZ can effectively attract investors and sustain long-term economic growth.

Despite Section 8(3) of the TCPA mandating that structure plans should foster economic growth, the SBEZ's growth is hindered.<sup>631</sup> Even though the structure and local plans include proposals for new highways to improve accessibility, their realisation depends on budget allocations. This gap between planning and implementation due to financial constraints has been confirmed by several officials.<sup>632</sup>

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<sup>630</sup> Che Leh, "Trends and Policy Implications of the Location Selection of Electric and Electronic Firms in Malaysia: A Case Study of the Penang and Kulim High-Tech Parks."

<sup>631</sup> Section 8(3) of the TCPA under the process of preparation of the structure plan.

<sup>632</sup> Interview - G1R4 - Asst Planner, "Planning Department MPKP"; Interview - G1R3 - Officer, "PLANMalaysia Kedah"; Interview - G3R1 - Engineer, "Jabatan Kerja Raya Kubang Pasu."

Budget constraints create a major obstacle to the timely execution of SBEZ-related projects. Moreover, the effectiveness of the SBEZ's development relies on appointing an agency or developer with strong financial backing. This was evident in the above discussion of the PKNK, where the land grant was delayed by financial constraints . Currently, a portion of the development is being carried out in collaboration with NCIA, a federal agency, potentially benefitting from federal funding.<sup>633</sup> This situation highlights the crucial role of the regional planning committee, as outlined in Section 6A(5), which mandates planning and coordinating infrastructure and facilities provision in the area.

Using the Northern region as an example, despite a gradual decrease in developmental disparities, the impact of political changes on infrastructural development should not be underestimated.<sup>634</sup> The NCER Blueprint, despite its comprehensive proposals, remains vulnerable to political ideology. Aqmar's research illustrates how ideological differences between central and state governments can create infrastructural gaps due to governmental discrimination.<sup>635</sup> This analysis emphasises the importance of stable, non-partisan political environments to ensure fair and efficient regional development, especially in strategic initiatives such as the SBEZ.<sup>636</sup>

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<sup>633</sup> Interview - C1R2 - Planner, "Planning Consultant 2"; Interview - D1R2 - Asst Manager, "Master Developer 2."

<sup>634</sup> Abdul Aqmar Ahmad Tajudin and Muhamad Nadzri mohamed Noor, *Budaya Politik Federal: Memikirkan Federalisme Malaysia Dari Perspektif Normatif*, *Malaysian Journal of History, Politics & Strategic Studies* 48, no. 2 (2021): 138–163; Francis Hutchinson, *Evolving Paradigms in Regional Development in Malaysia*, *ISEAS Economics Working Paper*, no. November (2016): 1–30.

<sup>635</sup> Abdul Aqmar Ahmad Tajudin and Muhamad Nadzri mohamed Noor, "Budaya Politik Federal: Memikirkan Federalisme Malaysia Dari Perspektif Normatif."

<sup>636</sup> Hafidz Hakimi Haron, *Jangan Biar Pergeseran Politik Cemar Semangat Federalisme*, *Berita Harian Online*, August 26, 2023, <https://www.bharian.com.my/rencana/lain-lain/2023/08/1145075/jangan-biar-pergeseran-politik-cemar-semangat-federalisme>.

The challenges impeding the SBEZ's development as outlined in Section 4.4.1.5, extend beyond mere infrastructural constraints. These impediments reflect deeper issues in planning integration. While the SBEZ's location presents unique infrastructural challenges, unlike the better-positioned Kulim, there's also a noticeable gap in harnessing economic expertise in the planning sector. The absence of skilled personnel holds back the process of creating econometrically-sound comprehensive plans. This in turn hampers the effective blending of economic considerations with the development strategy.<sup>637</sup> Compounding this, the major unresolved planning issues are often political and administrative as previously discussed, rather than purely economic.<sup>638</sup> This necessitates a multifaceted approach to overcome these hurdles and to fulfill the growth mandate set by Section 8(3) of the TCPA.

The legal significance of development plans is highlighted in the Federal Court case of *Perbadanan Pengurusan Sunrise Garden Condominium*. This case is crucial when analyzing the development planning of the SBEZ.<sup>639</sup> The ruling clarifies that development plans are legally binding, imposing an obligation on all stakeholders, including government entities, to adhere to their stipulations. The underutilisation or neglect of these plans, often due to enforcement lapses, corruption, or political interference, hampers the planning process, especially in the SBEZ scenario.<sup>640</sup> These

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<sup>637</sup> Albert Waterston, Development Planning: Lessons of Experience, *Research in Public Policy Analysis and Management* 15 (2006): 427–431; Interview - B1R1 - Planner, Majlis Bandaraya Iskandar Puteri.

<sup>638</sup> Ahmad et al., “Malaysian Development Plan System: Issues and Problems, One Decade After Its Reform (2001-2011)”;

Ponrahono et al., “A Theoretical Study on Malaysia Development Planning Mechanism and Its Institutional Process”;

Waterston, “Development Planning: Lessons of Experience.”

<sup>639</sup> *Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City ( Penang ) Sdn. Bhd. & Ors and Another Appeal* [2023] 2 MLJ 621 (Federal Court, Putrajaya).

<sup>640</sup> Nor Syafa Ah Ishak et al., Review on the Significance of Local Plan for Coastal Reclamation Development: The Case of Malacca, Malaysia, *MATEC Web of Conferences* 66 (2016); Sulaiman and Ainul Jaria, “The Legal Impact Of Development Plans In Delivering Sustainable Development: A Reference To The Town And Country Planning Act 1976 And The Federal Territory (Planning) Act 1982.”

issues underscore the gap between the theoretical legal framework and its real-world execution, revealing systemic flaws in current planning methodologies. Development plans aim to provide a stable, transparent, and legally sound basis for decision-making in land development and utilisation. This is crucial for guiding the future direction of specific areas according to the goals outlined in the TCPA.<sup>641</sup>

#### **4.4.2 Challenges in enforcing the planning control mechanism.**

This section explores two significant aspects of the planning control mechanism: the challenges of imposing planning conditions during the planning permission process and the difficulties in managing post-development issues through effective planning control. Both of these areas are crucial for ensuring that developments adhere to regulatory standards and contribute to sustainable growth within SEZs.

##### **4.4.2.1 Challenges to Imposing Planning Conditions in the Planning Permission Process**

The planning permission process in the SBEZ at Bukit Kayu Hitam plays a crucial role in ensuring that development aligns with both public interest and developer needs. However, it presents various challenges, particularly in finding a balance between government mandates and practical developer concerns. Certain conditions, such as providing access through developer land for neighbouring projects, have been sources of tension. Developers often perceive these requirements as burdensome, leading to increased costs and reduced project exclusivity. This section aims to address these challenges by focusing on the legal framework, the tensions between public and

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<sup>641</sup> Sulaiman and Maidin, “Development Plans Role in Promoting Achievement of Sustainable Development: A Case Study of the State of Selangor, Malaysia.”

private interests, and by providing recommendations for creating a more balanced and constructive planning process.

The power of the Local Planning Authorities (LPAs) to impose planning conditions is based on Section 22(2) of the TCPA 1976. This section allows LPAs to grant planning permission unconditionally, conditionally, or to reject the application. However, these conditions must be reasonable, related to planning activities, and aimed at ensuring proper planning. The case of Bencon Development demonstrates the significant role of planning conditions, such as requiring a developer to widen a bridge beyond their development area, in addressing traffic congestion and promoting overall community benefit.

In contrast, the Bukit Kiara Case raises concerns about the broader implications of such conditions, particularly the potential for increased congestion in the area. This emphasises the importance of Local Planning Authorities (LPAs) to thoroughly evaluate the wider repercussions of development initiatives, especially in delicate areas such as the SBEZ, where the interests of developers and the community carry significant weight.

The imposition of planning conditions is essential for regulating development activities. However, it is equally important to ensure that these conditions are fair and reasonable. The case of *Pengarah Tanah Dan Galian Wilayah Persekutuan v Sri Lempah Enterprise Sdn. Bhd.* [1979] 1 MLJ 135 (Federal Court of Malaya) is a landmark decision in Malaysian planning law, establishing the principles of

reasonableness that must guide the imposition of planning conditions.<sup>642</sup> Four main principles were highlighted by the court:

- a. The approving authority cannot impose conditions arbitrarily;
- b. Conditions must reasonably and fairly correspond to the permitted development;
- c. The approving authority must exercise reasonable judgment, and planning conditions must be reasonable;
- d. The approving authority cannot utilise its power for ulterior motives, even if such motives seem desirable in the public interest.

The principle of fairness is crucial when developers feel overly burdened by conditions that are disproportionate to their projects. Such excessive requirements can discourage investment in SBEZs and SEZs, as developers may view them as unjust. For example, in *Sri Maju Mas Sdn. Bhd. v Seberang Perai Municipal Council* [2013] 10 MLJ, a condition requiring the transfer of land to a utility company at a nominal price was deemed unfair, as it was unrelated to the developer's project.<sup>643</sup> This case illustrates how planning authorities can misuse their powers, potentially hindering development and violating developers' rights. The Board of Appeal highlighted the aforementioned issue in their decision:

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<sup>642</sup> *Pengarah Tanah Dan Galian Wilayah Persekutuan v Sri Lempah Enterprise Sdn Bhd* [1979] 1 MLJ 135 (Federal Court of Malaya).

<sup>643</sup> *Sri Maju Mas Sdn Bhd v Majlis Perbandaran Seberang Perai* [ 2013 ] 10 MLJ (Appeal Board, Penang).

“ A dangerous and unhealthy culture on the part of some Malaysian public authorities (or some officers in them), which festers the misguided thinking that, 'if you want something from us, even though it is our duty to grant it when it fulfills all reasonable requirements, We are entitled to also want something from you'! This is a disheartening phenomenon that I have observed too many times when dealing with planning appeals before this board.”

The One Stop Centre (OSC) system was introduced to streamline the planning permission process, centralising input from various agencies and reducing the administrative burden on developers. However, in practice, the system has been criticised for its inefficiencies, particularly the dual requirement for both online and hardcopy submissions. As pointed out by Respondent C1R2, the need to submit hardcopies within a few days of online submissions undermines the efficiency of the system and adds unnecessary complexity to the process.

Furthermore, the inconsistency in practices among different agencies exacerbates these inefficiencies. For example, while some agencies may fully utilise the OSC system, others continue to rely on traditional correspondence, slowing down the overall process. Mr. Lim highlighted that such practices not only frustrate developers but also undermine the intended purpose of the OSC system, which is to facilitate timely and efficient processing of planning applications.

Delays in the planning permission process are a significant concern for developers, particularly in the SBEZ, where time-sensitive investments are crucial. These delays are often attributed to incomplete reviews by LPAs and technical agencies, which are frequently understaffed and overburdened with responsibilities beyond planning



permission. This lack of capacity leads to delays in providing feedback and processing applications, creating a bottleneck in the development process.

The case of *MDS Ventures Sdn. Bhd. v Majlis Bandaraya Petaling Jaya* [2020] MLJU 2268 exemplifies the financial implications of such delays, where the developer incurred significant costs due to the extended time taken to process their planning application.<sup>644</sup> Similarly, in *Chong Co Sdn. Bhd. v Majlis Perbandaran Pulau Pinang* [2000] 5 MLJ 130,<sup>645</sup> the court emphasised the obligation of LPAs to make decisions within a reasonable timeframe, noting that excessive delays are not only unjustifiable but also detrimental to the development process.

Pre-consultation with LPAs and technical agencies is a crucial step in the planning permission process, ensuring that potential issues are identified and addressed early on. However, with the introduction of OSC 3.0+, pre-consultation has become non-mandatory, leading to a reduction in early engagement between developers and authorities. This shift has contributed to the submission of incomplete Development Proposal Reports (DPRs), which in turn leads to delays in the planning process as agencies request additional information.

Section 21A of the TCPA 1976 outlines the requirements for DPRs, including detailed analyses of the physical environment, land use, and potential impacts on surrounding areas. However, the absence of explicit requirements for comprehensive technical analyses, such as flood risk assessments, raises concerns about the adequacy of information provided to decision-makers. This gap in the regulatory framework

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<sup>644</sup> *MDS Ventures Sdn Bhd v Majlis Bandaraya Petaling Jaya* [2020 ] MLJU 2268.

<sup>645</sup> *Chong Co Sdn Bhd v Majlis Perbandaran Pulau Pinang*, [2000] 5 MLJ 130 (Appeal Board, Penang).

underscores the need for more robust guidelines which ensure that DPRs contain all necessary technical details to facilitate informed decision-making.

The challenges identified in the planning permission process within the SBEZ Bukit Kayu Hitam project reflect broader issues in balancing public interest with developer needs, systemic inefficiencies, and the fairness of planning conditions. While the legal framework provides LPAs with significant discretionary powers, it is crucial that these powers are exercised reasonably and in alignment with the principles of fairness and transparency. Addressing systemic inefficiencies, particularly in the OSC system, and ensuring comprehensive pre-consultation can significantly improve the planning process. By adopting a balanced and equitable approach, the planning permission process can better serve the needs of both developers and the community, ultimately contributing to the sustainable development of the SBEZ and other projects.

#### **4.4.2.2 Challenges of Managing Post-Development Issues Through Effective Planning Control**

In the above sub-section, the focus was on the intersection of traffic, safety, and security challenges, particularly in relation to areas surrounding the SBEZ BKH. While delving into the nuances of planning control in the development process, this section aims to contextualise these challenges within the broader landscape of Taman Temin, Taman Bayan Mas, the Bukit Kayu Hitam Industrial Area, and Changlun, all within close proximity to the SBEZ BKH. Using insights from Chapter 1 about frequent spill-over development in SEZs worldwide, this analysis will link these localised issues with the planning control mechanisms outlined in Part IV of the TCPA.

Section 22(2) of the TCPA sets a crucial mandate for the Local Planning Authority (LPA) to consider matters deemed expedient or necessary for proper planning when dealing with applications for planning permission.<sup>646</sup> This requirement complements Section 22(3),<sup>647</sup> which enables LPAs to impose conditions that ensure developers recognise the broader impact of their projects beyond the immediate site. Md. Dahlan's research highlights the importance of consulting technical agencies during the planning permission process to avoid unwarranted results.<sup>648</sup> In the context of the SBEZ, this approach is particularly pertinent. For such issues as traffic management, involving expert opinions from such entities as the Public Works Department (JKR) is vital. Similarly, addressing safety and security concerns in border areas requires input from specialised agencies such as Customs, Immigration, and the Police. This collaborative effort among multiple agencies is crucial for making well-informed decisions that align with the diverse needs of the development, especially in intricate and sensitive projects like the SBEZ.

The framework established by Section 22(2) and 22(3) of the TCPA emphasises the involvement of relevant technical agencies and broader impact considerations in the planning process. The critical importance of this framework becomes evident in the context of the SBEZ. Its ability to extend development considerations beyond the immediate project area is crucial. The high-density development anticipated in the SBEZ, with its potential spillover effects, could exacerbate congestion and safety

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<sup>646</sup> Section 22(2) of the TCPA.

<sup>647</sup> Section 22(3) which mandates the LPA to either grant absolute planning permission, or subject it to certain conditions as per section 22(5) or to refuse the planning permission.

<sup>648</sup> Nuarrual Hilal Md. Dahlan, Flood Disasters At Housing Areas In Malaysia: A Planning Law Perspective, *INSAF - The Journal Of The Malaysian Bar* 39, no. 2 (2022): 263–290.

issues in nearby areas such as Taman Temin, Taman Bayan Mas, and the PKNK Industrial Area.

This broader approach to planning is exemplified in landmark cases such as *Bencon Development*,<sup>649</sup> where the LPA's imposition of conditions, such as widening a bridge beyond the development area, showcased the significant role of planning conditions in mitigating traffic congestion and enhancing overall development. These conditions are not just local improvements but crucial interventions for the overall community's benefit, addressing potential traffic and safety hazards that could arise from concentrated development. Similarly, the *Bukit Kiara* case raises appellants' concerns about increased area congestion from proposed developments.<sup>650</sup> This case underscores the argument that LPAs need to thoroughly assess the wider implications of development projects. In the case of the SBEZ, such an assessment is even more crucial to avoid significant spill-over effects that could negatively affect existing and surrounding developments.

To transition effectively from the discussion on the planning conditions and permissions to the local authority's response to community concerns, it is essential to emphasise the gap between the planning phase and the actual maintenance of public facilities post-development. While planning conditions and permissions play a pivotal role in shaping the development, including the SBEZ, the issues raised by residents point to a critical disconnect in the post-construction phase. Despite the completion of buildings and developments, the concerns primarily revolve around the use of

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<sup>649</sup> *Bencon Development Sdn. Bhd. v Majlis Perbandaran Pulau Pinang & Ors* [1999] 2 MLJ 385 (High Court of Malaya, Penang).

<sup>650</sup> *Datuk Bandar Kuala Lumpur v Perbadanan Pengurusan Trellises & Ors and Other Appeals* [2023] 3 MLJ 829.

residential roads by heavy vehicles and the upkeep of public properties. This situation raises important questions: while the planning process facilitates public amenities and infrastructure, what measures are in place to ensure their ongoing maintenance and alignment with the community's evolving needs?<sup>651</sup>

This gap between planning and maintenance highlights a crucial aspect of urban development where the local authority's role extends beyond granting permissions to continuous oversight and management of public facilities.<sup>652</sup> The residents' concerns underline the need for a more holistic approach in the planning process, one that incorporates not only the development of facilities but also a sustainable plan for their long-term maintenance and adaptation to the community's requirements.<sup>653</sup> This critical analysis of the planning process and the local authority's response offers insights into the complexities of managing urban development, especially in dynamic areas such as the SBEZ, where traffic, safety, and public welfare are closely intertwined.

An analysis of the local authority's response to the grievances of residents surrounding the SBEZ reveals notable deficiencies. Despite clear communication of these issues, the authority has exhibited a disturbing level of disregard, leaving pressing concerns unresolved.<sup>654</sup> This lack of action casts doubt on their ability to effectively manage the

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<sup>651</sup> V. I. Ogu, Urban Residential Satisfaction and the Planning Implications in a Developing World Context: The Example of Benin City, Nigeria, *International Planning Studies* 7, no. 1 (2002): 37–53.

<sup>652</sup> Daniella Dickinson and Sina Shahab, Post Planning-Decision Process: Ensuring the Delivery of High-Quality Developments in Cardiff, *Land Use Policy* 100, no. September (2021); Ivan Marović et al., Urban Road Infrastructure Maintenance Planning with Application of Neural Networks, *Complexity* 2018 (2018).

<sup>653</sup> Marović et al., “Urban Road Infrastructure Maintenance Planning with Application of Neural Networks”; Ogu, “Urban Residential Satisfaction and the Planning Implications in a Developing World Context: The Example of Benin City, Nigeria.”

<sup>654</sup> Mod Sanusi Raiham, Baiki Jalan Rosak Elak Kemalangan Berulang, *Sinar Harian Online*, June 23, 2019, <https://www.sinarharian.com.my/article/34031/edisi/terengganu/baiki-jalan-rosak-elak-kemalangan-berulang>.

existing residential and industrial developments, which cover approximately 400 acres. The question then arises: can this authority, struggling with current responsibilities, adequately handle the challenges of a vastly larger development area of nearly 12,000 acres?<sup>655</sup> This escalation in scale underscores the magnitude of the tasks ahead, and if the authority is faltering in a smaller area, skepticism about their capacity to manage a larger one is well-founded.

The legal analysis presented highlights the critical role of the local authority in ensuring the proper maintenance, public safety, and overall well-being of the community, particularly within the context of the SBEZ development. It becomes evident that the local authority's diligence in fulfilling their obligations holds significant implications not only for the immediate community but also for the larger economic development of the SBEZ. Neglecting essential responsibilities such as maintenance and other obligations can have a detrimental impact on the perception of investors and stakeholders. It is crucial for the local authority to demonstrate a genuine commitment to the economic development of the SBEZ by effectively managing and addressing issues, implementing proper maintenance practices, and upholding their duty of care. Failure to do so not only undermines public safety and community well-being but also risks creating an unfavourable impression among potential investors, which can hinder the progress and success of the SBEZ development.

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<sup>655</sup> Local governments need to demonstrate increased responsiveness in addressing local needs, ensuring they fulfill their functions with a high degree of responsibility and attentiveness to public complaints. This imperative calls for a proactive approach in meeting community requirements and effectively responding to concerns raised by residents. Fatin Nur Farhana Mohd Termizi and Mohd Rozaimy Ridzuan, *Whether to Trust Local Government? From the Good Governance Perspectives*, *Journal of Governance and Integrity* 5, no. 3 (2023): 408–414; Mariana Mohamed Osman et al., *Government Delivery System: Effectiveness of Local Authorities in Perak, Malaysia*, *Procedia - Social and Behavioral Sciences* 153 (2014): 452–462, <http://dx.doi.org/10.1016/j.sbspro.2014.10.079>.

#### **4.4.2.3 The Public Participation Process in the Preparation of the Development Plan and Planning Permission.**

The TCPA 1976 establishes the framework for public participation in local plan creation, stressing the importance of transparency. Section 12A underscores the need to inform the public about the draft local plan, including its objectives and scope.<sup>656</sup> Despite these legal provisions, public engagement in the planning processes remains inadequate. Local residents often lack awareness of local plans and development projects due to limited inspection time and outdated communication methods. For example, in the SBEZ BKH area, residents were largely unaware of significant developments near their homes, leaving them isolated and uninformed. This raises concerns about whether the Local Planning Authority (LPA) genuinely involves the public in the process or simply fulfills the minimum requirements by posting notices in newspapers and displaying information for a short period.

In the case of *BU Developments Sdn. Bhd. v Selangor Appeal Board & Ors* [2014] 8 MLJ 539 (High Court Shah Alam), the significance of public participation in the planning process is highlighted.<sup>657</sup> The case involved a neighbouring landowner who failed to raise objections during the public consultation phase of the draft local plan but objected only after receiving a notice under Section 21(6). This scenario underscores the shortcomings of the publicity process in effectively reaching the public. This issue is mirrored in the SBEZ BKH case, where residents were similarly unaware of significant developments affecting their area. Factors such as residents'

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<sup>656</sup> Section 12A ensures individuals are informed of their right to provide input. Section 13 outlines rules for publicising draft local plans, including making them available for inspection and publishing a notice in local newspapers. The deadline for objections or input is at least four weeks from the date of inspection, but can be extended by up to four weeks upon request.

<sup>657</sup> *BU Developments Sdn. Bhd. v Selangor Appeal Board & Ors* [2014] 8 MLJ 539 (High Court of Malaya, Shah Alam).

disinterest and time constraints, as well as a preference for legacy communication methods, may contribute to low awareness and engagement.<sup>658</sup> The limited dissemination of information through traditional methods has been emphasised by the results of the MPKP's efforts.

In the case of *Sunrise Garden Condominium v Sunway City Management Corporation (Penang) Sdn. Bhd. & Ors and Another Appeal* [2023] 2 MLJ 621, the Federal Court highlighted the significance of public participation and transparency in the issuance of "special project guidelines" within the Structure Plan under Malaysian planning law.<sup>659</sup> The court held that the issuance of such guidelines without public involvement violates the TCPA.<sup>660</sup> This emphasises the need for clear and inclusive communication with the public in all stages of development processes. This ruling has considerable implications for similar cases such as the SBEZ BKH,<sup>661</sup> where any alterations to local plans must be communicated transparently to ensure conformity with legal requirements. As previously discussed in the context of Kubang Pasu, the minimal level of public awareness and involvement is inadequate, and the Local Planning

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<sup>658</sup> Norizan Rameli, Fariha Ramli, and Raihana Ahmad Jalaluddin, Information Broadcasting Concerning Publicity and Public Participation in Development Plan, *Turkish Journal of Computer and Mathematics Education (TURCOMAT)* 12, no. 2 (April 10, 2021): 715–722, <https://turcomat.org/index.php/turkbilmat/article/view/928>.

<sup>659</sup> *Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City (Penang) Sdn. Bhd. & Ors and Another Appeal* [2023] 2 MLJ 621.

<sup>660</sup> The guideline that was established, effectively altered the structure plan, did not go through the required process of public participation, as mandated by sections 11, 11A, and 11B of the TCPA. These sections require the guidelines to be publicised as outlined in Section 9 of the TCPA.

<sup>661</sup> Majlis Perbandaran Kubang Pasu, Pemeriksaan Awam Ke Atas Rancangan Tempatan Majlis Perbandaran Kubang Pasu 2035 (Pengubahan 1), last modified 2023, <https://www.facebook.com/photo?fbid=255242509975516&set=a.228666299299804>. Some portion of the local plan for SBEZ BKH area has been submitted for alteration. Thus, as per section 16 of the TCPA, it needs to be publicised. Based on findings from online media, from Facebook, only a single post has been made regarding this change, consisting merely of a notice that informs the public where inspections can be conducted. Unfortunately, no supporting documents about the change have been made available online..



Authority (LPA) must go beyond mere token gestures to genuinely engage the public rather than just a minimal lip service.

Furthermore, in the case of *Datuk Bandar Kuala Lumpur v Perbadanan Pengurusan Trellises & Ors and Other Appeals* [2023] 3 MLJ 829, the significance of public participation in town planning was underscored.<sup>662</sup> Judge Nallini Pathmanathan emphasised the crucial role of public input in the development of statutory plans, highlighting their substantial impact on the daily lives of citizens. She stressed that town planning decisions, which influence the organisation of workspaces, schools, parks, commercial areas, and waste management, must incorporate public participation to ensure they align with the best interests of the community.

Meanwhile, for the process of public involvement in the planning permission process, the TCPA case illustrates that notification to adjoining landowners is only mandated when there is no gazetted local plan for an area, as per Section 21(6) of the TCPA. While it may appear that this requirement is unnecessary for SBEZ because it does not directly involve the neighbouring landowner's interests, it is essential to consider the broader implications of such notification. For instance, even in cases where the act does not require notice, it can be seen as a manifestation of good governance, as it addresses potential community concerns and facilitates conflict resolution. Nevertheless, insight from the case of Lee Freddie, even though it is related to Section 21(6) regarding notifying the landowner since no gazetted local plan in place, but

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<sup>662</sup> *Datuk Bandar Kuala Lumpur v Perbadanan Pengurusan Trellises & Ors and Other Appeals* [2023] 3 MLJ 829 (Federal Court, Putrajaya). The KL Structure Plan 2020 saw extensive public participation. Chapter 1.3 notes that 258 objection forms, covering 945 objections, were received from various individuals and organizations. The Minister appointed 18 members to the Public Objection Hearing Committee, which included professional and public representatives. Between May and June 2003, 29 hearing sessions were held, allowing 228 objectors to present their views. Further sessions in August to October 2003 addressed 936 objections from 175 individuals and 83 groups, demonstrating a broad engagement with the public.

providing such notice can be regarded as a manifestation of good governance, as articulated by Shankar J:

"The provisions, especially ss 13(1) and 21, giving affected persons the right to object to local plans and development plans, respectively, were merely declaratory of what good administration practice is."

The involvement of the public in the planning process is crucial, especially in significant projects such as the SBEZ. Section 21(6) of the TCPA is designed to provide adjoining landowners with an opportunity to raise objections to planning permission applications made by their neighbours, but this provision is only applicable when the local plan has not been gazetted. However, once a local plan is in place, it raises questions about how individuals not covered by Section 21(6) can voice their concerns. Furthermore, Section 21(8) restricts the right to object to adjoining landowners, leaving issues unresolved for developments that extend beyond these immediate neighbours. Given the expansive nature of the SBEZ, spanning nearly 12,000 acres and incorporating industrial zones, the potential impact of development goes beyond neighbouring landowners. Therefore, there is a need for broader public participation mechanisms to ensure that all affected parties have a voice in the planning process, not just those within the narrowly defined boundaries of the law.

In a similar case involving Tressiles Management Corporation, the corporation itself was not considered an adjoining landowner to the proposed development but lodged an objection on the grounds of being affected by the development. The management corporation contended that the proposed development would have adverse effects on them, including environmental impacts, increased congestion, and pollution. Despite

not being classified as an adjacent landowner, the court ruled that they had a legitimate interest and were "adversely affected" by the proposed development, even though it was not directly adjoining to their property.

The significance of public participation in planning processes is underscored not only by the legal frameworks in place but also by the practical implications observed in various case studies. For example, limited public awareness and engagement, as seen in cases like SBEZ, often lead to dissatisfaction and conflict, revealing gaps in current practices. While there are legal provisions for participation, these are insufficient in addressing the broader impacts of large-scale developments. This raises important questions about how planning decisions can be more inclusive, ensuring that all affected parties, not just immediate neighbours, have a voice.

Patrick McAuslan, a prominent figure in planning law, argues that public participation is a fundamental principle in planning.<sup>663</sup> It involves creating mechanisms for the public to be consulted and engaged in decision-making processes, thereby promoting democracy and justice in land use planning. By incorporating public input, planning processes become more democratic, transparent, and fair, considering the diverse perspectives and interests of the community.

#### **4.4.2.4 Land Administration**

This section focuses on the complexities of land administration within the context of SEZs, particularly examining two key challenges: land alienation in government-linked projects and the surrender and re-alienation process. Effective land

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<sup>663</sup> Patrick McAuslan, *The Ideologies of Planning Law* (Oxford: Pergamon Press, 1980).

administration is essential for ensuring that land resources are managed efficiently and equitably, especially in high-stakes developments such as SEZs.

#### **4.4.2.5 Challenges of Land Alienation in Government-Linked Projects**

Land alienation is a crucial factor in the establishment of SBEZs such as the Bukit Kayu Hitam one. The authority to oversee land alienation in these zones is bestowed upon the SA, as stipulated in the NLC. Government-Linked Companies (GLCs) such as PKNK are heavily involved in this process. However, various challenges have surfaced, particularly in terms of aligning land alienation decisions with development plans and managing potential conflicts of interest among decision-makers. Addressing these issues is critical for the effective management and progress of the SBEZs in Malaysia.

One of the primary legal concerns in the Bukit Kayu Hitam SBEZ is the failure to align land alienation decisions with the zone's gazetted development plans. Section 76 of the NLC grants the SA the power to alienate land, either on application by the federal government or other entities, provided that the grant serves public purposes or is issued under special circumstances.<sup>664</sup> However, the NLC does not require the SA to consult with planning agencies before making these decisions. This absence of obligatory consultation can result in land alienation that does not conform to the gazetted development plans. The failure to properly allocate land in accordance with the

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<sup>664</sup> Section 76 of the NLC confers the State Authority (SA) with the authority to alienate state land. This section specifies the conditions under which the State Authority can alienate land, whether upon application by the federal government or by other entities. The key provisions under Section 76 encompass the following: (1) Alienate land if it serves a public purpose, (2) Alienation under special circumstances, and (3) Alienation necessary for the development or enhancement of the land for public benefit.

development plan can result in underutilisation of the land or the execution of projects that do not meet the strategic needs of the region.<sup>665</sup>

The Hartalega case is a pertinent example of the issues that arise when land alienation is not aligned with development plans.<sup>666</sup> In this instance, land designated for highway purposes was instead alienated for industrial use, leading to legal complications and delays in critical infrastructure development. Similar discrepancies could have significant implications for the Bukit Kayu Hitam SBEZ if land alienation determinations are made without comprehensive consultation with planning authorities, potentially undermining the zone's efficacy and strategic objectives.

Another critical issue is the potential conflict of interest when individuals with decision-making authority have personal stakes in the outcomes of land alienation. While Section 76 of the NLC empowers the SA to alienate land, it does not address conflicts of interest that may arise when those making decisions also stand to benefit from the outcomes. For example, in the Bukit Kayu Hitam SBEZ, the Chief Minister's dual role as both the authority to alienate land and as a board member of PKNK, which receives the land, raises concerns about the impartiality of these decisions. This dual role may result in decisions being influenced more by personal or political considerations rather than public interest.<sup>667</sup>

Such conflicts of interest are particularly problematic in the context of SBEZs because they can result in land being allocated in ways that do not align with the zone's long-

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<sup>665</sup> Assel Dochshanova, *Public Needs and Alienation of Land Plots: Correlation of Legislation and Practice* 3, no. April (2014): 90–93.

<sup>666</sup> *Hartalega Sdn. Bhd. & Anor V. Kerajaan Negeri Selangor & Ors* [2022] 7 CLJ 735 (High Court of Malaya, Shah Alam).

<sup>667</sup> Nuarrual Hilal Md. Dahlan, *Soil Erosions at Housing Areas in Malaysia: A Land Law Perspective* [2023] 3 MLJ Cxxxviii, *Malayan Law Journal*, no. October (2023): 0–24.

term developmental goals. The legal framework must, therefore, be robust enough to prevent these conflicts, ensuring that land alienation decisions are transparent and in line with the overarching objectives of the SBEZ.

The Tresilees Management Corporation case further illustrates the risks of conflicts of interest in land alienation.<sup>668</sup> In this case, the Dato Bandar, who was involved in alienating land to a foundation while also being a board member of that foundation, approved planning permissions that led to the land being alienated under questionable circumstances. In the context of the SBEZ, similar conflicts could lead to the allocation of land to entities that are not in line with the zone's development objectives, potentially impeding its ability to attract suitable investments and realise its strategic goals.

In conclusion, the key legal issues surrounding land alienation in the Bukit Kayu Hitam SBEZ—namely, the failure to align with development plans and the existence of conflicts of interest—are exacerbated by the lack of mandatory consultation with technical agencies and the influence of political considerations. Addressing these challenges is essential for the successful and sustainable development of the SBEZ.

#### **4.4.2.6 Surrender and re-alienation process**

The aforementioned process highlights the undeniable fact that obtaining land titles for small lots, as approved in the layout plan, is a time-consuming endeavour. Even after obtaining planning permission, a considerable waiting period remains before the land can be sold. Consequently, it is vital to accelerate the entire land development

process. Therefore, the focus should be on streamlining the process, irrespective of the involvement of the planning and land departments.

In the context of land surrender and re-alienation, it is important to highlight the final process leading to the issuance of the land title. As previously discussed, this process can be time-consuming, often taking close to a year to complete. During the planning permission stage, the applicant submits a layout plan that encompasses various types of development components. Specifically, in the case of SBEZ, the identified layout includes industrial, commercial, street, institutional, and water body components, among others. As part of the planning conditions, applicants are also required to surrender a portion of their land for public purposes, such as open spaces, road reserves, drainage, and other public amenities. Furthermore, Section 136(1) of the NLC stipulates that landowners must surrender a portion of their land for public purposes as determined by the planning authority during the approval of the planning permission.

In the case of *Bayangan Sepadu Sdn. Bhd. v. Jabatan Pengairan Dan Saliran Negeri Selangor & Ors* [2022] 2 CLJ (Federal Court, Putrajaya),<sup>669</sup> the appellant purchased a piece of land through a public auction in March 2011. After surveying the land in July 2011, the appellant discovered the presence of a retention pond and permanent structures on the land. The appellant requested justification from the respondents, namely the JPS Selangor (first respondent), the Director of JPS Selangor (second respondent), and the Selangor SA (third respondent). The first respondent explained that they were in the process of collecting relevant documents and information

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<sup>669</sup> *Bayangan Sepadu Sdn. Bhd. v. Jabatan Pengairan Dan Saliran Negeri Selangor & Ors* [2022] 2 CLJ (Federal Court, Putrajaya).

regarding the project and the retention pond, and a meeting would be arranged once the necessary materials were obtained.

However, during a search conducted by the appellant prior to the judicial sale, there was no indication of the retention pond or structures on the land, nor was there any indication that a portion of the land had been surrendered to the respondents by the previous owners. The respondents filed a police report stating their inability to locate the project file and their intention to gather documents and plans from Majlis Bandaraya Shah Alam (MBSA). The first and second respondents eventually produced documents to support their claim that the land portion had been surrendered to the third respondent.

On 16 March 2017, the appellant issued a letter of demand to the first respondent, requesting vacant possession of the land and removal of the fence and structures within three days. As the respondents failed to comply with the demand, the appellant filed a lawsuit in the High Court. However, the High Court ruled in favour of the respondents. Dissatisfied with the High Court's decision, the appellant appealed to the Court of Appeal. The main issue before the Court of Appeal was whether the respondents had trespassed by constructing the retention pond on the wrong lot and the validity of the land surrender by the previous owners to the SA. The Court of Appeal, by a majority decision, dismissed the appellant's appeal. Consequently, the appellant sought leave to appeal to the Federal Court on two questions of law: (i) whether the appellant's rights as the registered owner could be defeated by a promise to surrender the property made by the previous owners, assuming the land was the agreed lot to be surrendered to MBSA; and (ii) whether there was a valid surrender of the land when the consent of



the chargee had not been obtained, assuming the land was the agreed lot to be surrendered to MBSA.

The appellant subsequently brought the case to the Federal Court. The judge ruled that the principle of indefeasibility of title, a key feature of the Torrens system of conveyance, applies. Once a person is registered as the proprietor of land or an interest in the land, their title is protected and cannot be vitiated unless provided under Section 340 of the NLC. However, there was no evidence to show adherence to the procedures outlined in Sections 196, 200, and 201 of the NLC. It is crucial to avoid such disputes in the development process of SBEZ, considering its large scale. Disputes like this can create conflicts between developers, investors, and the SA, which holds absolute power in land matters.

Once again, the question arises as to why such occurrences persist. The researcher is of the opinion that among key factors contributing to this issue is the insufficient attention and careful administration within the system. If the process were properly conducted, these overlooked issues would not arise.

A similar case can be observed in *GK Land Sdn. Bhd. v Mega 3 Housing Sdn. Bhd. & Anor and another appeal* [2018] 2 MLJ 101.<sup>670</sup> In this case, the SA approved an application to change the land conditions and boundaries under section 124 of the NLC. The development plans involved the construction of 634 houses, 48 shops, and the subdivision of lots, along with provisions for public facilities. One of the approved public utilities was tapai stalls, despite an order from the Government's EXCO to not issue any land title for this particular public utility lot. Nevertheless, the Land Office

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<sup>670</sup> *GK Land Sdn. Bhd. v Mega 3 Housing Sdn. Bhd. & Anor and Another Appeal* [2018] 2 MLJ 101 (Court of Appeal Putrajaya).

proceeded to issue the title, resulting in disputes over the land. These cases highlight the need for more careful administration at the land management level. With proper execution, such issues could be avoided, benefiting all parties involved.

The administrative challenges in the land system, particularly evident in the SBEZ BKH development, go beyond the scope of the project and reveal deeper systemic issues. There is an urgent need for an accurate and error-free process of land administration. However, frequent errors leading to potential legal complications reveal a significant problem, which is the sheer volume of daily land registration applications, sometimes as high as 1,000, that places a heavy strain on the system. This is caused by inadequate staffing levels, and ultimately increases the risk of errors.

Another serious issue is the lack of specialised knowledge and skills among personnel, resulting in further delays in land development processes. This was corroborated by an officer from PTG Kedah, who mentioned that he had to repeatedly review paperwork to be submitted for EXCO meetings due to multiple errors made by subordinates. Additionally, frequent reshuffling of officers hinders the development of deep expertise and understanding necessary for efficiently managing applications.

Therefore, the development of SBEZ BKH has revealed systemic deficiencies within the land administration system, highlighting a broader issue beyond project-specific challenges. The high volume of land registration applications, sometimes reaching up to 1,000 per day, overwhelms the workforce of the land system.<sup>671</sup> This pressure increases the risk of errors, as staff are stretched too thin to maintain an error-free and

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<sup>671</sup> Interview - G2R1 - Officer, "District Land Office"; Rohani Azmi et al., Surrender and Re-Alienation of Land in Johor, Malaysia: A Planning Tool and Mechanism for Sustainable Property Development, in *2019 World Bank Conference on Land And Property* The World Bank - Washington DC, March 25-29, 2019, 2019.

precise process. This is a critical requirement given the serious legal implications of any mistakes.

These operational challenges are further compounded by a lack of specialised knowledge and skills among personnel.<sup>672</sup> This is evident in the experiences of PTG Kedah officers who frequently encounter errors requiring multiple document revisions. Additionally, the frequent rotation of officers disrupts the accumulation of in-depth knowledge and understanding, which is crucial for efficient application management and navigating the complex processes involved.<sup>673</sup>

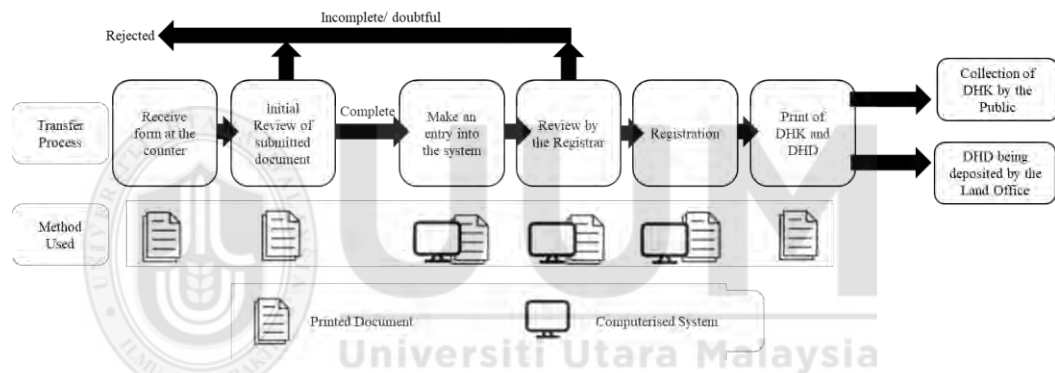


Figure 4-9 Flowchart of Land Transfer at the Land Office  
(Adopted from Chong, 2008)<sup>674</sup>

The transition to a digital land administration system exacerbates these issues. Integrating online methods with the need for hard copy documentation creates a hybrid and often inefficient system.<sup>675</sup> The current process, as shown in Figure 4-9, requires

<sup>672</sup> Azmi et al., “Surrender and Re-Alienation of Land in Johor , Malaysia: A Planning Tool and Mechanism for Sustainable Property Development”; Marlyana Azyyati Marzukhi et al., One Stop Centre (OSC): Lessons on Best Practices in Planning System Delivery, *Planning Malaysia* 17, no. 1 (2019): 104–115.

<sup>673</sup> Marzukhi et al., “One Stop Centre (OSC): Lessons on Best Practices in Planning System Delivery.”

<sup>674</sup> Ahmad Hamidi Mohamed, Yati Musa, and Abdul Rahim Afiq Farhan, Cadangan Pindaan Kanun Tanah Negara: Analisis Bebanan Operasi Pentadbiran Tanah Semasa Dan Cadangan Sistem Pendaftaran Tanah Secara Elektronik Sepenuhnya Di Malaysia, *Land* 11, no. 1 (2023): 21–42.

<sup>675</sup> Nor Shahriza Abdul Karim et al., Electronic Land Administration System in Malaysia: A Proposed Review from ICT and Legal Perspectives, *Proceedings 2010 International Symposium on Information Technology - Visual Informatics, ITSIM'10* 1, no. c (2010).

staff to manage a dual system, leading to potential bottlenecks.<sup>676</sup> These bottlenecks, caused by simultaneously handling digital and physical data and balancing in-office tasks with fieldwork, significantly contribute to delays and backlogs in land administration.<sup>677</sup> This scenario highlights the complexities of implementing a fully digital system and the need for a more streamlined approach to address the multifaceted tasks within the land administration system.

Additionally, the process faces challenges due to a lack of synchronisation between different systems. The zoning system used for planning permission is based on lot numbers registered under the land administration system. However, the integration of new layout plans from proposed projects into this system is not seamless. There is an absence of a unified system that connects the GIS management of the Planning Department in the LPA with the Land Administration system. This disconnect creates administrative inefficiencies and highlights the need for a more integrated and streamlined approach to land management systems. To address these challenges, a strategic human resource plan is needed to align the right skills with the right roles. This will ensure that land administration agencies are equipped with personnel who possess the specific knowledge and expertise required for such critical tasks.

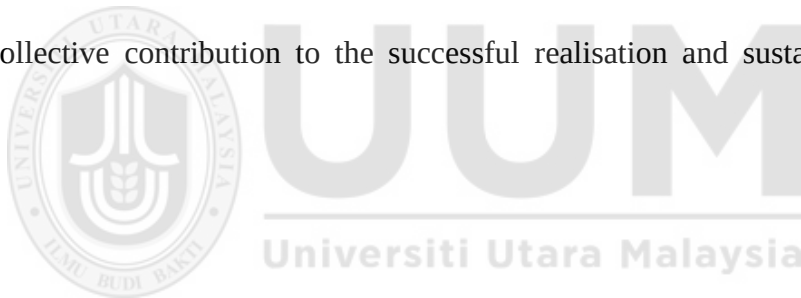
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<sup>676</sup> Ariff, Samsudin, and Ahmad, "Surrender and Re-Alienation Approval Process: A Review of Emerging Issues and Way Forward from Evidence Base."

<sup>677</sup> Mohamed, Musa, and Afiq Farhan, "Cadangan Pindaan Kanun Tanah Negara: Analisis Bebanan Operasi Pentadbiran Tanah Semasa Dan Cadangan Sistem Pendaftaran Tanah Secara Elektronik Sepenuhnya Di Malaysia"; Interview - G2R1 - Officer, "District Land Office"; Interview - G2R2 - Officer, "Land and Mines Department Kedah."

#### **4.5 Summary**

This chapter has provided a comprehensive examination of the key issues related to planning and land law in the development of the SBEZ BKH. It focused on how the development plan, guided by the TCPA, has influenced the overall progress and effectiveness of the SBEZ, with particular attention on the impact of planning controls on shaping the zone's growth and structure. The chapter also emphasised the significance of public involvement, stressing the important role of inclusive planning processes in harmonising development with community needs and expectations. Furthermore, the chapter has addressed the crucial aspect of land-related matters, examining them within the context of the NLC. This examination acknowledges the fundamental interconnectedness between land management and planning, illustrating their collective contribution to the successful realisation and sustainability of the SBEZ.



## **CHAPTER FIVE**

### **SPECIAL ECONOMIC ZONE IN JOHOR AND PENANG**

#### **5.1 Introduction**

This chapter will make a thorough analysis of the legal aspects and findings gathered from the SBEZ Bukit Kayu Hitam case study in Chapter 4. Thus, this chapter aims to address the research objectives in Chapter One and will further propose solutions to the identified problems in Chapter 7. Through a comprehensive analysis of the legal issues surrounding SBEZ BKH, this chapter aims to offer insights into the adequacy of measures to deal with the challenges in enforcing the development plan and the planning control, the process of public participation as well as administrative land matters. These challenges will significantly impact the progress of SBEZ Bukit Kayu Hitam in its aspiration to become a successful SEZ.

To strengthen this analysis, the practices of four Local Planning Authorities (LPAs) from two key states, Johor and Penang, will be reviewed. These states have been chosen for their extensive experience managing SEZs, providing valuable lessons on addressing the challenges faced by SBEZ Bukit Kayu Hitam. The chapter will draw comparisons between the selected LPAs and analyse how their approaches can inform future strategies.

## 5.2 Overview of Johor and Penang

Johor and Penang have been selected due to their prominent roles in managing SEZs and their significant contributions to Malaysia's economic development. Johor, through the Iskandar Malaysia initiative, has attracted substantial foreign investment and developed robust logistics and industrial infrastructure. At the same time, Penang's experience with Malaysia's first Free Industrial Zone in Bayan Lepas and the Batu Kawan Industrial Park highlights its position as a leader in high-tech manufacturing. The local planning authorities in both states have developed valuable practices that can offer solutions to the challenges identified in SBEZ Bukit Kayu Hitam.

In Johor, Majlis Bandaraya Iskandar Puteri (MBIP) and Majlis Bandaraya Pasir Gudang (MBPG) were selected as exemplary practitioners. MBIP has managed SEZ concept developments in Medini Iskandar Malaysia and Tanjung Pelepas. Meanwhile, MBPG has managed the Pasir Gudang Industrial Park as well as Pasir Gudang Port. These LPAs possess extensive experience in handling complex industrial and logistics operations, making their practices particularly relevant to SEZ development.

In Penang, Majlis Bandaraya Pulau Pinang (MBPP) and Majlis Bandaraya Seberang Perai (MBSP) were selected for their roles in managing SEZs. MBPP was responsible for overseeing the first SEZ in Malaysia, the Bayan Lepas Free Industrial Zone (FIZ), while MBSP has been actively managing the ongoing Batu Kawan Industrial Park. These SEZs have been instrumental in Penang's growth as a major hub for high-tech manufacturing, providing insights into effective industrial and urban planning.

### 5.2.1 Johor

Johor, through the development of Iskandar Malaysia, has seen significant socio-economic growth, driven by its strategic position as a gateway to Singapore. Launched in 2006, Iskandar Malaysia spans 2,300 square kilometres across the districts of Johor Bahru, Kulai, and Pontian, managed by the Iskandar Regional Development Authority (IRDA).<sup>678</sup> The Comprehensive Development Plan (CDP) 2006-2025 established by IRDA guides Iskandar Malaysia's development, focusing on sustainable growth in manufacturing, logistics, healthcare, and education.<sup>679</sup> While IRDA provides strategic oversight, development control, including zoning and land use planning, remains with local authorities.

The Iskandar Puteri City Council (MBIP) oversees the Southern Industrial and Logistics Clusters (SILC), as well as Pelabuhan Tanjung Pelepas (PTP), a major transportation hub in Flagship C.<sup>680</sup> MBIP ensures efficient coordination between industrial growth and logistics operations. Similarly, the Pasir Gudang Municipal Council (MBPG) manages Pasir Gudang, an industrial area that started as a petrochemical hub and has evolved into a key player in Flagship D's logistics and oil and gas sectors. This chapter will further examine best practices by the LPA on how they manage this industrial development, which offers insights for the development of SBEZ Bukit Kayu Hitam.

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<sup>678</sup> Khazanah Nasional Berhad, Iskandar Regional Development Authority & Iskandar Development Region Information Pack, 2007, [http://www.khazanah.com.my/docs/IDR\\_Infopack\\_23Feb07.pdf](http://www.khazanah.com.my/docs/IDR_Infopack_23Feb07.pdf). The Iskandar development is guided by Khazanah Nasional Berhad, the Malaysian Sovereign Development Fund. Previously referred to as the Iskandar Development Region and South Johore Economic Region, it is managed by the Iskandar Development Authority (IRDA). The IRDA operates under the legislative framework of the Iskandar Regional Development Authority Act 2007 (Act 664).

<sup>679</sup> Iskandar Regional Development Authority (IRDA), *Comprehensive Development Plan II (2014-2025)*.

<sup>680</sup> Ibid.



### 5.2.2 Penang

Penang, situated in the northern region of Peninsular Malaysia, is geographically divided into two primary areas: Penang Island and Seberang Perai on the mainland. The governance of these areas is overseen by two separate city councils: the MBPP, responsible for Penang Island and the city of George Town, and the MBSP, which manages the mainland area. This well-structured governance system ensures effective administration of both urban and industrial zones. Recognised as one of Malaysia's pivotal economic centres, Penang owes much of its standing to its strategic location and the presence of FTZ, which have attracted significant industrial and commercial investments over the years.<sup>681</sup> Critical transportation hubs, including the Penang International Airport and Port Butterworth, further enhance Penang's role in regional and global supply chains, cementing its position as a key player in the logistics and import-export sectors.<sup>682</sup>

Two prominent industrial zones in Penang include the Bayan Lepas Free Industrial Zone (FIZ) on Penang Island and the Batu Kawan Industrial Park (BKIP) on the mainland. Established in 1972, Bayan Lepas was Malaysia's first Special Economic Zone (SEZ).<sup>683</sup> It played a key role in transforming Penang into a hub for the electronics and electrical (E&E) industry. It is home to major global companies such as Intel, AMD, and Bosch, earning Penang the moniker "Silicon Valley of the East".<sup>684</sup> On the mainland, BKIP spans 6,000 acres and accommodates a mix of multinational corporations and local companies. Supported by seamless infrastructure, BKIP's

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<sup>681</sup> Rasiah, "The Industrial Policy Experience of the Electronics Industry in Malaysia."

<sup>682</sup> Che Leh, "Trends and Policy Implications of the Location Selection of Electric and Electronic Firms in Malaysia: A Case Study of the Penang and Kulim High-Tech Parks"; Penang Institute, *Penang Economic and Development Report 2019/2020*, 2020.

<sup>683</sup> Chai and Im, *The Development of Free Industrial Zones – The Malaysian Experience*; Rasiah, "The Industrial Policy Experience of the Electronics Industry in Malaysia."

<sup>684</sup> Athukorala, "Growing with Global Production Sharing : The Tale of Penang Export Hub , Malaysia."

strategic location near the Second Penang Bridge and key highways, coupled with government support, positions it as a burgeoning industrial and commercial hub.<sup>685</sup> It attracts investments and nurtures local small and medium-sized enterprise (SME) growth through initiatives like the Penang Automation Cluster.

### **5.3 Selected issues from Bukit Kayu Hitam**

Chapter Four has identified key issues affecting the development of SBEZ Bukit Kayu Hitam. To further understand other LPA practises, interviews were conducted with relevant stakeholders from the abovementioned LPAs. The responses from these LPAs through the interviews as well as online library research allowed the researcher to gain insights into how they reacted to the related issues. Moreover, even within the same state, LPAs may implement different practices based on different situations, offering diverse solutions to similar challenges. It has been shown that there can be different practices in various LPAs which could represent an innovative activity or might help SBEZ Bukit Kayu Hitam to advance.

The following section will explore how these LPAs manage the issues discussed in Chapter Four, focusing on practical practices rather than legislative frameworks, as many of these LPAs operate under the same TCPA. By adopting a state-based approach, this discussion avoids redundancy and provides a more detailed examination of the LPA practices. This method enables a comprehensive understanding of standard and unique successful strategies within each state. The insights from this analysis will

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<sup>685</sup> Batu Kawan Industrial Park, Batu Kawan Industrial Park, accessed June 23, 2022, <https://directorsdirectory.com/batu-kawan-industrial-park/>.

inform the recommendations and methodologies tailored for SBEZ Bukit Kayu Hitam, which will be presented in Chapter Seven.

### **5.3.1 Challenges in enforcing the development plan**

The development plan cannot be denied as one of the main instruments used in guiding development. Chapter 4 discusses two main challenges related to implementing development plans: a lack of data and use of databases, and challenges in implementation. Therefore, the sub-section below will discuss how other places manage these issues.

#### **5.3.1.1 Data Deficiencies and Database Utilisation in Development Plans**

Chapter 4 summarised issues of information deficiency in the development plan as follows:

- 1) Local plans often lack sufficient detail, leading to confusion which hinders effective development decisions.
- 2) Rigid land-use zoning limits the flexibility needed for integrated, multi-use developments in special zones.
- 3) Inconsistent and ineffective public participation during plan preparation results in unfocused and less informed decisions.
- 4) Underutilisation of Geographic Information Systems (GIS) leads to poor data integration and inadequate spatial analysis.

#### 5.3.1.1.1 Johor

In preparing local plans, MBIP and MBPG distinguished between existing, committed, and proposed developments within their zoning plans. This detailed differentiation is crucial for ensuring that the public can quickly identify the zoning status and development progress in their area. In contrast to MPKP's approach, which does not differentiate zoning categories based on development stages, the method employed by MBIP and MBPG enables stakeholders to distinctly discern the status of completed developments and those still in the planning or proposed stages.

The detailed differentiation of zoning plans is crucial as it significantly impacts various stakeholders.<sup>686</sup> For government bodies and LPAs, it supports the identification of development zones and infrastructure priorities.<sup>687</sup> Developers gain clearer guidance on viable areas, reducing abandonment risks.<sup>688</sup> Public interviews indicated confusion with the proposed zoning, suggesting limitations in the current simplified approach.<sup>689</sup> This was evident during interviews where public members expressed confusion when presented with the proposed zoning plans from the local plan, indicating a need for more understanding arising from the simplistic zoning approach.<sup>690</sup>

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<sup>686</sup> Majlis Bandaraya Iskandar Puteri, Rancangan Tempatan Iskandar Puteri 2035 (RTIP 2035), last modified 2023, <https://onemap.mbip.gov.my/portal/apps/sites/#/publisiti-awal-rtip>. The figure uses a colour-coded scheme to differentiate various land use zones, providing a clear visual representation of spatial planning. Different colour tones indicate the status of industrial development within the area. For example, industrial zoning is represented in purple, with varying shades signifying different stages of development. The darker, more saturated purple represents existing industrial zones, highlighting areas where industries are already well established. The medium purple tone signifies committed development areas, designated for future industrial expansion. Meanwhile, the lighter purple shade marks proposed industrial zones, indicating areas planned for new industrial growth. This gradation in colour tones helps convey the progressive stages of industrial development, enhancing clarity in land use planning..

<sup>687</sup> Interview - B1R2 - Planner, "Majlis Bandaraya Pasir Gudang."

<sup>688</sup> Interview - D1R2 - Asst Manager, "Master Developer 2."

<sup>689</sup> Interview - P1R2 - Society Chairman, "Local Resident 2."

<sup>690</sup> Interview - P1R1 - Society Chairman, "Local Resident 1."

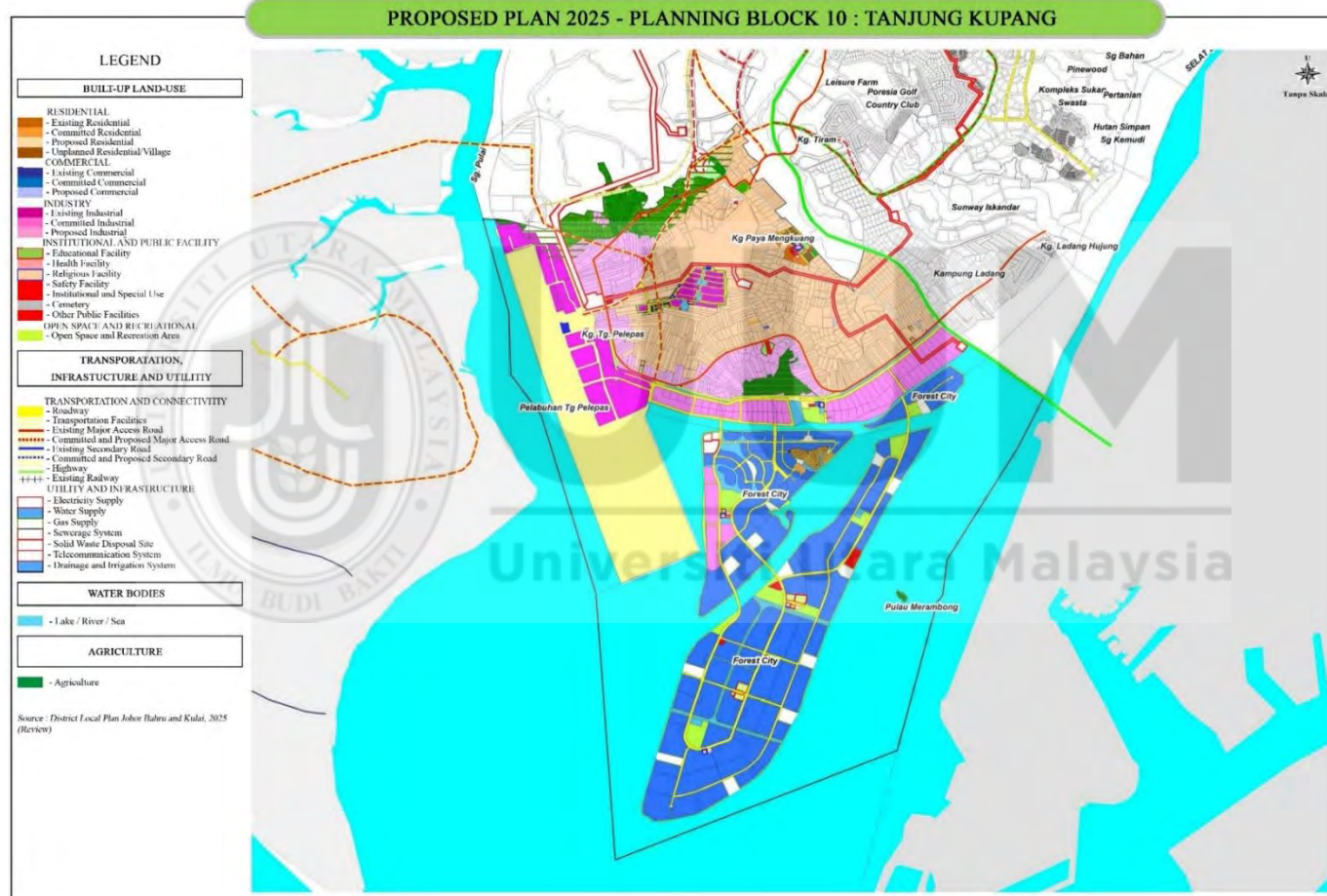


Figure 5-1 Zoning Plan for Iskandar Puteri

LAND USE CLASS ORDER SPB 5.1 : INDUSTRIAL AREA AND TG LANGSAT PORT

| Column 1<br>TYPE OF LAND USE                                                                                                                                                                    | Column 2<br>CLASS ORDER / ALLOWABLE ACTIVITIES                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Column 3<br>DENSITY AND PLOT RATIO                                                                                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Class B<br>Commercial<br>(Committed)                                                                                                                                                            | <ul style="list-style-type: none"> <li>B1: Retail (B1a - B1d)</li> <li>B3: Professional Services (B3a - B3j)</li> <li>B4: Food and Beverage (B4a - B4c)</li> <li>B6: Vehicle Services (B6a - B6c)</li> <li>B9: Car Park</li> <li>B12: Petrol Station</li> </ul> <p><b>Note:</b><br/>Any changes/modifications to committed development must follow the latest guidelines and be subject to PPU (Local Authority) approval.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>Classes B1, B3, B4, B6, B9, B12</p> <p>Office/Retail: ≤ 3 storeys</p> <p>Free Standing = 1:3</p>                                                                                                                                                               |
| Class C<br>Industry<br>(Existing, Committed, Proposed)                                                                                                                                          | <ul style="list-style-type: none"> <li>C2: Heavy Industry</li> <li>C3: Medium Industry</li> <li>C4: Light Industry</li> <li>C5: Small &amp; Medium Industry / Cottage Industry</li> </ul> <p><b>Note:</b><br/>The buffer distance for certain processes or sources of pollution that are difficult to control must have a larger buffer distance. A detailed study model should be conducted to determine the necessary buffer distance. Residential developments (worker dormitories) and service centres (police stations, fire stations related to industrial zones) with density exceeding 40 units/acre (or 500 people/acre) in designated industrial areas must conduct detailed studies on environmental impacts and pollution control before approval.<br/>The buffer zones for industrial activities near residential, commercial, and public facilities like professional services, warehouses, vehicle services, food and beverage establishments, and petrol stations should maintain a buffer distance of 50m to 500m depending on the activity and noise levels generated.<br/>Industrial zone developments are encouraged to implement the Green Industry Development Concept. Refer to specific industrial guidelines for further details.</p> | <p>Buffer Zone of at least 300m or more</p> <p>Buffer Zone of at least 150m or more</p> <p>Buffer Zone of at least 50m or more</p> <p>No minimum Buffer Zone is set<br/>(If significant noise and heat are generated, a buffer of 10m or more is recommended)</p> |
| Class G<br>Transportation and<br>Coactivity (Existing)                                                                                                                                          | G3: Transportation Facilities<br>(Terminal, Lamp Post, Stations, Ferry Terminal)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | CLASS G3<br>Free Standing = 1:4                                                                                                                                                                                                                                   |
| Class E<br>Public Facilities<br>(Committed)                                                                                                                                                     | <p><b>Note:</b><br/>Existing and committed transportation facilities must be retained.</p> <p>F3: Religious (Mosque)</p> <p>L5: Safety (Fire Station)</p> <p><b>Note:</b><br/>Existing and committed public facilities must be retained.<br/>Residential quarters are allowed in security reserve areas with a density of 60 units/acre.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                   |
| Class F<br>Recreation Facilities<br>(Existing and Committed)                                                                                                                                    | F2: Recreational and Open Space Facilities (Local parks, playgrounds, sports fields, recreational zones, buffer zones)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                   |
| Class H<br>Infrastructure and Utility<br>(Existing and Committed)                                                                                                                               | <ul style="list-style-type: none"> <li>H1: Electricity Supply (PMU, PE, TNB Substations)</li> <li>H2: Gas Supply</li> <li>H3: Water Supply (Water Tanks, Water Reservoirs)</li> <li>H4: Drainage and Irrigation (Canals, Drains)</li> <li>H5: Solid Waste Disposal (Landfill)</li> <li>H6: Sewerage (Wastewater Treatment Plant)</li> </ul> <p><b>Note:</b><br/>Existing and committed infrastructure and utility systems must be retained.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                   |
| <p><b>Note:</b><br/>- The main land use types must follow the colours indicated on the Proposed Map, 2025.<br/>- Must be read together with the Schedule of Land Use Classes in Appendix A.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                   |

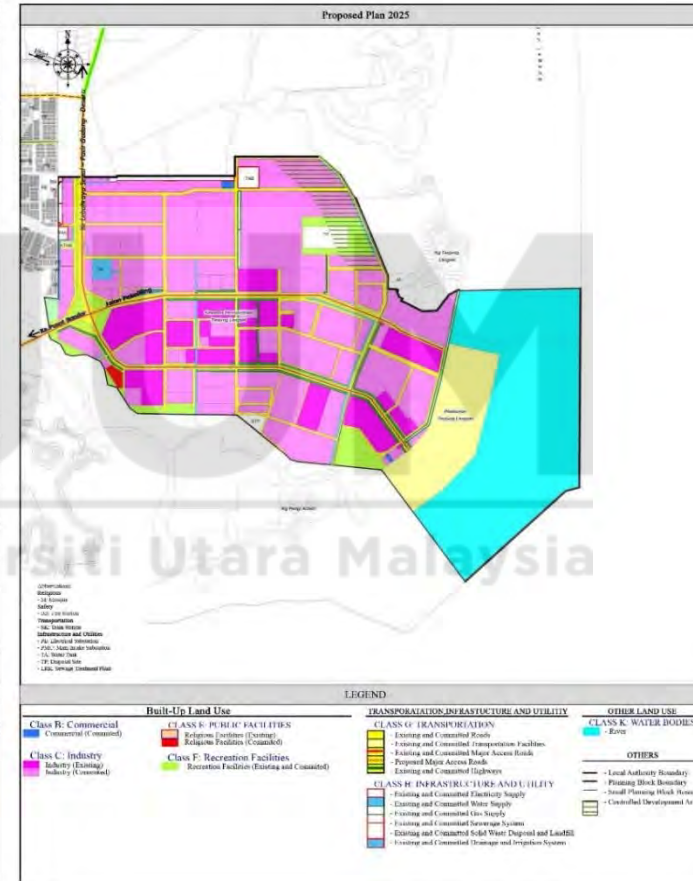


Figure 5-2 Zoning Plan for Pasir Gudang

At the same time, another practice used by the local plan for MBIP and MBPG involves some details of the development conditions being spelt out in the local plan itself, for example, the use of buffers for development involving the zoning industry. This plan segment specifies that industrial developments must comply with buffer zone requirements, which are discerningly designated according to the industry type.<sup>691</sup> A minimum buffer of 300 meters is mandated for robust heavy industries, ensuring a substantial separation from sensitive areas. Medium-scale industries must establish a buffer of at least 150 meters, while lighter industries must maintain a 50-meter distance.<sup>692</sup> Although it can be seen that there is a need to give flexibility to the zoning itself, in one respect, some things need to be more structured to avoid ambiguity.

In addition to that, it is a commendable practice by MBIP and MBPG to present zoning plans using specific, small planning blocks with their own boundaries (as shown in Figure 5.1 and 5.2). This method allows for a more detailed and accurate representation of land use, particularly for smaller, specific zones that require precise planning considerations. In contrast, the approach used by MPKP relies on a standard planning block format, which tends to combine multiple blocks into a single plan. (Refer to Appendix 4.1 and 4.2) While this may provide a broader overview, it lacks the clarity and detail of the smaller, distinct blocks used by MBIP and MBPG. The tailored approach not only makes it easier to focus on the unique requirements of each block but also improves transparency and accuracy in land use planning. Therefore, the method adopted by MBIP and MBPG provides a more effective way of visualising

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<sup>691</sup> Column Two (2) of the SPB 5.1 - Tanjung Langsat in Pasir Gudang Local Plan.

<sup>692</sup> Ibid.



zoning plans compared to the broader, less detailed format used in Kubang Pasu Local Plan.

MBIP and MBPG have developed their own GIS systems, OneMap and P'GEO to support land use planning and decision-making. These platforms act as centralised databases, providing accessible geospatial data for internal and public use. OneMap, initially developed with ESRI <sup>693</sup> and now managed in-house, offers advanced analysis features such as assessing floor space data to evaluate zoning capacity for projected industrial growth.<sup>694</sup> This supports more informed future zoning decisions. P'GEO, though more basic, still allows public access to land use information within Pasir Gudang.



Figure 5-3 3D Simulation in OneMap by MBIP

<sup>693</sup> ESRI, Overview, last modified 2024, <https://www.esri.com/en-us/about/about-esri/overview>. Esri (Environmental Systems Research Institute) is a leading geographic information system (GIS) software company that specialises in developing GIS software and tools to analyse, visualise, and manage spatial data. The company provides mapping and spatial analytics solutions for various fields, including urban planning, environmental management, disaster response, infrastructure development, and business analytics.

<sup>694</sup> Interview - B1R1 - Planner, "Majlis Bandaraya Iskandar Puteri."



The abovementioned systems are designed to enhance inter-departmental collaboration by enabling seamless data sharing. This will indirectly lead to a more efficient planning process, as analysis and data sharing are no longer solely based on the conventional method. These initiatives have the common objective of leveraging GIS technology to enhance data accuracy, assisting in the planning process, and facilitating more public participation in the decision-making process within their respective jurisdictions.

#### **5.3.1.1.2 Penang**

While Johor has gazetted its local plans, the local plans for both districts in Penang were still ungazetted when this research was conducted. As a result, MBPP and MBSP have greater flexibility in handling planning permissions. In the absence of a gazetted local plan, they previously relied on the Comprehensive Development Plan (CDP), which provided zoning guidelines but was not legally enforceable.<sup>695</sup> Therefore, since the local plan is not gazetted, there is some flexibility for landowners in Penang to develop their land without being strictly bound by the development plan. However, because the local plan has not been gazetted, they are required to serve notice as per Section 21(6) of the TCPA.<sup>696</sup> While this allows for some flexible zoning, the process can become complex if a neighbouring landowner raises objections during public participation.

In another context, a lesson learned from MBPP was the need to address issues related to the details of the development plan and zoning deficiencies by providing more specific zoning categories. Instead of just broad categories such as industry or housing,

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<sup>695</sup> Interview - B2R1 - Planner, "Majlis Bandaraya Pulau Pinang."

<sup>696</sup> Ibid.

zoning should focus more on the type of development that will be pursued, similar to the approach taken in the Sunway case.<sup>697</sup> Although the guidelines in that case were considered null and void, how it specified allowable development types offers valuable insights. For example, in that particular guideline, under Category 1, infrastructure projects for the government that are intended for public use are specified as exceptions in sub-paragraph (a).<sup>698</sup> Sub-paragraph (b) provides examples of such infrastructure projects as cable car systems, hill rail projects, and other necessary public-use facilities. In this context, the specific types of development that should fall under SEZs can be detailed rather than using standard zoning categories in the typical local plan.

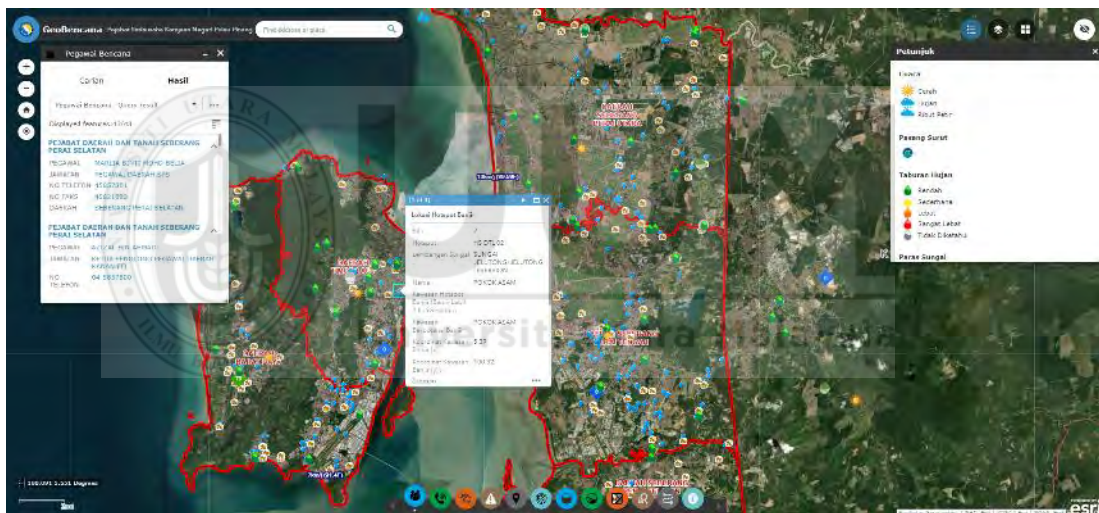


Figure 5-4 PeGIS Website Interface

Meanwhile, Penang as a whole has its own Penang GIS system (PEGIS), which offers a diverse range of applications, encompassing almost 29 distinct types that can leverage available GIS data.<sup>699</sup> For example, the Public E-Map feature is particularly noteworthy, as it allows the public to access information on public facilities, industrial

<sup>697</sup> *Perbadanan Pengurusan Sunrise Garden Condominium v Sunway City ( Penang ) Sdn Bhd & Ors and Another Appeal [ 2023 ] 2 MLJ 621.*

<sup>698</sup> *Ibid.*

<sup>699</sup> Unit Pengurusan Maklumat Geospasial, Penang GeoHub, <https://pegis.penang.gov.my/geoportal/home/>.

areas, and other relevant spatial data. One notable and compelling feature PEGIS uses is Geo-Bencana, which empowers the public to access information on flood hotspots.<sup>700</sup> This application operates on a mapping concept, displaying real-time river water level readings and rainfall distribution data from sensors provided by the Department of Irrigation and Drainage (DID).<sup>701</sup>

#### **5.3.1.1.3 Key Lessons for SBEZ Development**

One of the main lessons from the above practises is the importance of incorporating the detailed differentiation of zoning, together with the specific guidelines within the development plan. While the incorporation of these guidelines seems to be rigid, they provide a binding framework that needs to be adhered to. This is for cases involving non-negotiable conditions. This is important because under current practice, despite there being a lot of formulated guidelines, it will only gain legal authority when endorsed by the State Authority through formal rules. Formalised zoning regulations are essential for controlling urban sprawl and promoting sustainable development, as they provide predictability and legal enforceability, ensuring orderly growth and environmental sustainability.<sup>702</sup>

On the other hand, the implementation of a comprehensive data analytic tool by leveraging and optimising the GIS system is important for SBEZ development. It allows the simulation and projection of future development. The integration of the database from various technical agencies can enable the creation of a simulation that can predict the future state of the SBEZ. It can help to assess the needs and carrying

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<sup>700</sup> Interview - B2R1 - Planner, “Majlis Bandaraya Pulau Pinang.”

<sup>701</sup> Unit Pengurusan Maklumat Geospasial, “Penang GeoHub.”

<sup>702</sup> Sapna Bansal and Smita Pandey, Legal Frameworks for Sustainable Urban Development: Analysing the Efficacy of Zoning Regulations in Promoting Environmental Conservation, *E3S Web of Conferences* 527 (2024).

capacity for the upcoming development. For example, some industrial developments might require a certain number of residential provisions, together with the carrying capacity of the road, especially when it involves the movement of goods with truck containers. This integration will enhance the planning process by providing valuable views through data-driven analysis. When fully integrated with predictive data analytics, GIS systems significantly improve decision-making processes in urban planning.<sup>703</sup> These systems equip planners with spatial intelligence, enabling more accurate forecasting of land use and infrastructure needs. Needs

#### **5.3.1.2 Challenges of executing the development plan**

Based on Chapter Four, some key challenges have been identified in executing the development plan as a document in making the SBEZ successful, as follows:

1. The development plan as an investment promotion tool is limited in its effectiveness.
2. Geographical isolation and inadequate infrastructure hinder the SBEZ's growth and operational efficiency.
3. The lack of a developed industrial ecosystem limits the SBEZ's ability to attract diverse industries.
4. Political influences cause delays and uncertainty, impacting the execution of the development plan.

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<sup>703</sup> Rashidat Yusuf and Khadijat Abdulquadri, Application of GIS and Urban Data Analytics to Land Use Planning, *The Urban and Regional Planning Students Association of Nigeria's (URPSAN) National Conference, November 14-18*, no. November 2023 (2023): 17.

#### 5.3.1.2.1 Johor

The issues faced by SBEZ highlight the need to integrate local plans with economic-based development, as emphasised by the interviewed MBIP officer. One of the key focuses in preparing these plans is to ensure that they align with broader economic strategies, such as those proposed by Iskandar Malaysia.<sup>704</sup> Unlike traditional planning, which tends to focus on physical development, Iskandar Malaysia takes a more holistic approach, considering the economic impact of development. For example, the Comprehensive Development Plan (CDP) established by IRDA creates a clusterisation for industrial development. Heavy industry is strategically directed to areas such as Pasir Gudang and Kulai, while MBIP focuses on light industry.<sup>705</sup> This concept of planning for the region rather than solely focusing on certain areas only ensures that economic growth is distributed in a way that benefits all areas.

Political influences can lead to delays and uncertainty in the implementation of development plans. However, political figures often seek to align their actions with public expectations to maintain their standing. When political interference occurs, it is important to manage it diplomatically. One approach is to ensure that any directives from political figures are provided in writing to establish their legitimacy. To minimise potential delays caused by political intervention, stakeholders should strive to align their actions with development plan goals.<sup>706</sup> Since political figures are elected by the public, they are motivated to demonstrate competence and deliver positive results. This not only reduces delays but also prevents negative public perceptions that could damage political reputations.

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<sup>704</sup> Interview - B1R1 - Planner, "Majlis Bandaraya Iskandar Puteri."

<sup>705</sup> Ibid.

<sup>706</sup> Ibid.; Interview - B1R2 - Planner, "Majlis Bandaraya Pasir Gudang."

Meanwhile, as discussed in Chapter Four, geographical isolation is one of the issues in executing the proposal in the development plan. One of the key strategies to mitigate this isolation is ensuring that the proposed developments are supported by robust infrastructure. However, securing funds from the government for infrastructure projects that are proposed in the development plan might be challenging. Therefore, Public-Private Partnerships (PPP) can serve as a viable alternative.<sup>707</sup> For example, in Pasir Gudang, there are accommodation issues for workers within the industrial areas. To address this, MBPG has initiated the development of Centralised Labor Quarters (CLQ) using the PPP approach. The Build-Operate-Transfer (BOT) model will be exercised whereby MBPG will provide the land, and a third party will develop and operate the facilities. After a certain period, as stated in the agreement, the facilities will be transferred back to MBPG. This approach effectively resolves the infrastructure challenge without relying solely on government funding.

Furthermore, securing support from the federal government is crucial for sustaining investment in such large-scale projects and instilling confidence in investors. A relevant example is Forest City, which was designated as a Special Financial Zone to rejuvenate its stalled development. The federal government's initiatives are part of an excellent initiative to ensure that this area is not abandoned. This demonstrates how federal support can be instrumental in reversing challenges and driving the success of significant development projects.

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<sup>707</sup> Interview - B1R2 - Planner, "Majlis Bandaraya Pasir Gudang."



Figure 5-5 Centralise Labour Quarters in Pasir Gudang

#### 5.3.1.2.2 Penang

It is clear that obstacles to the developments in Penang have led to delays in the gazettment process. These obstacles arise from a range of factors, such as problems within the public participation process and the impact of political considerations. Nonetheless, the lack of strict adherence to a plan-led approach has also allowed for some adaptability, although this has led to ad-hoc planning decisions that may affect long-term development consistency.<sup>708</sup>

Penang has effectively utilised its established infrastructure and strategic location to address various challenges. The construction of the Penang Second Bridge, for instance, was instrumental in alleviating congestion on the first bridge and reducing the traffic of truck containers to and from the island (as per Figure 5.6). Moreover, this bridge serves as a vital link between the Bayan Lepas Free Industrial Zone (FIZ) and

<sup>708</sup> Interview - G1R3 - Officer, "PlanMalaysia Kedah."



the mainland, easing traffic and enhancing access to the Batu Kawan Industrial Park (BKIP) on the mainland.<sup>709</sup> This facilitates air-freight cargo transportation from Bayan Lepas, contributing significantly to the efficient operation of industrial and economic zones.

Furthermore, as the owner of the Free Trade Zone in Penang, PDC has implemented a strategic approach by formulating a comprehensive strategy for developing their industrial park. By serving as the primary landowner and working in partnership with InvestPenang to promote the master plan, PDC is committed to ensuring the full-fledged development of the industrial park, making it an attractive destination for anchor investors. This emphasis on attracting anchor investors is a fundamental strategy for stimulating additional investments and ensuring the zone's success.<sup>710</sup>

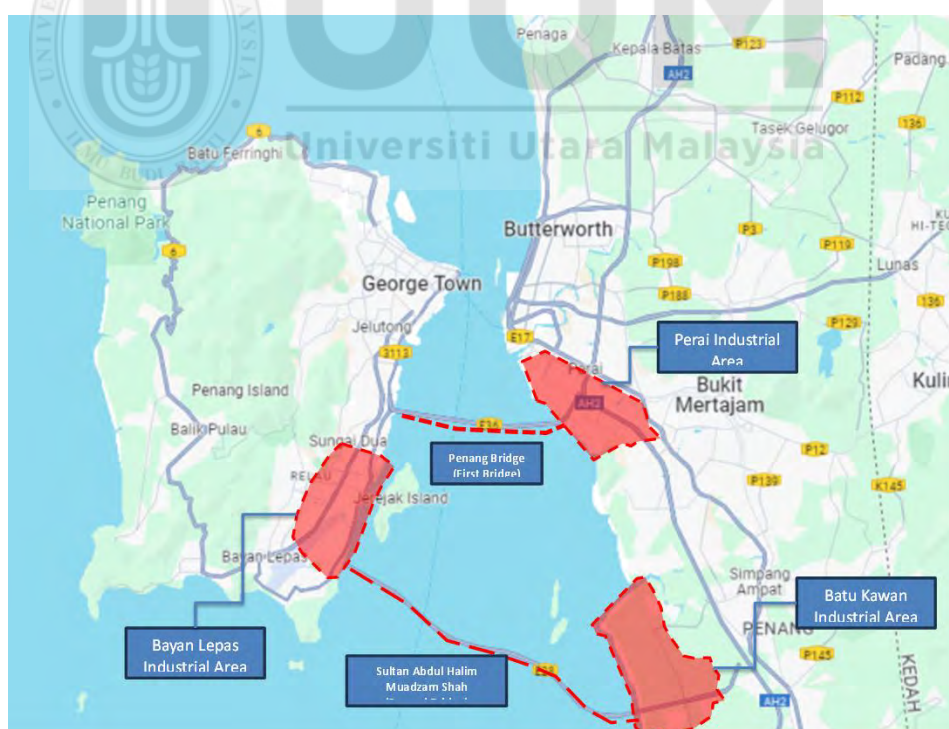


Figure 5-6 Location of Industrial Park and Bridge that connect island and mainland

<sup>709</sup> Interview - B2R1 - Planner, “Majlis Bandaraya Pulau Pinang.”

<sup>710</sup> Interview - B2R3 - Officer, Penang Development Corporation (Google Meet).



#### 5.3.1.2.3 Key Lessons for SBEZ Development

The experiences of Johor and Penang offer useful insights for SBEZ development. Johor's alignment of local plans with broader economic goals, such as Iskandar Malaysia, shows the importance of integrating economic priorities into planning to support infrastructure and industry growth. Penang highlights the value of leveraging existing infrastructure like the Second Bridge to address location challenges. For SBEZ, investing in infrastructure and making strategic use of its location are essential for efficient operations and regional growth.

Managing political influences is another key consideration, as seen in Johor and Penang. While political intervention can cause delays or uncertainties, it can also be used strategically to support development goals. By documenting political directives and aligning plans with stakeholder interests, SBEZ can reduce disruptions and improve project execution. Political engagement, when aligned with regional priorities, can strengthen planning and lead to more effective decisions.<sup>711</sup> Adopting PPP, such as Johor's CLQ initiative, also offers alternative funding and implementation pathways, easing reliance on public resources. PPPs are particularly useful in financing urban infrastructure under resource constraints. These experiences underline the need for an integrated, economically focused, and politically informed approach to ensure successful and sustainable development in the SBEZ. savvy approach to planning and executing development projects in the SBEZ, ensuring their long-term success and sustainability.

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<sup>711</sup> Alejandro Lara et al., Development, Urban Planning and Political Decisions. A Triad That Built Territories at Risk, *Natural Hazards* 109, no. 2 (2021): 1935–1957, <https://doi.org/10.1007/s11069-021-04904-5>.

### Challenges in Enforcing the Development Plan: Insight from Local Best Practices in Malaysia

|                                                                                    | Issues                                                                                                                                                                                                                                                                                                                                 | Best Practices                                                                                                                                                                       |                                                                                                                                                                                | Key Lessons                                                                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                    |                                                                                                                                                                                                                                                                                                                                        | Johor<br>(MBIP, MBPG)                                                                                                                                                                | Penang<br>(MBPP, MBSP)                                                                                                                                                         |                                                                                                                                                                                                                                                                                                 |
| <b>1</b><br><b>Data Deficiencies and Database Utilisation in Development Plans</b> | <ul style="list-style-type: none"> <li>Lack of detailed local plans (confusion in decision-making).</li> <li>Rigid land-use zoning (limits multi-use developments).</li> <li>Inconsistent public participation (unfocused development decisions).</li> <li>Underutilisation of GIS systems (poor data integration).</li> </ul>         | <ul style="list-style-type: none"> <li>Clear zoning differentiation.</li> <li>Advanced GIS platforms (OneMap, P'GEO).</li> </ul>                                                     | <ul style="list-style-type: none"> <li>Flexible zoning with non-gazetted plans (CDP).</li> <li>Public GIS access via PEGIS.</li> </ul>                                         | <ul style="list-style-type: none"> <li>Clear zoning differentiation to avoid confusion.</li> <li>GIS tools for better data-driven decisions.</li> <li>Public engagement tools like PEGIS to improve participation.</li> </ul>                                                                   |
| <b>2</b><br><b>Challenges in Executing the Development Plan</b>                    | <ul style="list-style-type: none"> <li>Development plan limited as an investment promotion tool.</li> <li>Geographical isolation and infrastructure gaps hinder growth.</li> <li>Lack of industrial ecosystem reduces attractiveness for diverse industries.</li> <li>Political interference causes delays and uncertainty.</li> </ul> | <ul style="list-style-type: none"> <li>Diplomatic management of political influences (written directives).</li> <li>PPPs for infrastructure development (CLQ, BOT model).</li> </ul> | <ul style="list-style-type: none"> <li>Improved connectivity via Penang Second Bridge.</li> <li>PDC's strategy for attracting anchor investors in industrial parks.</li> </ul> | <ul style="list-style-type: none"> <li>Align development plans with broader economic strategies.</li> <li>Manage political influences diplomatically to reduce delays.</li> <li>Use PPPs for infrastructure development.</li> <li>Leverage strategic connectivity to support growth.</li> </ul> |

Figure 5-7 Summary of Challenges in Enforcing the Development Plan (Researcher Own, 2024)

### **5.3.2 Challenges in enforcing the planning control mechanism**

This section will further explore the best practices from Penang and Johor regarding the enforcement of planning control, focusing on two critical areas. First, it will examine the legal challenges in balancing public interest and developer needs when imposing planning conditions, highlighting how authorities in these regions navigate the competing demands of development and public welfare. Second, it will address the challenges of managing post-development issues through effective planning control, exploring the mechanisms and strategies implemented to ensure sustainable land use and long-term compliance with planning regulations.

#### **5.3.2.1 Legal Challenges in Balancing Public Interest and Developer Needs in Planning Conditions**

Below are the issues identified in Chapter 4.

- 1) Conflicts arise between public interest and developers' practical needs in planning conditions.
- 2) systemic inefficiencies in the planning permission process exacerbate these conflicts.
- 3) A lack of flexibility and negotiation complicates the enforcement of planning conditions,
- 4) Incomplete reviews and staffing shortages delay the planning permission process.

#### 5.3.2.1.1 Johor

Majlis Bandaraya Iskandar Puteri (MBIP) and Majlis Perbandaran Pasir Gudang (MBPG) have developed proactive and adaptive strategies to manage the challenges of balancing developer needs with the public interest. They focus on reconciling the conflicting interests within the planning conditions given in the planning permission application. One of the primary key challenges is frequent conflict between the need to protect public interest, such as environmental sustainability and community safety, and the developers' goals in meeting the project timelines and their economic targets. Both LPAs have addressed these conflicts through harmonisation rather than just directly rejecting development proposals.<sup>712</sup> This will foster a more cooperative relationship between the local authorities and developers.

MBIP has taken a practical approach to managing parking requirements for industrial developments. For example, a development proposal was needed to meet the parking standards requirement during the planning permission application stage. The applicant argued that most employees would use factory buses or other shared transport, making personal vehicle parking less viable. Rather than rejecting the proposal outright, MBIP's One-Stop Centre (OSC) Committee negotiated a middle ground. MBIP required the developer to allocate space for multi-storey parking, but they were allowed to defer the construction until needed.<sup>713</sup> This solution shows MBIP's commitment to easing the planning permission process without neglecting the requirements that need to be met by the developer.

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<sup>712</sup> Interview - B1R1 - Planner, "Majlis Bandaraya Iskandar Puteri"; Interview - B1R2 - Planner, "Majlis Bandaraya Pasir Gudang."

<sup>713</sup> Interview - B1R1 - Planner, "Majlis Bandaraya Iskandar Puteri."

On the other hand, MBPG has also demonstrated a practical and flexible approach to conflicts in planning conditions. For example, there is a proposed industrial development located near residential areas. Residents raised concerns about the visual and environmental impact of the proposed developments. In response, rather than simply enforcing standard zoning regulations, MBPG imposed additional planning conditions for the applicant.<sup>714</sup> The applicant is required to plant trees within the buffer zones. Not just a simple tree, but these trees will grow tall enough to obscure the industrial view from the nearby residences. Additionally, the industrial area will be further enclosed with fencing to prevent workers from encroaching on the residential area. This requirement not only addressed the public interest in maintaining the aesthetic and environmental quality of the residential area but also allowed the industrial development to proceed with minimal disruption.

Meanwhile, regarding the sometimes-slow process in processing planning permissions, the Johor State Authority is currently in the process of using the E10 process that the Kulim Municipal Council has introduced.<sup>715</sup> The E10 initiative, introduced by Majlis Perbandaran Kulim Kedah (MPKK), is a regulatory reform aimed at streamlining the development approval process and enhancing efficiency in service delivery. As part of Good Regulatory Practice (GRP), E10 was designed to create a "win-win" approach between local authorities and investors by reducing bureaucracy, improving coordination among agencies, and expediting permit approvals.<sup>716</sup> Before its implementation, obtaining construction permits could take 12 to 24 months, causing delays that affected business operations and investment planning. With E10, this

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<sup>714</sup> Interview - B1R2 - Planner, "Majlis Bandaraya Pasir Gudang."

<sup>715</sup> Ibid.

<sup>716</sup> Nadzman Mustaffa et al., Good Regulatory Practise: E10 As the New Narrative in the Service Delivery System of the Majlis Perbandaran Kulim Kedah, *International Journal of Law, Government and Communication* 8, no. 32 (2023): 322–337.

timeframe has been significantly reduced to 10 months or less, allowing businesses to commence operations much faster. The system also emphasises early consultation, simultaneous application processing, and digital integration, ensuring smoother interactions between government agencies and developers.

The success of E10 has led to the introduction of E10 Plus, which incorporates Artificial Intelligence (AI) and the Kulim Integrated Database System (KIDs) to further enhance decision-making, transparency,<sup>717</sup> and project management. AI is utilised in document review, development proposal evaluation, and automated fee calculations, minimising manual processing and reducing errors. Through this system, MPKK has successfully facilitated large-scale investments, such as the Aspen Glove and Ferrotec Manufacturing projects, which were approved and completed in under 12 months.<sup>718</sup> The E10 model demonstrates how effective regulatory frameworks can enhance investment attractiveness, boost economic growth, and create employment opportunities, positioning Kulim as a competitive industrial hub in Malaysia.

On the other hand, there is also MyMudah unit that has been established, which will coordinate the process between the LPA and business entity. At present, Johor has enforced a Johor Fast Lane, which expedites the approval process for businesses, but not all LPA has applied this model. This allows certain tasks to be carried out simultaneously, in contrast to the normal practice, which requires a phase-by-phase process.

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<sup>717</sup> Kulim Municipal Council, MPKK Kini Ke Arah Pelaksanaan E10 PLUS, last modified 2024, <https://pbt.kedah.gov.my/index.php/2024/11/04/mpkk-kini-ke-arrah-pelaksanaan-inisiatif-e10-plus/>.

<sup>718</sup> Ibid.

#### **5.3.2.1.2 Penang**

The development of Penang is currently limited, and it is essential to have mechanisms in place to control and ensure its well-planned progress. For instance, PDC also attends their OSC meetings to facilitate the successful development of BKIP.<sup>719</sup> Although PDC enjoys a certain level of privilege as a state subsidiary, it is crucial to note, as highlighted by both LPA officers in Penang, that being a state-owned company does not exempt PDC from adhering to the prescribed rules and regulations.<sup>720</sup>

The main distinguishing factor lies in the expedited approval process for planning permissions. For instance, when developing an industrial park, a state-owned company's advantage is its understanding of local government requirements, which streamlines the planning permission approval process. Consequently, industrial park development in Penang encounters fewer challenges, benefitting from the entity's intrinsic knowledge. The Penang Development Corporation (PDC) boasts its own proficient planning team, ensuring that their development initiatives align with the pertinent land use planning requirements.

#### **5.3.2.1.3 Key Lessons for SBEZ Development**

The experience of Johor and Penang provides valuable lessons for addressing legal challenges in balancing public interest and developer needs in planning conditions. Johor's approach, as seen through MBIP and MBPG, emphasises resolving conflicts by aligning differing interest rather than rejecting applications outright. Johor works to make deals that maintain the public interest and still conform to official rules. The

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<sup>719</sup> Interview - B2R3 - Officer, "Penang Development Corporation."

<sup>720</sup> Interview - B2R1 - Planner, "Majlis Bandaraya Pulau Pinang"; Interview - B2R2 - Planner, Majlis Bandaraya Seberang Perai (Google Meet).

MBIP and MBPG defer some development requirements or buffer it with environmental resources. Incorporating environmental resources and flexible development rights can promote economic growth and environmental sustainability.<sup>721</sup> This strategy introduces necessary flexibility into the planning process, helping to address conflicts and easing the enforcement of planning conditions. Additionally, Johor's implementation of the "Johor Fast Lane" highlights the importance of streamlining the planning permission process to expedite so as not to degrade due process or delay development.<sup>722</sup>

Meanwhile, in Penang, the PDC demonstrates the importance of aligning development with government aspirations while maintaining flexibility in planning. By understanding regulatory frameworks and adopting streamlined approval processes, the PDC reduces challenges in industrial park development. This approach highlights the need for collaboration between the government and developers, ensuring that development goals are met while accommodating the interests of both parties. These insights suggest that economic zones, like SBEZs, can achieve better development outcomes by fostering solutions that balance differing interests and simplify approval processes. Evidence shows that efficient approval systems, when combined with collaborative efforts, improve both planning efficiency and economic results,

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<sup>721</sup> Lin Roberts et al., *The Nature of Wellbeing: How Nature's Ecosystem Services Contribute to the Wellbeing of New Zealand and New Zealanders*, 2015, [https://www.academia.edu/11876132/The\\_Nature\\_of\\_Wellbeing\\_How\\_Natures\\_ecosystem\\_services\\_contribute\\_to\\_the\\_wellbeing\\_of\\_New\\_Zealand\\_and\\_New\\_Zealanders%5Cn978?0?478?15034?6](https://www.academia.edu/11876132/The_Nature_of_Wellbeing_How_Natures_ecosystem_services_contribute_to_the_wellbeing_of_New_Zealand_and_New_Zealanders%5Cn978?0?478?15034?6) (web PDF); Terje Holsen, Negotiations Between Developers and Planning Authorities in Urban Development Projects, *The Planning Review* 56, no. 3 (July 2, 2020): 34–46, <https://www.tandfonline.com/doi/full/10.1080/02513625.2020.1851904>.

<sup>722</sup> The Star Online, E10 Speed Up Investors' Operation, *The Star Online*, October 21, 2022, <https://www.thestar.com.my/news/nation/2022/10/21/e10-speeds-up-investors-operations>.



particularly in complex development contexts where public and private interests must be balanced.<sup>723</sup>

### **5.3.2.2 Challenges of Managing Post-Development Issues Through Effective Planning Control**

The issues identified in Chapter 4 as follows:

1. Lack of responsive action from authorities to residents' concerns about traffic and safety issues.
2. Frequent truck traffic through residential areas, leading to safety hazards and congestion
3. Inadequate planning controls that cause ongoing post-development issues in the SBEZ Bukit Kayu Hitam.
4. Environmental concerns due to potential pollution and water management issues in the SBEZ.

#### **5.3.2.2.1 Johor**

In relation to traffic issues, for example, MBIP has proactively addressed similar concerns by implementing smart poles as part of their planning conditions. These poles have advanced technologies such as CCTV, weather sensors, and AI-driven traffic management systems. This technology can gather real-time traffic and environmental

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<sup>723</sup> Orla O'Donnell, *Strategic Collaboration in Local Government, Local Government Research Series*, 2012, [https://www.ipa.ie/\\_fileUpload/Documents/StrategicCollaboration.pdf](https://www.ipa.ie/_fileUpload/Documents/StrategicCollaboration.pdf); Nicola Ulibarri, Does Collaboration Affect the Duration of Environmental Permitting Processes?, *Journal of Environmental Planning and Management* 61, no. 4 (2018): 617–634, <http://dx.doi.org/10.1080/09640568.2017.1327845>.

data, and each CCTV is equipped with facial and vehicle recognition systems. These features are important in creating a safe and smart city, enabling authorities to gather information quickly and to effectively respond to issues in real-time. The smart integration of technology into the urban infrastructure can further enhance the ability to monitor and manage traffic and environmental concerns.<sup>724</sup>

Meanwhile, since safety and security concerns arose post-development, particularly with the movement of workers and buses, MBPG has taken proactive measures. MBPG's planning includes the strategic placement of Centralised Labor Quarters (CLQ) for foreign workers within industrial areas.<sup>725</sup> This will ensure that the workers in the industrial area are placed in a centralised location, reducing the need for daily commutes through residential zones.

Inadequate planning controls often result in post-development challenges, such as pollution and poor water management. To address these issues, MBIP has taken proactive steps by integrating low-carbon initiatives and green spaces into all new developments, offering awards to companies that adopt greener practices. This approach aligns with the growing demand for strong Environmental, Social, and Governance (ESG) standards, which are increasingly sought by companies aiming to enhance their public image. A solid ESG rating not only showcases a company's

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<sup>724</sup> Baihaqi Siregar, Ahmad Badril Azmi Nasution, and Fahmi Fahmi, Integrated Pollution Monitoring System for Smart City, *2016 International Conference on ICT for Smart Society, ICISS 2016*, no. July (2016): 49–52; Pramoda R et al., Smart Traffic Management System, *2019 15th International Conference on Electronics, Computer and Computation, ICECCO 2019* 8, no. 5 (2019): 11–12.

<sup>725</sup> Interview - B1R2 - Planner, “Majlis Bandaraya Pasir Gudang.”

commitment to sustainability but also builds trust and loyalty among customers and employees, essential in competitive markets.<sup>726</sup>

Similarly, MBPG has prioritised promoting and enforcing rainwater harvesting in its industrial regions as part of the Pasir Gudang 2025 local plan. This initiative aims to reduce dependence on traditional water sources and encourage more sustainable resource management practices. Looking ahead, it is essential that this concept be mandated or regulated within the development plan preparation process, ensuring it becomes a core requirement for all industrial area developments.<sup>727</sup>

#### **5.3.2.2.2 Penang**

The industrial area in Bayan Lepas was developed long before sustainable green practices became a focus. To mitigate environmental impacts, MBPP has discussed with the FIZ owner, PDC, the possibility of not renewing lease agreements with heavy industries that negatively impact the environment. The condition imposed on these industries is the mandatory upgrade of their facilities to meet environmental standards. Those unable to meet the compliance will be required to be relocated once the lease agreement expires.

Meanwhile, new regulations have been introduced to tackle the challenge of frequent large vehicle traffic and worker-related congestion in residential areas. MBPP has made some of the vacant land within the industrial park a parking area for the large vehicles rather than using the roadsides of the residential area as parking areas. This

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<sup>726</sup> Bei Huang and Xingyu Qiu, The Impact of ESG Ratings on Employee Performance in Companies, *Academic Journal of Management and Social Sciences* 3, no. 2 (2023).

<sup>727</sup> Nor Hafizi Md Lani, Zulkifli Yusop, and Achmad Syafiuddin, A Review of Rainwater Harvesting in Malaysia: Prospects and Challenges, *Water (Switzerland)* 10, no. 4 (2018): 1–21.

measure aims to reduce congestion and safety hazards in residential neighbourhoods by establishing a clear separation between industrial and residential spaces. Additionally, to address the challenge of worker accommodation in industrial areas, MBPP and MBSP have introduced new conditions. The residential areas are not allowed to be foreign worker dormitories, and the underutilised commercial areas have been identified instead for this purpose.

Meanwhile, to ensure that future or existing industrial parks are well maintained, The PDC will manage the maintenance of the infrastructure and utilities. This approach ensures that the area is well-maintained, preventing neglect that could arise if maintenance duties were transferred too early. On another note, CCTV has been installed to monitor activities within the park, helping to maintain its appeal and functionality and ensuring that potential land buyers have a positive perception of the area.

#### **5.3.2.2.3 Key Lessons for SBEZ Development**

Among lessons that can be learned by other LPAs in dealing with managing post-development issues is the integration of smart infrastructure for efficient urban management. This will also allow the monitoring system for other matters such as weather and environmental quality. Furthermore, the establishment of CLQ, through the PPP approach, reduces the influx of foreign workers into residential areas. These measures reduce the interaction between industrial activities and residential communities, enhancing safety and minimising congestion.

In addition to that, another lesson learnt is through incorporating sustainable practise and environmental safeguards into the planning process. The initiatives, for example

those by MBIP, which promotes low-carbon development, and MBPG which enforces rainwater harvesting, illustrate how SBEZ should deal with in exercising the planning control to mitigate the environmental risk. Meanwhile, in Penang, for example, conditional lease renewal for heavy industries, as well as maintenance responsibilities for industrial parks, emphasise the need for ongoing environmental management and infrastructure upkeep.

**Challenges in Enforcing the Planning Control Mechanism: Insight from Local Best Practices in Malaysia**

|                                                                                                             | Issues                                                                                                                                                                                                                                                                                                                                                                                                             | Best Practices                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                    | Johor<br>(MBIP, MBPG)                                                                                                                                                                                                                                                                                                                                                                                                                                  | Penang<br>(MBPP, MBSP)                                                                                                                                                                                                                                                                              |
| <b>1</b><br><b>Legal Challenges in Balancing Public Interest and Developer Needs in Planning Conditions</b> | <ul style="list-style-type: none"> <li>Conflicts between public interest (e.g., sustainability) and developers' practical needs (e.g., timelines, economic goals).</li> <li>Systemic inefficiencies in the planning permission process (e.g., delays, incomplete reviews, staffing shortages).</li> </ul>                                                                                                          | <ul style="list-style-type: none"> <li>MBIP: Negotiated flexible planning conditions (e.g., parking standards deferred until necessary).</li> <li>MBPG: Buffer zones and tree planting near residential areas to mitigate visual and environmental impacts of industrial development.</li> <li>Johor Fast Lane and E10 Process: Expedites planning permissions by coordinating multiple tasks simultaneously, reducing bureaucratic delays.</li> </ul> | <ul style="list-style-type: none"> <li>PDC: Expedited planning approval for state-owned industrial projects due to familiarity with local regulations.</li> <li>Streamlined processes: Faster approvals for industrial park developments with fewer bureaucratic hurdles.</li> </ul>                |
| <b>Key Lessons</b>                                                                                          | <ul style="list-style-type: none"> <li>Harmonise public and developer interests to avoid outright rejections and facilitate collaboration.</li> <li>Flexibility in planning conditions (e.g., deferring unnecessary requirements) can help resolve conflicts.</li> <li>Efficient, coordinated approval processes (e.g., Fast Lane/E10) can prevent delays.</li> </ul>                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                     |
| <b>2</b><br><b>Challenges of Managing Post-Development Issues Through Effective Planning Control</b>        | <ul style="list-style-type: none"> <li>Lack of responsive action to residents' concerns (e.g., traffic and safety issues).</li> <li>Increased truck traffic through residential areas causing safety hazards and congestion.</li> <li>Inadequate planning controls causing pollution and water management problems post-development (e.g., SBEZ Bukit Kayu Hitam).</li> </ul>                                      | <ul style="list-style-type: none"> <li>MBIP: Smart poles with traffic management systems (CCTV, weather sensors, AI) to manage safety and congestion in real-time.</li> <li>MBPG: Centralized Labor Quarters (CLQ) to house workers in industrial areas, reducing traffic through residential zones.</li> <li>MBPG: Rainwater harvesting and real-time pollution detection systems to address environmental issues.</li> </ul>                         | <ul style="list-style-type: none"> <li>MBPP: Parking areas for large industrial vehicles to prevent congestion in residential areas.</li> <li>PDC: Conditional lease renewals for industries based on compliance with environmental standards; non-compliant industries face relocation.</li> </ul> |
| <b>Key Lessons</b>                                                                                          | <ul style="list-style-type: none"> <li>Implement smart technology (e.g., smart poles) for traffic, safety, and environmental monitoring.</li> <li>Develop CLQs to manage worker accommodation, minimising the interaction between industrial and residential areas.</li> <li>Incorporate environmental safeguards like rainwater harvesting and pollution detection to prevent post-development issues.</li> </ul> |                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                     |

**Figure 5-8 Summary of Challenges in Enforcing the Planning Control Mechanism (Researcher Own, 2024)**

### **5.3.3 Public Participation Process in Preparation of Development Plan and Planning Permission**

There is limited public awareness and participation in the Kubang Pasu Local Plan development process, while insufficient use of modern communication channels, such as social media, by the local authority hinders smooth communication with members of the public. Public engagement efforts focus more on meeting legal obligations rather than genuinely involving the community. Finally, there is a general emphasis on the exclusion of broader public involvement, particularly non-adjointing landowners, in significant development projects.

#### **5.3.3.1.1 Johor**

Both MBIP and MBPG have implemented strategies to enhance the visibility of the planning process, emphasising public participation. They recognise the importance of involving the community in developing local plans, going beyond the basics described in Part II of the TCPA. Both authorities have adopted various methods to ensure that citizens are well-informed and can actively participate in planning. This includes using techniques that are prescribed by the TCPA, as well as organising town hall meetings.<sup>728</sup> These meetings were organised to ensure that the public was well informed about development plan proposals rather than information being disseminated through written documents alone.

On the other hand, both authorities have effectively integrated the online platforms to disseminate information and facilitate public feedback on the local plans. First, both

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<sup>728</sup> In the Local Plan Manual-2020 Edition, Schedule 3.8 outlines several key activities that are essential during the Publicity phase of the Local Plan process. These include (i) conducting dialogue sessions, (ii) engaging the public online, (iii) utilising various forms of media for publicity, including electronic and mass media, (iv) notifying owners of adjacent lots, (v) placing banners in strategic locations, and (vi) issuing notices in the newspaper.

drafts of local plans can be accessed online, along with objection forms that can be easily found and filled out by the public. This approach allows the public to review and comment on the draft local plan without physically being at the related location, making the process more convenient and accessible to the public. In addition, MBIP, for example, has further enhanced public access by offering detailed information, including the plan, through their OneMap platform, leveraging this GIS system as discussed in the previous section.

#### **5.3.3.1.2 Penang**

Similar to the approach used by LPAs in Johor, the LPA in Penang has also used online digital platforms to keep pace with current trends. For example, MBPP has effectively used social media to share information on preparing the draft local plan. This includes the details of where it is exhibited and online videos that explain the details of the draft local plan content. Additionally, the process for comments and reviews can be conducted online, making it more accessible to the public.<sup>729</sup> Furthermore, MBSP, for example, has a GIS system called SPGIS, allowing the public to view the local plan online,<sup>730</sup> providing much more transparent and easy access to the information to ensure the public can get involved in the planning and decision-making process.

Additionally, MBSP has taken a significant step beyond what many other LPAs are doing. They have effectively incorporated their SPGIS to provide detailed information on the status of planning permission applications in the MBSP area. Although this

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<sup>729</sup> Majlis Bandaraya Seberang Perai, *Draf Rancangan Tempatan Seberang Perai 2030*, last modified 2021, <https://www.mbsp.gov.my/index.php/ms/component/content/article/136-draf-rancangan-tempatan/518-draf-rancangan-tempatan-daerah>.

<sup>730</sup> Majlis Bandaraya Seberang Perai, *Web -SPGIS*, last modified 2023, <https://spgis.mbsp.gov.my/portal/apps/webappviewer/index.html?id=c89c649700a242ef894f4d0997f09e9d>.

feature still needs to be fully implemented throughout the MBSP jurisdiction, it provides valuable information on the status and the specific type of planning permission within the application process. This level of transparency keeps the public informed about local development projects and enhances public understanding of the planning process.

#### **5.3.3.1.3 Key Lessons for SBEZ Development**

A crucial lesson is the need for more inclusive and accessible public participation methods in the development planning process. Johor's approach, where MBIP and MBPG implemented town hall meetings and integrated online platforms, illustrates the effectiveness of combining traditional and digital methods to ensure broader community involvement. This is in contrast to MPKP practice, in which, in the process of amending part of the local plan, specifically the area of SBEZ itself, the public is not well informed. By offering access to draft local plans and objection forms online, these authorities made the process more convenient and transparent, allowing the public to engage without the need to be physically present. This strategy highlights the importance of going beyond mere legal obligations to genuinely involve the community in the planning process, not just a minimal lip service.<sup>731</sup>

On the other hand, Penang's initiatives further emphasise the importance of leveraging modern communication channels, such as social media and GIS systems, to enhance public awareness and participation. MBPP's use of social media for sharing information and MBSP's SPGIS system for providing detailed planning permission status demonstrate how digital tools can make the planning process more transparent

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<sup>731</sup> Ahmad Sarkawi, "The Legal Considerations of Neighbouring Lands in Development Planning : The Malaysian Context."



and accessible. Not only that, the practice of allowing the public to know about the planning permission process is good to implement regardless of whether the local plan has been gazetted or not.<sup>732</sup> These practices increase public involvement and foster a deeper understanding of local development projects, ensuring that the community plays an active role in shaping their environment. These lessons could be valuable for improving public participation in development planning for the SBEZ Bukit Kayu Hitam.

| Challenges in Public Participation                                           |                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                                             |                                                                                                                                                                                                                                                                         |
|------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                              | Issues                                                                                                                                                                                                                                                                                                                                                    | Best Practices                                                                                                                                                                                                                              |                                                                                                                                                                             | Key Lessons                                                                                                                                                                                                                                                             |
|                                                                              |                                                                                                                                                                                                                                                                                                                                                           | Johor<br>(MBIP, MBPG)                                                                                                                                                                                                                       | Penang<br>(MBPP, MBSP)                                                                                                                                                      |                                                                                                                                                                                                                                                                         |
| Public Participation Process in Development Planning and Planning Permission | <ul style="list-style-type: none"> <li>• Limited public awareness and participation in local plan development.</li> <li>• Insufficient use of modern communication channels by authorities.</li> <li>• Focus on meeting legal obligations, not genuine involvement.</li> <li>• Exclusion of non-adjointing landowners in significant projects.</li> </ul> | <ul style="list-style-type: none"> <li>• Enhanced visibility via town hall meetings</li> <li>• Digital platform for accessing plans and submitting objections</li> <li>• OneMap GIS system integration for zoning infrastructure</li> </ul> | <ul style="list-style-type: none"> <li>• Social media use for sharing development plans and updates.</li> <li>• SPGIS integration for planning permission status</li> </ul> | <ul style="list-style-type: none"> <li>• Combine traditional and digital methods for inclusive participation</li> <li>• Leverage GIS and social media for transparency and accessibility</li> <li>• Public tracking of planning permissions for transparency</li> </ul> |

Figure 5-9 Summary of Challenges in Public Participation (Researcher Own, 2024)

### 5.3.4 Land Administration

According to Chapter 4, numerous issues have been discovered regarding the land administration problem for the SBEZ development. In the Malaysian context, the best practices in both states show few differences, as they both follow similar manual and guideline processes for land administration.

<sup>732</sup> Ibid.

#### **5.3.4.1 Challenges of Land Alienation in Government-Linked Projects**

Three main issues have been identified under this point:

- 1) Inadequate consultation and planning in the land alienation process, leading to project failures.
- 2) Political influence and discrepancies between state and federal guidelines complicate land use decisions.
- 3) Missed strategic opportunities due to poor integration of planning department input and regional economic considerations.

##### **5.3.4.1.1 Johor**

The industrial development in Johor is driven by major investors, with notable projects including the Tanjung Langsat Industrial Complex, owned by Jcorp, a subsidiary of the Johor state government. The transformation of Pasir Gudang into its own local authority was initiated by a development concept created by SEDC.<sup>733</sup> In addition to that, the growth of Johor Port Pasir Gudang is attributed to land development backed by the federal government, which aims to reduce reliance on the Port of Singapore. This underscores the importance of federalism in ensuring equitable development across states. The 900-hectare industrial estate and over 400 hectares for housing have been instrumental in the development of southern Johor. Strategic land alienation and

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<sup>733</sup> Pasir Gudang Municipal Council, Background of Pasir Gudang Municipal Council, last modified 2020, accessed January 27, 2020, <http://www.mppg.gov.my/en/mppg/profile/background/page/0/1>. Pasir Gudang City Council (MBPG), previously known as MPPG, was originally managed by Johor Corporation after its establishment on 1 July 1977. Johor Corporation, formerly the Johor State Economic Development Corporation, was appointed as the Local Authority (PBT) to administer and develop the area. This arrangement continued for 31 years, from 1 July 1977 to 30 June 2009. In 2008, when Pasir Gudang met the criteria to become a Municipal Council, MPPG was established under the Local Government Act, 1976. The transition from Johor Corporation to state control occurred on 1 September 2009, when the state government officially took over the administration of MPPG.

development plans have transformed Pasir Gudang from an agricultural area to a globally recognised port. Nevertheless, it is undeniable that effective leadership is crucial for the development of the industrial park or economic zone, primarily undertaken by SEDC. Good leadership is also essential for considering diverse perspectives and ensuring successful development. In the context of Johor, Jcorp is unquestionably one of Malaysia's most successful SEDCs which previously lead by Tan Sri Ali Hashim.

On another aspect, the Forest City project is a valuable case study despite having limited success. While interview details do not directly reveal the real situation, secondary data suggests that one contributing factor to the project's lack of success is its isolated location, far removed from major attractions.<sup>734</sup> This underscores the importance of integrating land use planning before initiating development rather than addressing it as an afterthought.

#### **5.3.4.1.2 Penang**

As outlined in Chapter 4, one of the primary concerns regarding land alienation for development is the potential for underutilisation. However, in the case of land allocated to PDC as a subsidiary of the Penang State Authority, a commendable practice PDC employs is the lease-based ownership of industrial park lands rather than direct sale.<sup>735</sup> While some investors may prefer freehold land, others appreciate the assurance that they are not permanently bound to the land on which their plant is developed. This approach allows them to avoid potential entanglements should they

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<sup>734</sup> Yusof, “‘Deserted Ghost Town’: Johor Country Garden Condo Residents Concerned over Unfinished Projects amid China Developer’s Debt Crisis.”

<sup>735</sup> Interview - B2R3 - Officer, “Penang Development Corporation.”

need to leave the country. The lease concept controls development within a specific industry or prompts individual investors to review the types of business they offer and make necessary improvements to their facilities as needed.

Furthermore, in relation to consultation with related planning agencies, PDC itself has a development plan outlining the progress of its land development.<sup>736</sup> This demonstrates the careful planning involved when state government subsidiaries and the state authority engage in land alienation. Land alienation to PDC primarily supports property development, including industrial projects, housing, and commercial ventures. Furthermore, the concept of public-private partnerships (PPP) or joint-venture arrangements may be used to address any financial challenges in the development process.<sup>737</sup> This could involve strategies such as build-operate-transfer (BOT) or build-lease-transfer (BLT), all aiming to prevent land from remaining undeveloped.

#### **5.3.4.1.3 Key Lessons for SBEZ Development**

The experiences of Johor and Penang offer valuable insights into effective land allocation and development within Special Economic Zones (SEZs), particularly in the context of the SBEZ. Johor's case highlights the significance of strategic planning and federal-state collaboration in achieving successful economic zone development. The transformation of Pasir Gudang from an agricultural area into a globally recognised industrial hub was made possible through a well-structured plan, strong leadership by the SEDC, and coordinated efforts across federal, state, and local levels. However,

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<sup>736</sup> Penang Development Corporation, Penang Development Corporation - Development Plan, <https://www.pdc.gov.my/index.php/en/development-plan>.

<sup>737</sup> Interview - B2R3 - Officer, "Penang Development Corporation."

challenges faced in the Forest City project reveal the consequences of inadequate location planning and the failure to integrate regional economic considerations early on. These cases suggest that SBEZ planning should prioritise structured land use strategies and policy alignment across multiple levels of government to prevent conflicts that could hinder development.

Penang's approach, particularly through the PDC's lease-based land management system, demonstrates the importance of structured land allocation, financial stability, and proactive investor engagement in sustaining economic growth. By maintaining a clear financial model, offering targeted incentives, and ensuring infrastructure readiness, Penang has successfully attracted high-value industries while minimising land underutilisation. A key lesson here is the need to balance financial viability with long-term economic and environmental sustainability. However, land alienation remains a fundamental state power, allowing the state to grant land ownership. In exercising this authority, those receiving the land must have a well-defined and comprehensive development plan rather than leaving the land idle. Additionally, the granting authority must ensure that the recipient has the capacity and resources to carry out the proposed development effectively, ensuring that land alienation contributes to meaningful and sustainable economic progress.

By incorporating these lessons, the SBEZ Bukit Kayu Hitam can avoid common pitfalls such as weak financial planning, uncoordinated land management, and poor strategic foresight. Establishing clear funding mechanisms, attractive tax incentives, and robust infrastructure investment will strengthen investor confidence and enhance the region's economic resilience. Furthermore, ensuring strong federal-state collaboration, transparent regulatory frameworks, and adaptive yet structured land use

policies will enable the SBEZ to remain competitive and responsive to market demands. Integrating clear development guidelines, financial sustainability measures, and proactive stakeholder engagement will position the SBEZ as a thriving economic hub, ensuring that land use and development efforts are both strategic and sustainable in the long term.

#### **5.3.4.2 Surrender and re-alienation process**

Three main issues have been identified under this point:

- 1) Complexity and confusion in the land development application process, with multiple sections of the NLC involved.
- 2) Bureaucratic delays and entrenched working practices within land offices contribute to prolonged timelines.
- 3) Overwhelming volume of registrations for large-scale developments strains the land approval and title registration system.

##### **5.3.4.2.1 Johor**

As discussed in Chapter Four, one of the key issues raised in Johor concerns the complexity of the surrender and re-alienation process. This process, which involves Sections 197 and 76 of the law, is often considered complicated. For development projects throughout Johor, the use of these sections can expedite land development compared to Section 204. However, a potential drawback of Sections 197 and 76 is that all land must first be surrendered to the State Authority (SA), who then decides

whether to re-alienate it back to the applicant. Despite this, officials have noted that there have been no cases where land was not returned to the applicant.

In Johor, the land surrender and alienation process operates through two systems: a physical (hard copy) process and a digital system known as the e-RMKJ. Both systems must be used together, requiring alignment of the information submitted in both formats. Similar to the earlier-discussed OSC process, submissions must be made both online and physically, which poses a challenge. However, the positive aspect is that the online system for submitting documents to the EXCO already exists, and with further development, the physical submission requirement could be phased out in the future.

#### **5.3.4.2.2 Penang**

In accordance with the interview, it was noted that Penang utilizes Section 204 and 124 in the surrender and re-alienation process. Notably, as shared by an official from PDC, a favourable aspect of the process in Penang is the completion of the entire plot before investors proceed with constructing their factories. Additionally, an officer mentioned that they typically receive instructions to expedite the PDC development process. Similar to the practice in Kedah, a notable advantage in Penang, given its involvement of the State Authority's subsidiary, is that the process bypasses the need to go through the Land and District Office. Instead, direct application to the Penang of Land and Mines Office accelerates the approval process by skipping a level.

#### **5.3.4.2.3 Key Lessons for SBEZ Development**

In this context, there are not many significant differences between Johor and Penang, as the processes for land development applications are largely similar. However, one key lesson learned is the importance of digitalisation in streamlining the land approval process, as highlighted by Johor's e-RMKJ system. While the dual system of requiring both physical and online submissions still creates some challenges, the presence of an established online platform offers an opportunity to further simplify and speed up the process. The adoption of such online systems can help reduce bureaucratic delays, improve efficiency in managing large-scale developments, and ease the burden on land offices by minimising the need for physical document submissions. This lesson is especially relevant for addressing the complexity and confusion that often arise when multiple sections of the National Land Code (NLC) are involved, as well as mitigating the strain on the land approval and registration system.





| Issues                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                    | Best Practices                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Key Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Challenges of Land Alienation in Government-Linked Projects | <ul style="list-style-type: none"> <li>• Inadequate consultation and planning in the land alienation process, leading to project failures.</li> <li>• Political influence and discrepancies between state and federal guidelines complicate land use decisions.</li> <li>• Missed strategic opportunities due to poor integration of planning department input and regional economic considerations.</li> </ul>                    | Johor<br>(MBIP, MBPG)                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Penang<br>(MBPP, MBSP)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>• <b>Strategic Leadership and Coordination:</b> <ul style="list-style-type: none"> <li>• Combine strong leadership with federal cooperation.</li> </ul> </li> <li>• <b>Flexible Land Management:</b> <ul style="list-style-type: none"> <li>• Use lease-based systems for adaptability.</li> </ul> </li> <li>• <b>Thorough Planning and Integration:</b> <ul style="list-style-type: none"> <li>• Prioritise integrated planning for project success.</li> </ul> </li> <li>• <b>Sustainable Financial Strategies:</b> <ul style="list-style-type: none"> <li>• <b>Employ PPPs</b> to overcome financial issues.</li> </ul> </li> </ul> |
|                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                    | <ul style="list-style-type: none"> <li>• <b>Strategic Planning and Coordination:</b> <ul style="list-style-type: none"> <li>• Pasir Gudang transformed through strategic planning.</li> <li>• <b>Federal-state cooperation</b> supports land development.</li> </ul> </li> <li>• <b>Effective Leadership:</b> <ul style="list-style-type: none"> <li>• Visionary leadership drives Jcorp's success.</li> <li>• Diverse perspectives ensure well-rounded planning.</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• <b>Lease-Based Land Management:</b> <ul style="list-style-type: none"> <li>• Flexible leases prevent investor entanglements.</li> <li>• Encourages continual business operational improvement.</li> </ul> </li> <li>• <b>Proactive Consultation and Planning:</b> <ul style="list-style-type: none"> <li>• Consultations align plans with economic needs.</li> <li>• Land allocated for diverse developments.</li> </ul> </li> <li>• <b>Public-Private Partnerships (PPP):</b> <ul style="list-style-type: none"> <li>• PPPs address financial challenges effectively.</li> <li>• BOT/BLT strategies prevent land underutilisation.</li> </ul> </li> </ul> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Surrender and re-alienation process                         | <ul style="list-style-type: none"> <li>• Complexity and confusion in the land development application process, with multiple sections of the NLC involved.</li> <li>• Bureaucratic delays and entrenched working practices within land offices contribute to prolonged timelines.</li> <li>• Overwhelming volume of registrations for large-scale developments strains the land approval and title registration system.</li> </ul> | Johor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Penang                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>• <b>Streamlining Processes:</b> <ul style="list-style-type: none"> <li>• Adopt digital platforms like Johor's e-RMKJ.</li> <li>• Minimise dual submission requirements.</li> </ul> </li> <li>• <b>Efficient Approval Systems:</b> <ul style="list-style-type: none"> <li>• Use direct application to streamline processes.</li> </ul> </li> <li>• <b>Simplification of Legal Frameworks:</b> <ul style="list-style-type: none"> <li>• Simplify processes under multiple NLC sections.</li> <li>• Reduce delays by eliminating unnecessary steps.</li> </ul> </li> </ul>                                                               |
|                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                    | <ul style="list-style-type: none"> <li>• <b>Legal Framework:</b> <ul style="list-style-type: none"> <li>• Sections 197 and 76 expedite land development.</li> <li>• Land must first be surrendered to SA.</li> </ul> </li> <li>• <b>Digitalisation:</b> <ul style="list-style-type: none"> <li>• Dual system: e-RMKJ and physical submissions.</li> <li>• Online submissions streamline document management.</li> </ul> </li> </ul>                                                      | <ul style="list-style-type: none"> <li>• <b>Legal Framework:</b> <ul style="list-style-type: none"> <li>• Utilises Sections 204 and 124 effectively.</li> <li>• Direct application bypasses Land and District Office.</li> </ul> </li> <li>• <b>Accelerated Processes:</b> <ul style="list-style-type: none"> <li>• <b>Instructions often expedite PDC</b> development.</li> <li>• Completed plots ensure readiness for investors.</li> </ul> </li> <li>• <b>Advantages:</b> <ul style="list-style-type: none"> <li>• Skipping a level speeds up approvals.</li> <li>• Faster approval process benefits investors.</li> </ul> </li> </ul>                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

Figure 5-10 Summary of Challenges for Land Administration (Researcher Own, 2024)

## 5.4 Summary

This chapter has provided a detailed analysis of the legal challenges and practices from the SEZs in Johor and Penang, offering valuable insights to address issues identified in Chapter Four. It highlights how both states, from the local authorities' point of view, manage the identified challenges in SBEZ BKH. It includes how they streamline the planning permission process and implement flexible yet strategic planning practices. Johor's practice, for example, integrates economic objectives into local plans, and the proactive management of political influences serves as a key lesson for ensuring successful development. Meanwhile, Penang has leveraged its established infrastructure using flexible land management strategies and incorporating modern public participation methods, demonstrating effective approaches to overcoming geographical and administrative challenges. When applied to SBEZ, these practices can help mitigate the issues related to planning enforcement, public participation, and land administration, contributing to the zone's long-term success and sustainability.

## **CHAPTER SIX**

### **SPECIAL ECONOMIC ZONE IN UNITED KINGDOM AND SINGAPORE**

#### **6.1 Introduction**

This chapter will provide a comprehensive analysis of the practices and regulatory frameworks of Special Economic Zones (SEZs) in Singapore and the United Kingdom, drawing comparisons with the SBEZ Bukit Kayu Hitam case study in Chapter 4. This analysis aims to address the research objectives outlined in Chapter One and will contribute to the recommendations proposed in Chapter 7. By examining the legal and administrative approaches in Singapore and the UK, this chapter seeks to evaluate the effectiveness of their frameworks in dealing with challenges such as planning control, public participation, and land management.

The comparisons drawn from Singapore and the UK will offer valuable insights into the adequacy of existing measures in these regions, highlighting best practices that could be adapted for the SBEZ Bukit Kayu Hitam. These case studies are selected due to the established reputation of Singapore as a model SEZ and the UK's unique approach to zoning and planning in similar development areas. The lessons derived from these comparisons aim to provide strategic solutions to the issues identified in SBEZ Bukit Kayu Hitam, ensuring its progress towards becoming a successful SEZ.

## 6.2 Overview of UK and Singapore

The following discussion provides a concise examination of the planning systems in the United Kingdom and Singapore, focusing on their respective approaches to economic zones. The analysis will establish connections within the framework of their planning systems and the application of the SEZ concept in each country. A more detailed examination of the implementation, structured according to the themes discussed in the preceding chapters, will be presented in the subsequent sub-sections.

### 6.2.1 United Kingdom

Malaysia's planning system has been heavily influenced by the United Kingdom, which introduced the Town and Country Planning Act in 1947. This law established comprehensive regulations for development control and land use planning, enabling local authorities to implement policies tailored to specific areas.<sup>738</sup> It also introduced the concept of planning permission, shifting landowners' unrestricted development rights to a regulated system.

UK planning legislation has since undergone several reforms, notably the Town and Country Planning Act 1968, which introduced Structure Plans and Local Plans. County councils were tasked with long-term strategic planning, while district and city councils developed short-term policies, ensuring alignment with the Structure Plan.<sup>739</sup> The 1990 Town and Country Planning Act, alongside the 1991 Planning and Compensation Act, expanded land-use planning by distinguishing future planning from development

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<sup>738</sup> Philip Booth, From Regulation to Discretion : The Evolution of Development Control in the British Planning System 1909-1947, *Planning Perspectives* 14, no. 3 (1999): 277–289.

<sup>739</sup> H. W. E. Davies, Continuity and Change: The Evolution of the British Planning System 1947-1997, *Town Planning Review* 69, no. 2 (1998): 135–152; Barry Cullingworth and Vincent Nadin, *Town and Country Planning in The UK*, 14th ed. (London: Routledge, 2006); Ratcliffe, *An Introduction To Town and Country Planning*.

control. The 1991 Act implemented a plan-led system, requiring planning decisions to align with development plans.<sup>740</sup> A key provision, Section 106, mandated developers to fulfil planning obligations to secure approvals, ensuring adequate social, economic, and infrastructure support.<sup>741</sup>

In 2004, further reforms introduced the Planning and Compulsory Purchase Act, replacing county-level structure plans with Regional Spatial Strategies.<sup>742</sup> The Local Development Framework (LDF) was established as a guideline for local planning authorities, ensuring Local Development Plans conformed to regional strategies. This shift marked a transition from traditional land-use planning to a spatial planning approach.<sup>743</sup>

As part of broader planning reforms, the UK introduced Enterprise Zones (EZs) in the 1980s to stimulate economic growth in targeted areas. Between 1982 and 1996, 36 EZs were established, providing businesses with incentives such as tax relief and relaxed planning regulations.<sup>744</sup> These zones were incorporated into the UK's legislative framework, primarily under the Town and Country Planning Act 1990, which governs their development and operation. Specifically, EZs are addressed in Part III, Section 88 of the Act, which sets out the Enterprise Zone Scheme.<sup>745</sup> Additionally, Schedule

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<sup>740</sup> Geoffrey Waterson, The Planning and Compensation Act 1991, *Property Management* 10, no. 1 (1991): 54–64.

<sup>741</sup> Heather Campbell et al., Planning Obligations, *Planning Practice*, and Land-Use Outcomes 27, no. 1 (2000): 759–775; Ratcliffe, Stubbs, and Keeping, *Urban Planning and Real Estate Development*.

<sup>742</sup> Cullingworth and Nadin, *Town and Country Planning in The UK*.

<sup>743</sup> Cecilia Wong and Mark Baker, Monitoring Spatial Strategies: The Case of Local Development Documents in England, *Environment and Planning: Government and Policy* 24 (2006): 533–553.

<sup>744</sup> M.G. Lloyd and D. Peel, UK Enterprise Policy – A Twist on Real Estate, Austerity And Planning, *Journal of Surveying, Construction & Property* 3, no. 1 (2012): 1–7.

<sup>745</sup> Section 88 of the TCPA 1990 UK prescribed about the Enterprise Zone Scheme which is essentially a pre-approved planning framework that automatically grants planning permission for certain types of development within designated Enterprise Zones. This means businesses and developers do not need to apply separately for planning permission, as long as their projects align with the specified types of development in the scheme.

32 of the Local Government, Planning and Land Act 1980 outlines the designation process for these zones.<sup>746</sup> Together, these laws create a regulatory framework that streamlines development procedures and facilitates economic regeneration within designated areas.

The implementation and practices of EZs in the UK will be further elaborated in each of the sub-chapters below, based on the issues identified in Chapter 4. These discussions will provide a detailed examination of how EZs operate within the UK planning system, addressing regulatory mechanisms, governance structures, and economic impacts.

### 6.2.2 Singapore

Singapore's urban planning system is designed to optimise land use, support economic growth, and ensure sustainable development. Governed by the Planning Act 1998 (Cap 232), the framework consists of long-term and medium-term planning. The Concept Plan, first introduced in 1971 with assistance from the United Nations Development Programme, provides a strategic direction for development until 1990.<sup>747</sup> It laid the foundation for key infrastructure projects such as the Mass Rapid Transit (MRT) system, Changi Airport, and an extensive expressway network. Complementing this, the Master Plan, reviewed every five years,<sup>748</sup> translates these broad strategies into detailed zoning regulations for residential, commercial, and industrial areas, ensuring

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<sup>746</sup> Under the Local Government, Planning and Land Act 1980, Schedule 32 outlines the designation process for Enterprise Zones (EZs) in the UK. Local authorities, new town corporations, or urban development corporations can be invited to draft an EZ scheme, ensuring public awareness and participation. The Secretary of State approves the designation, granting automatic planning permission and defining operational boundaries..

<sup>747</sup> Mee Kam Ng, The Art of Planning Theory and Practice in Singapore, *Planning Theory and Practice* 19, no. 3 (2018): 319–323, <https://doi.org/10.1080/14649357.2018.1486593>.

<sup>748</sup> Section 8(1) of the Planning Act 1998 Singapore mandated that Master Plan must be reviewed for every five (5) years.

a balance between urban expansion and sustainability. The Urban Redevelopment Authority (URA), established in 1974,<sup>749</sup> plays a central role in implementing these plans, ensuring they remain responsive to changing economic and social needs.

One of the most successful aspects of Singapore's planning system is its public housing program, managed by the Housing and Development Board (HDB). Over 80% of Singapore's population lives in HDB flats, which are designed to integrate residential, commercial, and recreational facilities. These estates promote walkability, community engagement, and accessibility, with essential services and green spaces incorporated into planning.<sup>750</sup> The government also ensures continuous upgrading and renewal of older estates, maintaining high living standards and adapting to evolving demographic needs. Meanwhile, JTC Corporation, Singapore's industrial planning agency, has played a crucial role in economic development. The Jurong Industrial Estate, once a swampy region, was transformed into a major industrial hub, attracting manufacturing and logistics industries.<sup>751</sup> Today, the Jurong Innovation District (JID) and Tuas Mega Port continue to drive economic expansion, creating high-value jobs and supporting Singapore's position as a global trade and innovation hub.

Singapore's transportation system is another testament to its well-structured urban planning. The MRT system, envisioned in the 1971 Concept Plan, has become the

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<sup>749</sup> Shereen Tay, Urban Redevelopment Authority, *National Library Board Singapore*, last modified 2016, <https://www.nlb.gov.sg/main/article-detail?cmsuud=7a64797c-e86c-44ac-ab2f-6c82a5e213b5>.

<sup>750</sup> Ng, "The Art of Planning Theory and Practice in Singapore"; Hamizah Yakob, Fatimah Yusof, and Hazlina Hamdan, Strategies to Improve the Implementation of Planning Mechanisms for Urban Housing Development in Selangor, *Environment-Behaviour Proceedings Journal* 1, no. 4 (2016): 145, <http://dx.doi.org/10.21834/e-bpj.v1i4.380>.

<sup>751</sup> Steve Kardinal Jusuf et al., Transformation of Industrial Planning in Singapore: Study on the Microclimatic Condition of Different Industrial Estates, *Building and Environment* 80 (2014): 48–60, <http://dx.doi.org/10.1016/j.buildenv.2014.05.015>.

backbone of public transport, reducing congestion and enhancing connectivity.<sup>752</sup> The expressway network ensures efficient movement of goods and people, while ongoing investments in autonomous vehicles, electric buses, and smart traffic management further enhance mobility. By integrating long-term strategic planning with modern infrastructure and economic hubs, Singapore has successfully built a liveable, sustainable, and economically competitive city that continues to adapt to future challenges.

Meanwhile, in the context of SEZ practice, Singapore does not have a specific planning framework that integrates SEZs. Instead, its economic development is driven by targeted policies that enhance logistics, trade, and financial services. While Free Trade Zones (FTZs) exist within ports and airports to facilitate import and export activities, these zones primarily function as customs-free areas rather than full-fledged SEZs. Singapore's logistics sector plays a significant role in global trade, with key FTZs such as Tanjong Pagar Terminal, Keppel Terminal, Jurong Port, and Changi Airfreight Centre serving as major hubs for international shipments.<sup>753</sup> These locations allow businesses to store goods without incurring duties until they enter the domestic market or are re-exported, thereby streamlining global supply chains and strengthening Singapore's position as a trade hub.<sup>754</sup>

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<sup>752</sup> Ng, "The Art of Planning Theory and Practice in Singapore"; Yu Shi Ming and Ho Kim Hin, Planned Urban Industrialization and Its Effect on Urban Industrial Real Estate Valuation: The Singapore Experience, *Habitat International* 30, no. 3 (2006): 509–539.

<sup>753</sup> CorporateServices.com, Existing Free-Trade Zones in Singapore, *Corporate Services*, <https://www.corporateservices.com/singapore/singapore-free-trade-zones-guide/#:~:text=Existing Free-Trade Zones in,Pagar Terminal and Keppel Terminal>; Korea Maritime Institute, *Free Trade Zone and Port Hinterland Development*, United Nations ESCAP (United Nation, 2005).

<sup>754</sup> Naida Hakirevic Prevljak, Singapore Remains World's Top Maritime City, Report Says, *Offshore Energy*, last modified 2024, <https://www.offshore-energy.biz/singapore-remains-worlds-top-maritime-city-report-says/>.



Singapore's status as a financial hub is also a key driver of economic activity. While not classified as an SEZ, the entire country operates under a uniform regulatory and economic framework. However, favourable tax policies and business incentives make it an attractive location for multinational corporations. Singapore ranked fourth globally in the Global Financial Centres Index (GFCI) 36,<sup>755</sup> reflecting its robust financial infrastructure, ease of doing business,<sup>756</sup> and investor-friendly environment. The stable political environment, transparent regulatory system, and strategic location further reinforce its appeal as a global financial hub.

Although Singapore does not implement SEZs in the traditional sense, its business-friendly policies and economic incentives function in a way that attracts significant foreign investment. By fostering an environment conducive to trade, finance, and innovation, Singapore continues to serve as a key global hub, offering businesses a seamless platform for regional and international expansion.

### **6.3 Selected issues from Bukit Kayu Hitam**

Chapter Four has identified key issues affecting the development of SBEZ Bukit Kayu Hitam. To further understand other LPA practises, interviews have been conducted with the relevant stakeholders from the abovementioned LPA. The responses from these LPAs through the interviews as well as online library research allowed the researcher to gain insight into how they react to the related issues. Moreover, even within the same state, LPAs may implement different practices based on different

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<sup>755</sup> Z-Yen, Global Financial Centres Index, last modified 2022, <https://www.longfinance.net/programmes/financial-centre-futures/global-financial-centres-index/gfci-36-explore-the-data/gfci-36-rank/>.

<sup>756</sup> Singapore in report by the World Bank, Doing Business 2020 has classified Singapore as number four of ease to do business, Among thing that consider to getthis rank isProcedures to legally start and formally operate a compan, Time required to complete each procedure, Cost required to complete each procedure and Paid-in minimum capita .

situations, offering diverse solution to similar challenges. It identified that there could be different practices in various LPA which could represent an innovative activity or might help SBEZ Bukit Kayu Hitam to advance.

The following section will explore how these LPAs manage the issues discussed in Chapter Four, focusing on practical practices rather than legislative frameworks, as many of these LPAs operate under the same TCPA. By adopting a state-based approach, this discussion avoids redundancy and provides a more detailed examination of the LPA practices. This method enables a comprehensive understanding of standard and unique successful strategies within each state. The insights from this analysis will inform the recommendations and methodologies tailored for SBEZ Bukit Kayu Hitam, which will be presented in Chapter Seven.

### **6.3.1 Challenges in enforcing the development plan**

The development plan cannot be denied as one of the main instruments used in guiding development. Chapter 4 discusses two main challenges related to implementing development plans: lack of data and use of databases, and challenges in implementation. Therefore, below will be discussed about how other places manage these issues identified in the context of enforcement of development plans.

#### **6.3.1.1 Data Deficiencies and Database Utilisation in Development Plan**

Based on the findings presented in Chapter 4, the summary of identified issues concerning information deficiency in the development plan is as follows:

- 1) Local plans often lack sufficient detail, leading to confusion and hindering effective development decisions.

- 2) Rigid land-use zoning limits the flexibility needed for integrated, multi-use developments in special zones.
- 3) Inconsistent and ineffective public participation during plan preparation results in unfocused and less informed decisions.
- 4) Underutilisation of Geographic Information Systems (GIS) leads to poor data integration and inadequate spatial analysis.

#### **6.3.1.1.1 United Kingdom**

The UK's approach to development plan preparation is rooted in a comprehensive and legally binding framework, which contrasts with the more flexible guidelines seen in Malaysia. The process is governed by The Town and Country Planning (Local Planning) (England) Regulations 2012,<sup>757</sup> extension from the Planning and Compulsory Purchase Act 2004.<sup>758</sup> This legal foundation ensures that LPAs in the UK are obligated to adhere to detailed regulations throughout the plan preparation process.

In the UK, development plans must be supported by evidence, as mandated by the National Planning Policy Framework (NPPF). The NPPF stresses that all policies within development plans must be underpinned by relevant and up-to-date evidence, ensuring that decisions are informed and justified.<sup>759</sup> It was further supported by Section 22(1)(e) of The Town and Country Planning (Local Planning) (England) Regulations 2012, which requires the relevant supporting documents for the

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<sup>757</sup> Government of UK, *Town and Country Planning (Local Planning) (England) Regulations 2012*, 2012.

<sup>758</sup> Government of UK, *Planning and Compulsory Purchase Act 2004*, 2004.

<sup>759</sup> Department for Levelling Up Housing and Communities, *National Planning Policy Framework*, 2021, <https://www.gov.uk/guidance/national-planning-policy-framework/annex-2-glossary>.

preparation of the development plan.<sup>760</sup> In the case of the Hereford Local Plan Core Strategy 2011-2031, supporting documents have been included which present a comprehensive compilation of the various types of evidence employed throughout the formulation of the local plan.<sup>761</sup>

To ensure that the data is relevant, it is necessary to integrate with various related agencies to gather their views and data for the development plan. Section 33A of the Planning and Compulsory Purchase Act 2004 UK sets out the duty to cooperate in sustainable development planning and preparation.<sup>762</sup> Moreover, Regulation 4 of the TCP (Local Planning) Regulations 2012 specifies the bodies involved per Section 33.<sup>763</sup> This underscores the significance of comprehensive information in the development plan, which should be mandated through a preparation manual and in a legally binding document. Such a requirement would ensure more effective cooperation from various agencies in creating a thorough development plan.

In addition, to ensure the relevance of this development plan, the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 mandates that LPAs undertake a comprehensive review of their local development documents within specified timeframes.<sup>764</sup> This legal requirement ensures that the data and policies

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<sup>760</sup> Government of UK, *Town and Country Planning (Local Planning) (England) Regulations 2012*.

<sup>761</sup> Herefordshire Council, Herefordshire Local Plan Core Strategy 2011-2031, no. October (2015): 186. The Hereford Local Plan Core Strategy 2011-2031 exemplifies an evidence-based approach through comprehensive supporting documents. These include studies like the Strategic Housing Market Assessment 2008, Local Housing Market Assessment 2013, and Affordable Housing Viability Study 2011, which collectively inform policies on affordable housing. The plan also integrates environmental assessments, such as the Water Cycle Study, to manage flood risks associated with urban development, ensuring balanced and sustainable growth.

<sup>762</sup> Section 33A of the PCPA 2004

<sup>763</sup> Regulation 4 set out that the list of agencies that shall cooperate in the preparation of development plan which include the environment Agency, Homes and Communities Agency, Integrated Transport Authority etc.

<sup>764</sup> For instance, in the case of a local plan, this review must be conducted every five years, commencing from the date of its adoption, in accordance with the provisions outlined in Section 23 of the Planning and Compulsory Purchase Act 2004 pertaining to the adoption of local development documents

within local plans remain accurate and reflective of current conditions, thereby preventing confusion and supporting effective development decisions.

In addressing the need for flexibility in land-use zoning, particularly within special zones like Enterprise Zones, the UK employs Local Development Orders (LDOs) as prescribed under Section 61A of the TCPA 1990. This LDO is part of the planning tools used to streamline the planning process for specific types of development within an area. In the context of Enterprise Zones, the LDO effectively serves as a tailored development plan for these zones, outlining the permissible developments within the Enterprise Zone area.<sup>765</sup> It can grant automatic planning permission for certain types of development, offer developers precise guidelines and criteria, minimising planning uncertainties and promoting investment. They also facilitate adaptable land use, permitting diverse developments within specified zones, thus facilitating mixed-use initiatives aligned with strategic development objectives.

For example, the LDO for the Herefordshire Enterprise Zone outlines the permissible developments within the zone, ensuring that land use aligns with the strategic objectives of their Enterprise Zone.<sup>766</sup> The Hereford LDO offers a streamlined process by granting planning permission for specific types of development within the Enterprise Zone, eliminating the need for individual applications and thereby reducing both time and costs, encouraging business investment by minimising planning risks.

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<sup>765</sup> Section 88A of Town and Country Planning Act 1990. In the development process of an Enterprise Zone, the initial step involves the preparation of a "Scheme". The enterprise zone scheme, represents a notable government initiative aimed at streamlining the planning process and simplifying procedures. By implementing this scheme, the government seeks to alleviate the complexities and challenges associated with obtaining planning permission for development projects. According to Schedule 32 of the Local Government, Planning and Land Act 1980, a scheme refers to a proposal for the development of an area designated as an Enterprise Zone. Under Section 88(9), the scheme may be detail out by preparing the Local Development Order..

<sup>766</sup> Herefordshire Council, *Herefordshire Enterprise Zone: Local Development Order*, 2019.

It defines permissible land uses within different areas of the zone, such as Classes B1, B2, B8, and in some areas D1(c),<sup>767</sup> providing clear guidelines that align with the zone's strategic goals, thereby ensuring greater certainty for developers. Additionally, the LDO allows for diverse land uses, including offices, research and development facilities, light industry, general industrial processes, and storage and distribution, offering flexibility to support various businesses and industries, enabling the zone to adapt to changing economic needs and opportunities.

On the other hand, the UK has an extensive body of governing legislation for development plans and specific plans for their databases. Recent legislative proposals, such as the Levelling-up and Regeneration Bill 2022, aim to modernise the management and availability of “Planning Data” under Part 3 of Chapter 1.<sup>768</sup> It confers upon the Secretary of State powers to compel the release of specific planning data and endorse the employment of sanctioned planning data software across England, also allowing for the creation of regulations governing the data's handling and dissemination. It grants the Secretary of State the authority to require the release of specific planning data and promote the use of approved planning data software throughout England.<sup>769</sup> Additionally, it enables the creation of regulations overseeing the handling and distribution of the data. These measures are crucial for establishing a comprehensive planning database by standardising data collection, processing, and sharing practices. By ensuring certain planning data is publicly available and enforcing

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<sup>767</sup> The Classes B1, B2, B8, and D1(c) refer to categories of land use as defined by the Town and Country Planning (Use Classes) Order 1987.

<sup>768</sup> Part 3, Chapter 1 of Levelling-up and Regeneration Bill, 2022, <https://bills.parliament.uk/publications/49177/documents/2671>.

<sup>769</sup> Clause 79 of Levelling-up and Regeneration Bill .

the use of authorised software, this chapter seeks to enhance the accuracy, consistency, and accessibility of planning information.<sup>770</sup>

Such advancements would enable planners, developers, and the public to access reliable and consistent data, fostering better-informed decisions and more effective spatial analysis. In addition to that, The Geospatial Commission UK is developing the National Underground Asset Register (NUAR), a digital map of underground infrastructure.<sup>771</sup> Although this initiative primarily focuses on managing underground assets, it reflects the broader need for integrated data systems in urban planning. These efforts underscore the UK's commitment to creating a more informed and adaptable planning process through enhanced data integration and accessibility.

#### **6.3.1.1.2 Singapore**

The Singapore planning system operates under the Planning Act 1998 (Cap 232). Specifically, for development plans, which are referred to as "Master Plans" in Singapore, the legislative framework is outlined in Part 2 of the Act.<sup>772</sup> Although the Act's details regarding the Master Plan are not exhaustive, Section 10 distinctly states that the minister may establish rules governing the form, content, and procedures for preparing, submitting, and approving amendments to the Master Plan. Consequently, the Planning (Master Plan) Rules have been formulated to provide detailed guidance

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<sup>770</sup> Clause 81 of Levelling-up and Regeneration Bill.

<sup>771</sup> Utility companies, referred to as undertakers, are obligated to maintain records of their apparatus in the street, which must be made available for inspection by street authorities, other undertakers, and relevant parties. Geospatial Commission, First UK Areas Access New Digital Map of Underground Pipes and Cables, Press Release, last modified 2023, <https://www.gov.uk/government/news/first-uk-areas-access-new-digital-map-of-underground-pipes-and-cables>.

<sup>772</sup> Part 2 of Cap 232 encompasses three key sections regarding the Master Plan: Section 6, which defines the Master Plan first gazetted in 1958; Section 7, detailing the certified interpretation plan that elaborates on the Master Plan; and Section 8, which pertains to amendments of the Master Plan.

on the Master Plan preparation process.<sup>773</sup> In comparison, Malaysia's TCPA offers more specific details about the contents of a development plan. On the other hand, similar to UK practise, the master plan need to be undergoes process of review for every five years, effective from 1998.<sup>774</sup> In contrast, the TCPA 1976 is less prescriptive about review periods, in which the LPA may make alterations and amendments when they think necessary.<sup>775</sup>

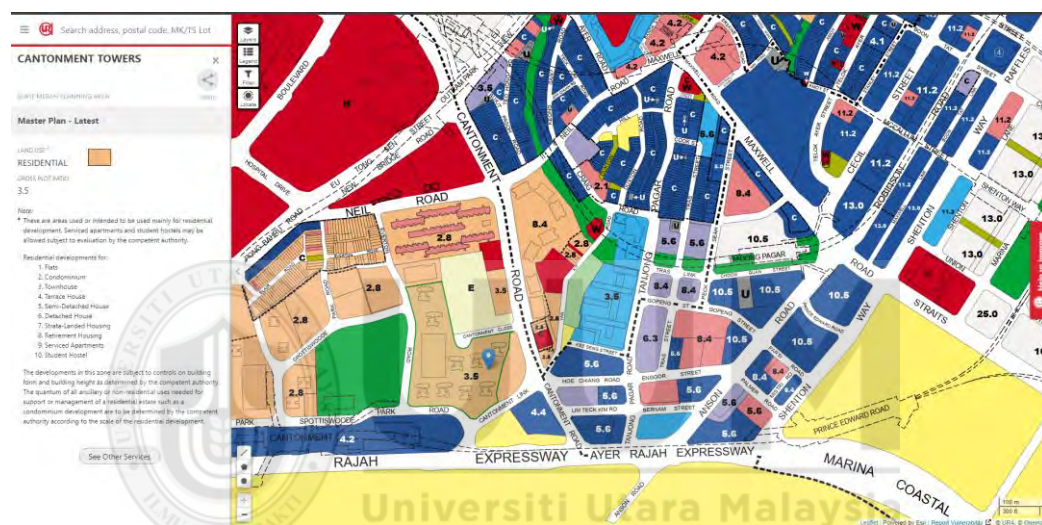


Figure 6-1 Zoning Plan in the Master Plan of Singapore

The Singapore Master Plan offers a more detailed and accessible approach to zoning, with the zoning plan available online, as shown in Figure 6.1. The plan provides clear guidelines for allowable developments, such as residential use and flexibility for

<sup>773</sup> Government of Singapore, *Planning (Master Plan) Rules* (Singapore: Ministry of National Development, 2000), <https://sso.agc.gov.sg/SL/PA1998-R1?DocDate=20000131&ValidDate=20101008&WholeDoc=1#pr3->.

<sup>774</sup> Section 8 of the Planning Act 1998.

<sup>775</sup> This contrast points to a fundamental difference in the planning ethos between Singapore and Malaysia. Singapore's structured revision schedule embodies a proactive stance towards urban development, guaranteeing regular updates that incorporate new proposals and improvements. On the other hand, Malaysia's TCPA 1976 and the stipulations within the Local Plan Manual 2020, which outline a planning period not exceeding 15 years for a single local plan, suggest a longer-term view. This extended period raises questions about the plan's ability to adapt to short-term shifts and the risk of data becoming outdated if not reviewed with adequate frequency. Section 16 of the TCPA and Manual of Local Plan 2020.



certain types of developments within specific zones. Unlike the traditional zoning categories used in Malaysia—such as residential or commercial—Singapore’s approach includes more flexibility on categories for allowable uses. For example, under industrial uses, a few allowable uses have been listed.<sup>776</sup> However, in addition to these allowable uses, they have placed some sort of “caveat” stating that other types of industries may be permitted, but this is subject to evaluation by the relevant and competent authorities.<sup>777</sup> This flexibility is particularly advantageous as it accommodates new developments or trends that may not fit within standard zoning practices, thereby preventing unnecessary restrictions that could hinder investment opportunities.

Meanwhile, in the context of using their own GIS database in their planning management, it cannot be denied that Singapore does fully utilise their planning GIS database. Section after this will discuss how their online planning database can and is easily accessed by the public for use for their development plan and process planning permission. ePlanner is a multi-platform geospatial urban planning analytics system that consolidates a diverse range of land-use planning information.<sup>778</sup> This tool aids planners in constructing queries, visualising data, and analysing over 100 data layers,<sup>779</sup> offering a comprehensive view for urban development decision-making.

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<sup>776</sup> Urban Development Authority (URA), Allowable Uses for Business 1 (Industrial), <https://www.ura.gov.sg/Corporate/Guidelines/Development-Control/Non-Residential/B1/Allowable-Uses>. Industry Group 1 encompasses activities like manufacturing (light industries), printing/publishing, food industry (packing), e-business, core media, and industrial training, while Industry Group 2 includes manufacturing, repair and servicing, production, storage of chemicals and oils, assembly, knitting mills, core media, e-business, and industrial training..

<sup>777</sup> Urban Redevelopment Authority (URA), *Master Plan Written Statement 2019*, 2019, <https://www.ura.gov.sg/-/media/Corporate/Planning/Master-Plan/MP19writtenstatement.page=11>.

<sup>778</sup> Urban Redevelopment Authority, Digitalisation, <https://www.ura.gov.sg/Corporate/Planning/Our-Planning-Process/Digitalisation>.

<sup>779</sup> Ibid.

Singapore's ePlanner interface was developed in collaboration between a few agencies, including the URA. Among its uses is establishing demographic data maps to identify areas with high concentrations of elderly residents, particularly those living alone or with chronic conditions. This system (as per Figure 6.2) analyses and visualises the population density, aiding in the strategic planning of health and social services.<sup>780</sup> The tool's adaptability is further demonstrated by its integration with the SpaceOut platform during the COVID-19 pandemic. The real-time crowd density data was used to manage public space occupancy and ensure safe distancing (as per figure 6.3).<sup>781</sup> This integration highlights the significant advantages of using a centralised GIS database, as it allows for the seamless merging of urban planning with public health considerations, enabling more effective management of both routine and emergency situations.

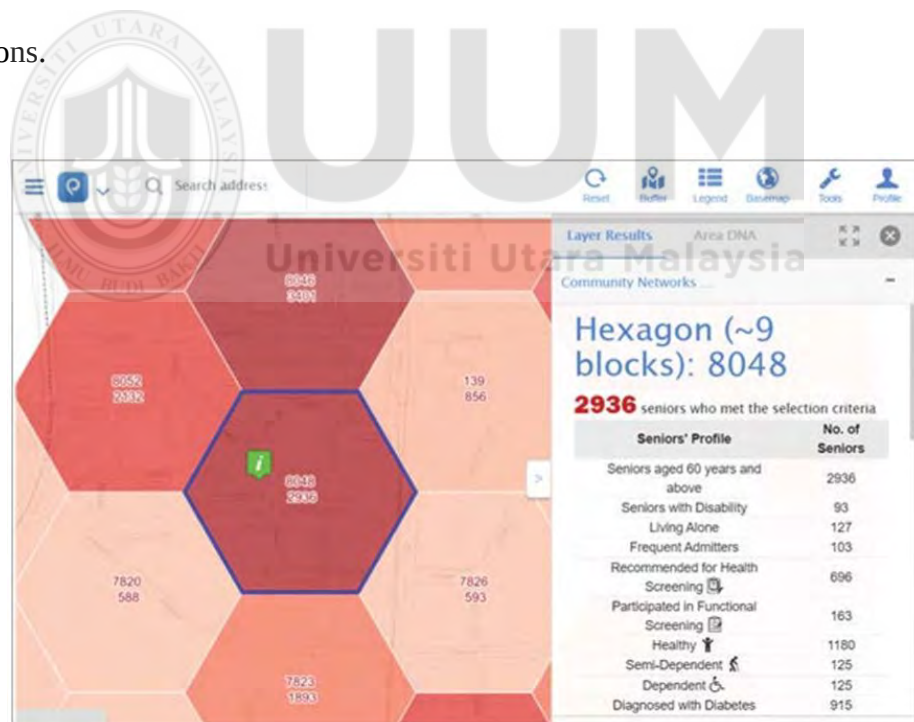


Figure 6-2 Visualisation of Health Map using GIS

<sup>780</sup> Siti Maziah Masramli, The EPlanner : Integrating Data for Inter-Agency Collaboration, *Urban Solution*, February 2020.

<sup>781</sup> Singapore Government Developer Portal, Space Out - Crowd Analysis for Safe Distancing, last modified 2023, <https://www.developer.tech.gov.sg/products/categories/digital-solutions-to-address-covid-19/space-out/overview.html>.

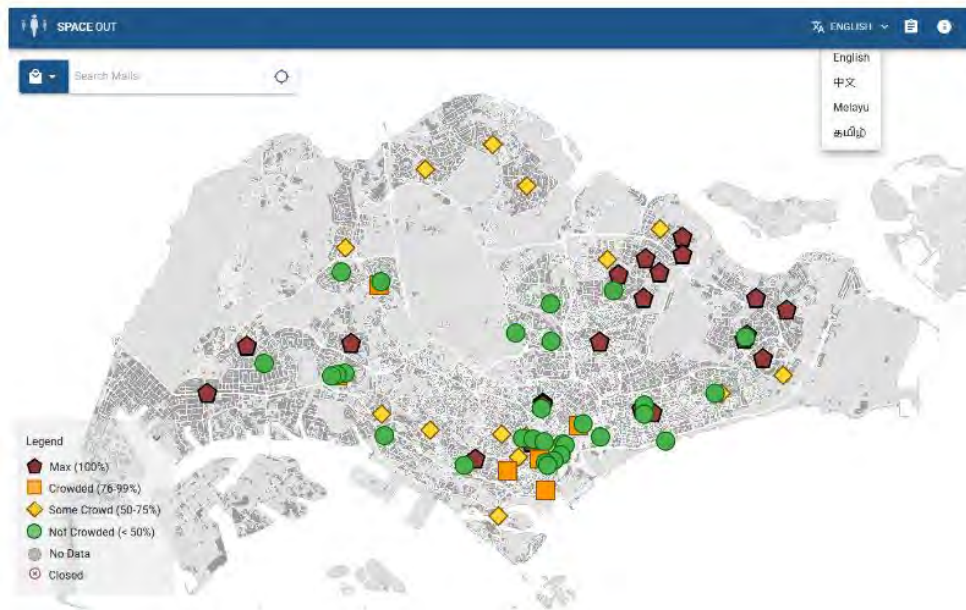


Figure 6-3 Integration of land use database with health database used during Covid-19 pandemic

#### 6.3.1.1.3 Key Lessons for SBEZ Development

The development issues identified in the SBEZ can be effectively addressed by integrating key practices from both the UK and Singapore. Among the lessons that can be learnt is the need for a comprehensive and legally binding framework to ensure that development plans are detailed, regularly reviewed, and supported by up-to-date evidence. This approach, seen in the UK, can help overcome the common issue of insufficient detail in local plans, leading to more informed and effective decision-making in SBEZ. Furthermore, public and stakeholder engagement should be strengthened, ensuring that they have access to clear justifications for proposed developments. Providing well-reasoned planning proposals allows stakeholders to make better-informed decisions and fosters greater transparency.

Another key aspect that both UK and Singapore exemplify is the importance of zoning flexibility. The UK utilises Local Development Orders (LDOs), which grant automatic planning permission for certain developments, streamlining the approval process while

maintaining regulatory oversight. Singapore, on the other hand, allows certain land uses subject to evaluation by relevant authorities, ensuring that zoning remains adaptable to economic and societal needs. Both approaches demonstrate how flexible zoning regulations can support integrated, multi-use developments, allowing areas to attract investment and respond to evolving demands.<sup>782</sup>

For the SBEZ, adopting a more flexible and responsive zoning framework could address rigid land-use policies, which often hinder efficient planning and economic diversification. By incorporating elements of the UK and Singapore models, the SBEZ can create a more dynamic regulatory environment, facilitating sustainable growth and long-term investment opportunities.

Another key lesson is the importance of leveraging technology to enhance data integration and spatial analysis. Singapore's advanced GIS system, ePlanner, exemplifies how centralised, real-time data can be used to support urban planning and decision-making. Coupled with the UK's recent focus on modernizing planning data management through the Levelling-up and Regeneration Bill 2022, which emphasises the need for standardized and accessible planning databases, these practices offer a blueprint for improving data utilisation in SBEZ.<sup>783</sup> By adopting similar systems, SBEZ can improve its ability to manage, analyse, and utilize planning data effectively, thereby addressing the issue of underutilised GIS and supporting more efficient and sustainable development outcomes. The combination of detailed planning

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<sup>782</sup> Ren Lu, *Building Engines for Growth and Competitiveness in China: Experience with Special Economic Zones and Industrial Clusters*, *Regional Studies*, vol. 45, 2011.

<sup>783</sup> The Levelling-up and Regeneration Bill 2022 proposes a standardised approach by requiring all planning authorities to use the same software, ensuring uniformity across the system. This software would be accessible through a single agency, effectively creating an integrated database that centralises planning data and streamlines administrative processes..

frameworks, zoning flexibility, and advanced data management techniques can create a robust foundation for overcoming the challenges faced in the development of SBEZ.

#### **6.3.1.2 Challenges of executing the development plan**

Based on Chapter Four, some key challenges have been identified in executing the development plan as a document in making the SBEZ successful, which are:

1. The development plan as an investment promotion tool is limited in its effectiveness.
2. Geographical isolation and inadequate infrastructure hinder the SBEZ's growth and operational efficiency.
3. Lack of a developed industrial ecosystem limits the SBEZ's ability to attract diverse industries.

##### **6.3.1.2.1 United Kingdom**

To ensure that the objectives outlined in the development plan and the aspiration to make the Enterprise Zones in the UK can be achieved, the Local Enterprise Partnership (LEP) was introduced back in 2010.<sup>784</sup> LEPs in the UK facilitate regional development by bringing together the private sector, local authorities, and communities to work collaboratively toward economic growth. The operation of LEPs will establish strategic economic plans (SEPs) that outline a long-term vision for regional economic growth. These plans will incorporate and streamline the investment in infrastructure, business support, and skills development, tailored to the specific needs of each area. On top of that, LEPs will also develop Local Industrial Strategies (LISs), which focus

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<sup>784</sup> LEP Network, Enterprise Zone, <https://www.lepnetwork.net/about-leps/enterprise-zones/>.

on driving long-term productivity by leveraging different regions' unique strengths and opportunities. However, among the main highlight of the LIS establishment is to have a strong leadership that will facilitate and coordinate among the stakeholders in making this strategy work.<sup>785</sup> The integration of SEPs and LISs enables LEPs to prioritise and coordinate investments in critical infrastructure projects, such as transportation, digital connectivity, and energy, which are essential for regional development.

LEPs have been particularly effective in securing funding for these projects through public-private partnerships (PPPs), which combine government resources with private-sector investment.<sup>786</sup> This collaborative approach addresses many policy issues, including planning, housing, local transport, infrastructure priorities, employment, enterprise, and the transition to a low-carbon economy.<sup>787</sup> An example of this approach in action can be seen in the Herefordshire Enterprise Zone, where The Marches LEP has successfully implemented projects that enhance research and development (R&D), training, and integrated transportation.<sup>788</sup> This demonstrates the potential of LEPs to foster regional growth by leveraging local assets and addressing specific developmental needs through targeted strategies. Some of the project under this LEP as shown in the Appendix.

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<sup>785</sup> John Shutt and Joyce Liddle, Comparing the Development of Local Industrial Strategies across the Northern Powerhouse: Key Emerging Issues, *Local Economy* 35, no. 4 (2020): 297–315. To realise this through strong leadership, this strategy needs the establishment of institutional frameworks that promote cooperation and guarantee that strategies are consistent with local and national objectives. Additionally, the success of LISs relies on the active involvement of local stakeholders and the alignment of strategies with local realities.

<sup>786</sup> The Marches, The Marches: Local Enterprise Partnership (Herefordshire - Shrophishere - Telford & Wrekin), <https://www.marcheslep.org.uk/the-lep/what-we-do/>.

<sup>787</sup> Anurag Kumar, Introduction to LEP (Local Enterprise Partnership) in British Planning System: A New Dimension towards Planning Policies, *IOSR Journal Of Humanities And Social Science* 15, no. 3 (2013): 21–26.

<sup>788</sup> The Marches, “The Marches: Local Enterprise Partnership (Herefordshire - Shrophishere - Telford & Wrekin).”

### 6.3.1.2.2 Singapore

Singapore's success as a leading investment destination in Asia is multifaceted and can be said to be due to its strategic geographic location, political stability, and forward-looking economic policies. Located within the South China Sea region, Singapore offers a gateway for trade and investment in a vibrant economy. Their reputation in macroeconomic management and openness to foreign investment further strengthen its attractiveness, creating a secure environment for global investors. Not only in its economic planning, Singapore's master planning is one of the significant contributors for being one of the best countries to invest in the world.<sup>789</sup>

Singapore's comprehensive master planning strategy emphasises ensuring that all parts of the country are effectively connected. This holistic approach to connectivity is fundamental to its development goals, ensuring that smooth mobility across different regions and optimising the efficiency of its urban infrastructure. They have carefully planned and executed an extensive transportation network connecting industrial areas with key transport hubs such as port and airport.<sup>790</sup> This has been made possible through dedicated highways and the creation of Mass Rapid Transit (MRT)-oriented new towns. The concept of self-contained townships that integrate industrial, residential, and commercial zones, ensuring that essential services and facilities are within easy reach, can improve the quality of life and streamline the development process.<sup>791</sup>

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<sup>789</sup> Chua Beng Huat, Singapore as Model: Planning Innovations, Knowledge Experts, in *Worlding Cities: Asian Experiments and the Art of Being Global*, ed. Anaya Roy and Aihwa One (Blackwell Publishing Ltd, 2011), 1–26.

<sup>790</sup> Meng Meng, Zhang Jie, and Yiik Diew Wong, Integrated Foresight Urban Planning in Singapore, *Proceedings of the Institution of Civil Engineers: Urban Design and Planning* 169, no. 1 (2016): 1–13.

<sup>791</sup> Ibid.

Singapore's long-standing Master Plan underscores the importance of early infrastructure planning.<sup>792</sup> It cannot be denied that compared to other countries, Singapore's size is one of the factors that makes it easy to manage. However, Singapore's success can be attributed to effective management, strong political will, and strategic planning. The nation's ability to efficiently leverage its limited land area is evident in its success as a global investment hub. The port of Singapore, one of the busiest in the world,<sup>793</sup> Changi Airport, consistently ranked among the top international airports, and its position as the leading financial hub in the Asia-Pacific region all contribute significantly to its investment appeal.<sup>794</sup>

Singapore's integrated MRT system is a transport solution and a critical factor in attracting expatriates and foreign businesses. The robust infrastructure, including the MRT, has made Singapore an attractive place for living and doing business. This comprehensive and well-integrated approach to infrastructure and urban planning is a key reason Singapore thrives as a top destination for global investment. All these factors, when combined, illustrate how Singapore has successfully utilised its resources and strategic advantages to build an enviable economic model.

#### **6.3.1.2.3 Key Lessons for SBEZ Development**

The lessons from the UK and Singapore emphasise the importance of translating development plans into actionable strategies that go beyond mere documentation. Singapore's success is primarily attributed to its meticulous and practical

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<sup>792</sup> Md Habibur Rahman and Hoong Chor Chin, Sustainable Urban Transport in Singapore: A Balanced Scorecard, *International Journal of Sustainable Development* 2, no. 10 (2011): 19–42; Meng, Jie, and Wong, "Integrated Foresight Urban Planning in Singapore."

<sup>793</sup> World Shipping Council, Top 50 World Container Port, last modified 2019, accessed May 5, 2020, <http://www.worldshipping.org/about-the-industry/global-trade/top-50-world-container-ports>.

<sup>794</sup> FEP Financial Club, How Singapore Became a Global Financial Center, last modified 2024, <https://fepfinanceclub.org/2024/05/02/article-how-singapore-became-a-global-financial-center/>.



implementation of its master plan, particularly in infrastructure development. The comprehensive transportation network in Singapore, which connects various zones and ensures seamless mobility, is a prime example of how infrastructure can significantly enhance the attractiveness of an area for investors. In addition to that, Singapore has become one of the major logistic and transit hubs due to the effectiveness of its main airport and seaport. For the SBEZ, ensuring that infrastructure projects outlined in the development plan are realised effectively will be crucial. This involves planning and executing projects in a manner that aligns with the long-term economic goals of the region, similar to Singapore's approach.

Additionally, the UK's experience with Local Enterprise Partnerships (LEPs) underscores the need for a collaborative approach involving multiple stakeholders, including the private sector, local authorities, and other stakeholders. Creating a “formal entity” to plan and coordinate the SBEZ development will be one idea that can be adopted. Involving the LPA with the developer and the academic institution, such as Universiti Utara Malaysia (UUM), can facilitate this collaboration. By integrating expertise from UUM, developers, and local planning authorities, the SBEZ can benefit from a well-rounded strategy that combines academic research, practical development insights, and governmental oversight. This collaborative framework can ensure that the initiatives within the development plan are implemented and adapted to meet the region's evolving needs, thereby increasing the likelihood of success.<sup>795</sup>

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<sup>795</sup> Jennifer Doyle, Local Enterprise Partnerships to Deliver Progressive Social Outcomes, *Local Economy* 28, no. 7–8 (2013): 921–926; Frank Peck et al., Prospects for “place-Based” Industrial Policy in England: The Role of Local Enterprise Partnerships, *Local Economy* 28, no. 7–8 (2013): 828–841.

|                                                                                    | Issues                                                                                                                                                                                                                                                                                                                                 | Best Practices                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Key Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                    |                                                                                                                                                                                                                                                                                                                                        | United Kingdom                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Singapore                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>1</b><br><b>Data Deficiencies and Database Utilisation in Development Plans</b> | <ul style="list-style-type: none"> <li>Lack of detailed local plans (confusion in decision-making).</li> <li>Rigid land-use zoning (limits multi-use developments).</li> <li>Inconsistent public participation (unfocused development decisions).</li> <li>Underutilisation of GIS systems (poor data integration).</li> </ul>         | <ul style="list-style-type: none"> <li>Evidence-Based Planning: NPPF mandates up-to-date evidence support.</li> <li><b>Duty to Cooperate</b>: Section 33A requires inter-agency integration.</li> <li>Regular Plan Review: Comprehensive review within set timeframes.</li> <li><b>Flexible Zoning with LDOs</b>: LDOs allow adaptable land use.</li> <li><b>Modernised Planning Data</b>: Levelling-up Bill standardises data collection.</li> </ul>                                                                                      | <ul style="list-style-type: none"> <li>Regular Updates: <b>Five-year review</b> for Master Plans.</li> <li><b>Flexible Zoning Regulations</b>: Allows evaluated uses within zoning.</li> <li>Advanced <b>GIS Utilisation</b> (ePlanner): Integrates over 100 planning data layers.</li> </ul>                                                                                                                                                                                                                  | <ul style="list-style-type: none"> <li>Implement a Legally Binding Framework: Ensure plans are comprehensive, <b>evidence-based</b>, and <b>reviewed regularly</b>.</li> <li>Enhance Zoning Flexibility: Adopt adaptable zoning to enable multi-use developments.</li> <li>Leverage Advanced GIS Systems: <b>Use geospatial tools</b> for improved data integration.</li> <li>Foster Effective <b>Public Participation</b>: Consistently engage the public in plan preparation.</li> <li>Promote Inter-Agency Cooperation: Establish cooperation for comprehensive, <b>current data gathering</b>.</li> </ul> |
| <b>2</b><br><b>Challenges in Executing the Development Plan</b>                    | <ul style="list-style-type: none"> <li>Development plan limited as an investment promotion tool.</li> <li>Geographical isolation and infrastructure gaps hinder growth.</li> <li>Lack of industrial ecosystem reduces attractiveness for diverse industries.</li> <li>Political interference causes delays and uncertainty.</li> </ul> | <ul style="list-style-type: none"> <li><b>Local Enterprise Partnerships (LEPs)</b> – Foster regional growth with public-private partnerships.</li> <li>Strategic Economic Plans (SEPs) – Outline long-term vision for economic development.</li> <li>Local Industrial Strategies (LISs) – Focus on productivity through regional strengths.</li> <li><b>Infrastructure Investment</b> – Prioritise critical projects like transport and energy.</li> <li>Funding via PPPs – Leverage public and private funds for key projects.</li> </ul> | <ul style="list-style-type: none"> <li>Comprehensive Master Planning – Emphasises infrastructure and urban connectivity.</li> <li><b>Integrated Transport Network</b> – Connects industrial zones with key hubs.</li> <li><b>Self-Contained Townships</b> – Mix industrial, residential, and commercial zones.</li> <li>Strategic Infrastructure – Key assets like Changi Airport and seaport.</li> <li>Investment-Friendly Environment – Stability and efficient urban planning attract investors.</li> </ul> | <ul style="list-style-type: none"> <li>Actionable Development Plans – Ensure projects align with long-term regional goals.</li> <li><b>Robust Infrastructure</b> – Enhance connectivity and attractiveness for investors.</li> <li><b>Collaborative Framework</b> – Engage private sector, local authorities, and academia.</li> <li><b>Formal Entity for Coordination</b> – Establish a central body for SBEZ planning.</li> <li>Stakeholder Integration – Involve institutions like UUM for balanced strategy.</li> </ul>                                                                                   |

Figure 6-4 Summary of Challenges in Enforcing the Development Plan

### **6.3.2 Challenges in enforcing the planning control mechanism**

This section will explore the best practices from the UK and Singapore in enforcing planning control, focusing on two key areas. First, it will examine the legal challenges in balancing public interest with developer needs when setting planning conditions, showcasing how authorities in these regions manage the often conflicting demands of development and public welfare. Second, it will discuss the challenges of handling post-development issues through effective planning control, examining the strategies and mechanisms used to promote sustainable land use and ensure ongoing compliance with planning regulations.

#### **6.3.2.1 Legal Challenges in Balancing Public Interest and Developer Needs in Planning Conditions**

Below is the issues identified in Chapter 4:

1. Conflicts arise between public interest and developers' practical needs in planning conditions.
2. Systemic inefficiencies in the planning permission process exacerbate these conflicts.
3. Incomplete reviews and staffing shortages delay the planning permission process.
4. Lack of flexibility and negotiation complicates the enforcement of planning conditions.

#### 6.3.2.1.1 United Kingdom

The process of acquiring planning permission can be challenging, with several factors contributing to delays and conflicts between developers, local authorities, and the public. One of the key strategies to mitigate these issues is using a pre-application process, which is a requirement in the UK under the Planning Act 2008.<sup>796</sup> Chapter 2 of Part 5 under this Act establishes legal obligations for applicants to engage in pre-application consultations with local communities, local authorities, and individuals directly affected by proposed projects. These consultations play a crucial role in ensuring a smoother planning permission process, preventing delays and extensive revisions like those observed in the SBEZ, where the absence of such pre-application processes has led to significant setbacks.

In addition to pre-application consultations, under Section 106 Obligation, UK TCPA 1990 serve as another essential tool for balancing the needs of developers with the interests of the local community.<sup>797</sup> These legal agreements, often used in conjunction with planning permissions, ensure that developers contribute to local infrastructure or community needs. By doing so, they provide a mechanism to make developments more

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<sup>796</sup> Under Chapter 2 of Part 5 of the Planning Act 2008, the applicant must consult key parties, including prescribed persons, authorities, and individuals with interests in the land, such as owners, lessees, and tenants. Section 43 defines the relevant local authorities for consultation, and the process distinguishes three categories of consultees based on their relationship to the land. Applicants must notify all consulted parties of a response deadline, with a minimum consultation period of 28 days. Additionally, under Section 47, applicants must prepare and publish a consultation statement for the local community, following discussions with local authorities. Section 48 further requires publicising the proposed application and setting a deadline for public responses.

<sup>797</sup> Section 106 of TCPA 1990 prescribed on the planning obligation. Section 106(1) mentions that the obligation can restrict land use, require certain operations to be carried out, or mandate payments to the local authority for infrastructure or other community needs. These obligations, as described in Section 106(2), can either be unconditional or subject to specific conditions and may apply for an indefinite period or a defined timeframe. Section 106(3) clarifies that the obligation is enforceable against both the person who enters into it and any subsequent owners of the land. In the event of a breach, Section 106(6) allows the local authority to step in, carry out the required work, and recover the costs. Additionally, Section 106(11) ensures that planning obligations are recorded as local land charges, making them binding on future landowners.

acceptable to the community and help align developer requirements with public interest.

In addition to that, public involvement in the planning permission process goes beyond the simple submission of applications by developers and their approval by local planning authorities (LPAs). Effective planning requires deeper engagement from local communities, as their input can help address potential concerns before they escalate into larger issues. Pre-application consultations offer an avenue for this involvement, ensuring that the public's voice is heard early in the process and that their concerns are integrated into the planning outcome.

#### **6.3.2.1.2 Singapore**

In Singapore, one factor that helps reduce conflicts between public interest and developers' needs is that the majority of land is owned by government agencies, with around 80% under public control.<sup>798</sup> For instance, much of the residential land is owned by the Housing and Development Board (HDB), which oversees public housing. HDB's public housing programmes are a significant part of Singapore's national identity, with over 80% of the population living in HDB flats. This government ownership allows for more direct control over development, ensuring it aligns with national priorities and public needs.

Another aspect that streamlines the planning permission process in Singapore is the use of fully online submissions. Unlike other contexts where applications require both online and physical submissions, Singapore's planning permission process is

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<sup>798</sup> OECD/Lincoln Institute of Land Policy, Singapore, in *Global Compendium of Land Value Capture Policies*, 2022, 204–208.

conducted exclusively through a digital platform,, reducing delays and inefficiencies.<sup>799</sup> This digital platform, managed by the Urban Redevelopment Authority (URA), allows developers to submit all necessary documents, track their application status, and receive approvals without the need for in-person meetings. By eliminating the need for physical paperwork and manual processing, the system reduces administrative burdens and accelerates the review process.

Additionally, in Singapore, the planning permission process is known as "Outline Application." This serves as a preliminary approval stage, allowing developers to seek consent for the general principles of a project before proceeding with detailed designs.<sup>800</sup> Outline application plays a crucial role in managing potential conflicts by addressing key aspects such as land use, density, and infrastructure alignment at an early stage. This approach ensures that development proposals are consistent with public interests and regulatory requirements, reducing the likelihood of objections later in the process. By obtaining initial feedback and approvals, developers can make necessary adjustments before submitting a full planning application, improving efficiency and minimising uncertainties.

Essentially, the Outline Application acts as a strategic pre-assessment, providing developers with a clearer understanding of potential costs, requirements, and regulatory constraints. This early insight helps mitigate risks, control expenses, and streamline the overall planning and development process.

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<sup>799</sup> Urban Redevelopment Authority (URA), Apply for Planning Permission, <https://www.ura.gov.sg/Corporate/Guidelines/Development-Control/Planning-Permission>.

<sup>800</sup> Urban Redevelopment Authority, Outline Application, last modified 2023, <https://www.ura.gov.sg/Corporate/Guidelines/Development-Control/Planning-Permission/Outline-Application>.

#### **6.3.2.1.3 Key Lessons for SBEZ Development**

The key lesson from both the UK and Singapore's planning systems is the value of early engagement between developers, authorities, and the public. In the UK, pre-application consultations provide a structured platform for developers to communicate with local communities and authorities, ensuring that potential concerns are addressed before a formal application is submitted. This prevents delays caused by community pushback or late-stage revisions. For the SBEZ, adopting a similar pre-application consultation process could help align developer goals with local needs, reducing conflicts and enabling a smoother planning process. Early engagement also builds trust between stakeholders, ensuring that both public interest and developer requirements are considered from the outset.

Another lesson lies in the use of legal agreements to balance interests. In the UK, legal tools like Section 106 Obligations require developers to contribute to local infrastructure, making their projects more acceptable to the community. For SBEZ, a similar legal framework could be introduced, where developers are obligated to provide community benefits, such as infrastructure improvements or environmental enhancements. This would help ensure that development in the SBEZ aligns with both economic growth and local community needs, ultimately making projects more sustainable and publicly supported. In addition, planning obligations can be used in the SBEZ to remove obstacles to planning permission, accelerate public infrastructure programs, avoid delays through appeals, allow trade-offs between project advantages and disadvantages, influence public opinion on the effectiveness of negotiated public

infrastructure contributions from the private sector, and ultimately enhance the development itself.<sup>801</sup>

Lastly, Singapore's fully digital planning submission process and the use of Outline Planning Permission offer valuable insights into how SBEZ could streamline its own planning approval system. By shifting to a fully online platform for planning submissions, SBEZ can reduce administrative delays and increase transparency, as developers can track their applications in real time. Additionally, implementing Outline Planning Permission would allow developers to gain early consent for the broad principles of their projects, enabling them to make adjustments before committing to detailed designs. This would not only reduce potential conflicts but also help developers minimise costs and risks, ensuring a more efficient and flexible planning process in the SBEZ.

#### **6.3.2.2 Challenges of Managing Post-Development Issues Through Effective Planning Control**

As identified in Chapter 4, the following issues were raised:

- 1) Authorities are insufficiently responsive to public concerns, leading to unresolved community issues.
- 2) Inadequate Planning and regulatory controls, resulting in ongoing post-development challenges.

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<sup>801</sup> Dani Salleh and Mazlan Ismail, *Infrastructure Procurement Framework for Local Authority*, First Edit. (UUM Press, 2014).



- 3) Insufficient environmental management practices, risking pollution and poor resource management.

#### **6.3.2.2.1 United Kingdom**

In the context of developing economic zones like the SBEZ, one of the key challenges is the lack of timely responses from authorities on issues such as traffic and environmental concerns. This issue often arises post development, as also can be seen in Enterprise Zones in the UK. To tackle this, the previously discussed LEP model can be among its solutions. The LEP concept involves multiple stakeholders, including LPAs, developers, and local residents, under a "board of governance" responsible for overseeing the entire enterprise zone.<sup>802</sup> This governance structure allows for issues to be raised and addressed promptly. If an issue requires intervention from the LPA, the board can facilitate prompt action since the LPA is part of the board. This can ensure that local concerns, for example, related to traffic and safety, are managed effectively.

In addition to this responsive governance structure, the LEP model also addresses planning and post-development issues through dedicated funding and strategic oversight. By actively engaging in infrastructure planning and development rather than solely relying on the LPA, LEPs ensure that there is regional coherence and cross-boundary connectivity within their transport infrastructure projects.<sup>803</sup> For example, Marches LEP has allocated some funds specifically for improving transport schemes; LEPs help mitigate the ongoing issues that arise after development, thereby ensuring

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<sup>802</sup> Marches LEP, Marches LEP Board, <https://www.marcheslep.org.uk/the-lep/who-we-are/the-lep-board/>. The board includes champions and representatives from the following sectors: Higher education, skills, community and voluntary, manufacturing, food and drink, business and professional services, construction and SMEs. .

<sup>803</sup> Marches LEP, Marches LEP Continues to Deliver for Region, last modified 2023, <https://www.marcheslep.org.uk/marches-lep-continues-to-deliver-for-region/>.

robust planning controls and shared responsibility among stakeholders for managing these projects.

On the other note, environmental concerns such as potential pollution and water management issues are also considered within the LEP framework. An example is the Marches LEP, which implemented innovative methods, like using moss filters, to improve air quality in their region.<sup>804</sup> This approach demonstrates that environmental quality is not treated as a secondary concern but is rather a shared responsibility among all stakeholders involved. The collaborative nature of LEPs fosters a sense of collective ownership over environmental issues. This ensures that all the stakeholders are actively managed and not viewed as "someone else's problem." Through these mechanisms, the LEP model can be viewed as a comprehensive approach that allow the entire development to be shared and managed together within the multiple stakeholders.

#### **6.3.2.2.2 Singapore**

Revisiting to previous section, the success of Singapore's urban planning is primarily attributed to its Master Plan, initiated in the 1970s. This comprehensive approach to urban development is exemplified by the establishment of the Land Transport Authority (LTA) in 1995. Section 6(e) of the LTA Act delineates the authority's role in developing and implementing road traffic management strategies.<sup>805</sup> Concurrently, Section 6(k) extends its mandate to include railway management within Singapore.<sup>806</sup>

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<sup>804</sup> Marches LEP, A Breath of Fresh Air as Marches LEP Helps Fund Pioneering Moss Filters, last modified 2023, <https://www.marcheslep.org.uk/a-breath-of-fresh-air-as-marches-lep-helps-fund-pioneering-moss-filters/>.

<sup>805</sup> Government of Singapore, *Land Transport Authority of Singapore Act 1995*, <https://sso.agc.gov.sg/Act/LTASA1995?WholeDoc=1>.

<sup>806</sup> Ibid.

This consolidation of land transportation planning under a single agency illustrates a strategic centralisation, ensuring coordinated and efficient management of transport infrastructure.

In contrast, Malaysia established the Land Public Transport Commission (SPAD), now known as the Land Public Transport Agency (APAD), in 2010. Initially an independent entity responsible for public transport, SPAD formulated the National Public Land Transport Master Plan in 2012.<sup>807</sup> However, following political changes in 2018, SPAD was dissolved and its functions absorbed by the Ministry of Transport.<sup>808</sup> This transition highlights a significant challenge in Malaysia: the need for effective coordination among various agencies responsible for land transportation. Frequent disruptions and a lack of cohesive strategy have been prevalent issues, underscoring the necessity for a more integrated and centralised approach akin to Singapore's model.

Singapore's transport planning is highly effective in managing traffic congestion, thanks to its comprehensive public rail transport system. Covering nearly all areas with public transport has contributed to Singapore being ranked among the top countries for public transport accessibility.<sup>809</sup> The affordability of fares plays a significant role in this success, making public transport a cost-effective option for residents and

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<sup>807</sup> Kamarul Azhar, Cover Story: SPAD's Big Plans for Public Transport, *The Edge Malaysia*, 2014, <https://theedgemalaysia.com/article/cover-story-spad's-big-plans-public-transport>.

<sup>808</sup> Lynna Abdul, Abolishing SPAD: This Is No Longer 90s Malaysia, *Free Malaysia Today*, 2018, <https://www.freemalaysiatoday.com/category/opinion/2018/05/27/abolishing-spad-this-is-no-longer-90s-malaysia/>.

<sup>809</sup> Danielle Isaac, Here's What Kept Singapore from Having the World's Best Public Transport System, *Singapore Business Review*, 2019, <https://sbr.com.sg/transport-logistics/news/heres-what-kept-singapore-having-worlds-best-public-transport-system>.

reducing the overall cost of living. Figure 6-5 Singapore Transit Map illustrates Singapore's extensive and interconnected rail network.<sup>810</sup>

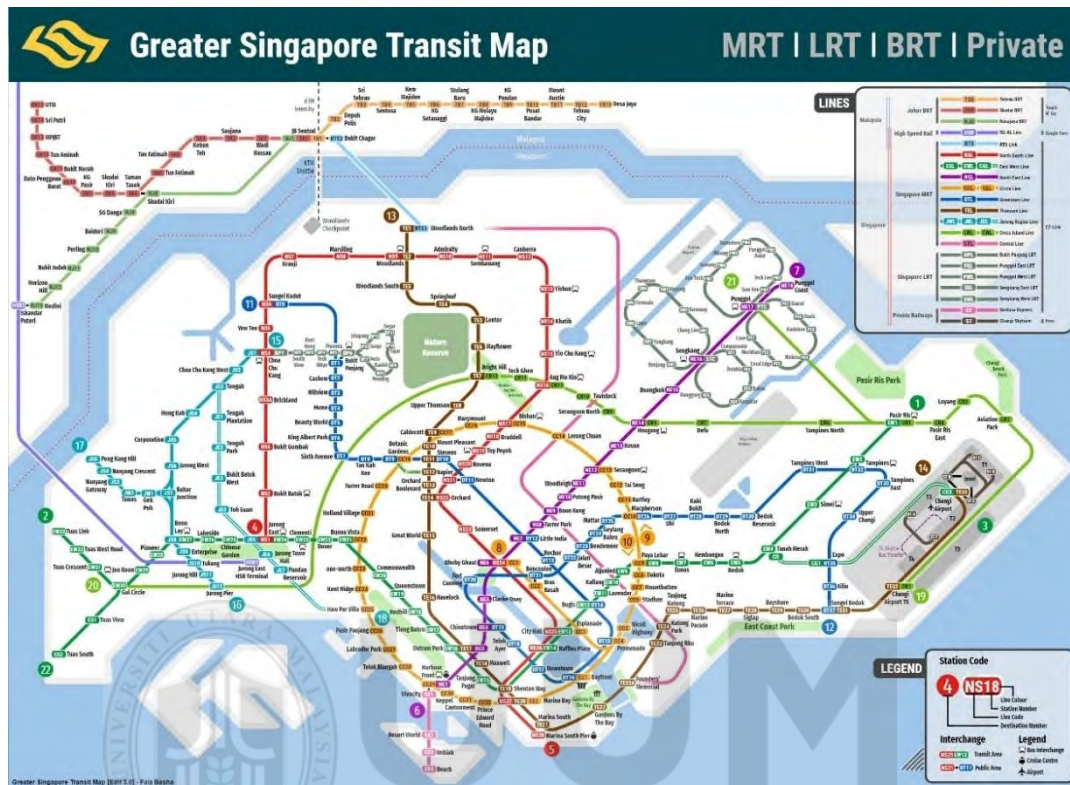


Figure 6-5 Singapore Transit Map

In addition to that, Singapore's approach to taking care of the environment is quite good. Despite its small land area and high industrial activity, including a prominent position in the chemical export sector and manufacturing industry,<sup>811</sup> Singapore has achieved a higher ranking in the Environmental Performance Index than Malaysia.<sup>812</sup> This success is partly due to implementing strategies like the Carbon Tax. This tax is designed to directly address pollution issues by imposing a financial penalty on carbon

<sup>810</sup> Jonathan Yee, S'porean Redesigns MRT Map Again, Includes Parks, Landmarks & Johor's Train Line, *MS News*, 2019, <https://mustsharenews.com/singapore-mrt-map-redesign/>.

<sup>811</sup> In 2021, Singapore was among the top ten global exporters in the chemical industry and a significant player in the manufacturing sector's export and import markets. World Trade Organisation, Statistical Tables, 2022.

<sup>812</sup> Malaysia ranks 130th and Singapore ranks 44th. Sebastián Block et al., Environmental Performance Index (EPI) 2022 Result (New Haven, 2022), <https://epi.yale.edu/epi-results/2022/component/epi>.

emissions. This approach aligns with their land-use planning, where the limited space necessitates innovative solutions to balance industrial development with environmental conservation.



Figure 6-6 Vertical Greenery at Parkroyal Pickering

Beyond their legislative measures, Singapore's urban planning integrates green spaces into its industrial landscape. This is evident in the transformation of Singapore's urban greenery, which has increased from 36% in 1986 to nearly 47% in recent years.<sup>813</sup> The strategic allocation of green areas in industrial and residential developments is a testament to Singapore's innovative approach. For instance, the requirement for new housing and industrial developments to provide access to green spaces and for some projects to create landscaping should be equivalent to their site area.<sup>814</sup> This enhances

<sup>813</sup> Rachel Rui Ying Oh et al., No Evidence of an Extinction of Experience or Emotional Disconnect from Nature in Urban Singapore, *People and Nature* 2, no. 4 (2020): 1196–1209.

<sup>814</sup> National Parks Board, *Bringing Greenery Skywards: A Handbook on Developing Sustainable Highrise Gardens* (2017): 1–45, <https://www.nparks.gov.sg/-/media/srg/files/nparks-skyrise-greenery-handbook.ashx>.

urban aesthetics and contributes to ecological balance, but also mitigating the urban heat island effect.

The integration of environmental considerations into Singapore's urban planning is further exemplified by its green infrastructure initiatives. The Landscaping for Urban Spaces and High-Rises (LUSH) programme mandates the incorporation of green walls and roof gardens in new buildings.<sup>815</sup> These features are not merely decorative; they play a critical role in managing rainwater, reducing runoff, and enhancing biodiversity. By replacing the greenery lost to construction, Singapore ensures a continued ecological balance in urban areas.

#### **6.3.2.2.3 Key Lessons for SBEZ Development**

The discussion above highlights the critical importance of post-development management in securing the long-term success of SEZs. Given the considerable size of the SBEZ, which spans nearly 12,000 acres, a clearly structured and efficient management process is essential to ensure its smooth and sustainable operation. One important lesson is the need for a strategic plan that goes beyond a conventional masterplan or layout, which typically focuses on land use types and physical components. Instead, what is needed is a broader and more dynamic strategy tailored to the specific needs of the SBEZ—one that guides not only the physical development but also the ongoing coordination of planning, economic, and administrative functions.

This approach can take inspiration from the UK's Local Enterprise Partnership (LEP) model, which provides a framework for coordinated planning and economic development. The LEP model brings together local planning authorities, developers,

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<sup>815</sup> Ibid.

businesses, and the public to work collectively under a single governance structure. It demonstrates that effective regulation and implementation of economic zones are best managed through a dedicated coordinating entity, rather than placing the burden solely on planning authorities or private developers. The main lesson here is the need for strong and ongoing coordination among all stakeholders involved in the development of the SBEZ. Without such a mechanism in place, the risk of misalignment, inefficiencies, and long-term setbacks becomes significantly higher.

Furthermore, in addressing issues such as traffic, an inevitable challenge in any development, the SBEZ project must prioritise connectivity and mobility. It is important to establish infrastructures that not only meet the needs of the next 5-10 years but also anticipate and accommodate the projected carrying capacity of the development for the next 30 years and more. This is where the integration of the previous discussion on the GIS system come into place. Addressing traffic issues only after the development has become saturated can lead to significant problems, hence, mitigation and planning must begin from the earlier stage. Additionally, to ensure environmental sustainability, local authorities must implement mechanisms beyond the LPA's efforts and involve federal initiatives. For instance, introducing a carbon tax could be an effective measure to regulate industrial emissions, ensuring that investors are mindful of their environmental impact. This proactive approach will help maintain the ecological balance while boosting the economic growth in the SBEZ.



| Issues                                                                                               |                                                                                                                                                                                                                                                                                                                                                                               | Best Practices                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                        | Key Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                               | United Kingdom                                                                                                                                                                                                                                                                                                                                                      | Singapore                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 1<br><b>Legal Challenges in Balancing Public Interest and Developer Needs in Planning Conditions</b> | <ul style="list-style-type: none"> <li>Conflicts between public interest (e.g., sustainability) and developers' practical needs (e.g., timelines, economic goals).</li> <li>Systemic inefficiencies in the planning permission process (e.g., delays, incomplete reviews, staffing shortages).</li> </ul>                                                                     | <ul style="list-style-type: none"> <li><b>Pre-Application Consultations</b> – Engage local communities and authorities early.</li> <li><b>Section 106 Obligations</b> – Legal agreements for local infrastructure contributions.</li> <li><b>Public Involvement</b> – Integrate community feedback in planning processes.</li> </ul>                                | <ul style="list-style-type: none"> <li>Government Land Ownership – 80% of land controlled by public agencies.</li> <li>Fully Digital Submission System – Streamlined online platform for planning approvals.</li> <li><b>Outline Planning Permission</b> – Preliminary approvals for project principles.</li> </ul>                                                    | <ul style="list-style-type: none"> <li>Adopt Pre-Application Consultations – Align developer goals with community needs early.</li> <li><b>Implement Legal Obligations</b> – Require contributions for local infrastructure.</li> <li>Digitalise Planning Submissions – Fully online platform for efficient processing.</li> <li><b>Use Outline Planning Permission</b> – Early approvals to reduce project risks.</li> <li>Foster Public Involvement – Build trust by integrating community input.</li> </ul>                             |
| 2<br><b>Challenges of Managing Post-Development Issues Through Effective Planning Control</b>        | <ul style="list-style-type: none"> <li>Lack of responsive action to residents' concerns (e.g., traffic and safety issues).</li> <li>Increased truck traffic through residential areas causing safety hazards and congestion.</li> <li>Inadequate planning controls causing pollution and water management problems post-development (e.g., SBEZ Bukit Kayu Hitam).</li> </ul> | <ul style="list-style-type: none"> <li><b>LEP Governance Structure</b> – Board oversees development and resolves issues promptly.</li> <li><b>Dedicated Funding for Infrastructure</b> – Ensures continuous regional connectivity.</li> <li><b>Collaborative Environmental Initiatives</b> – Implements shared responsibility for environmental quality.</li> </ul> | <ul style="list-style-type: none"> <li>Centralised Transport Authority (LTA) – Manages transport planning under a unified agency.</li> <li><b>Carbon Tax for Pollution Control</b> – Financial incentives to reduce industrial emissions.</li> <li><b>Integrated Green Spaces (LUSH Programme)</b> – Requires green walls and roof gardens in new projects.</li> </ul> | <ul style="list-style-type: none"> <li><b>Establish Coordinated Governance</b> – Develop a strategic plan with multi-stakeholder oversight.</li> <li>Prioritise Long-Term Connectivity – Plan transport to meet future growth needs.</li> <li>Implement Environmental Safeguards – Consider carbon tax and integrated green spaces.</li> <li>Early Traffic Mitigation Measures – Use GIS for proactive traffic planning.</li> <li><b>Encourage Shared Responsibility</b> – Involve all stakeholders in sustainable development.</li> </ul> |

Figure 6-7 Summary of Legal Challenges in Enforcing Planning Control Mechanism



### **6.3.3 Public Participation Process in Preparation of Development Plan and Planning Permission**

Chapter 4 discusses the following identified issues:

1. Limited public awareness and participation in the Kubang Pasu Local Plan development process.
2. Insufficient use of modern communication channels, such as social media, by the local authority.
3. Public engagement efforts focus on meeting legal obligations rather than genuinely involving the community.
4. Exclusion of broader public involvement, particularly non-adjoining landowners, in significant development projects.

#### **6.3.3.1 United Kingdom**

Public participation in the process UK is govern and being regulated through Regulation 18 of the Town and Country Planning Regulations 2012.<sup>816</sup> This regulation are being established in relation to the process of the related preparation of the realted documents that being preparaed by the local panning authority.<sup>817</sup> This enables the

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<sup>816</sup> Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 outlines the process for preparing a local plan. It requires a local planning authority to notify specific and general consultation bodies, as well as relevant residents or businesses, about the proposed local plan. These parties are invited to make representations about the plan's content. The local planning authority must consider the interests of these bodies and individuals in relation to the local plan's subject and take into account any representations made in response to their invitation during the plan's preparation..

<sup>817</sup> Regulation 4 mentioned that Local development documents, refer to documents prepared by a local planning authority, either individually or in collaboration with other authorities, that include key planning statements. These statements address the development and use of land that the authority wishes to promote over a specific period, the allocation of sites for particular types of development, and the relevant environmental, social, design, and economic objectives. Additionally, these documents contain

public to express their views on important issues, local needs, and the identification of sites that should be developed or protected. Didlaam konteks perbincangan ini, example of the public participation process will be within the framework of what has been practised by the Herefordshire Local Authority.

To prepare the local plan, local planning authorities are required to publicise the draft local plan for six (6) weeks as prescribed under Regulation 35 before it is submitted to the Secretary of State.<sup>818</sup> In addition to that, the local plan must be available at the local authority's office and website as prescribed by Regulation 35(1). In contrast, Malaysia's Town and Country Planning Act 1976 mandates the publication of draft local plans in two local newspapers, and physical display, specifying a minimum four-week inspection period.<sup>819</sup>

The discussion below will also give examples of how the methods used in the UK to make the public involved in the preparation of development plans. The UK's digital approach to local planning, illustrated by the Herefordshire Local Plan Commonplace website as seen in figure below, streamlines public participation through an interactive online platform.<sup>820</sup> The Herefordshire Local Plan Commonplace website, as depicted in figure below, showcases an innovative approach to public participation in local planning. It features an interactive map for pinpointing specific community feedback,

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development management and site allocation policies intended to guide decisions on planning applications..

<sup>818</sup> Under Regulation 19, before submitting a local plan to the Secretary of State, the local planning authority must make available a copy of the proposed submission documents and a statement of the representations procedure as per regulation 35. Additionally, they must send a statement detailing the representations procedure and the availability of the submission documents for inspection, including where and when they can be inspected, to both general and specific consultation bodies that were invited to make representations under regulation 18(1).

<sup>819</sup> Section 12A of TCPA.

<sup>820</sup> Herefordshire Council, Overview of the Local Plan, last modified 2023, <https://hlp.commonplace.is/en-GB/proposals/overview/step1>.

a detailed timeline of the plan's development, and a comprehensive resource library.<sup>821</sup> That is the UK's way of making or getting the public involved in the preparation of the development plan. The most important thing is that it is being publicised online, in line with current trends, and is easy to access by the public with interactive media. Not just zoning standards, show proposals and that's it.

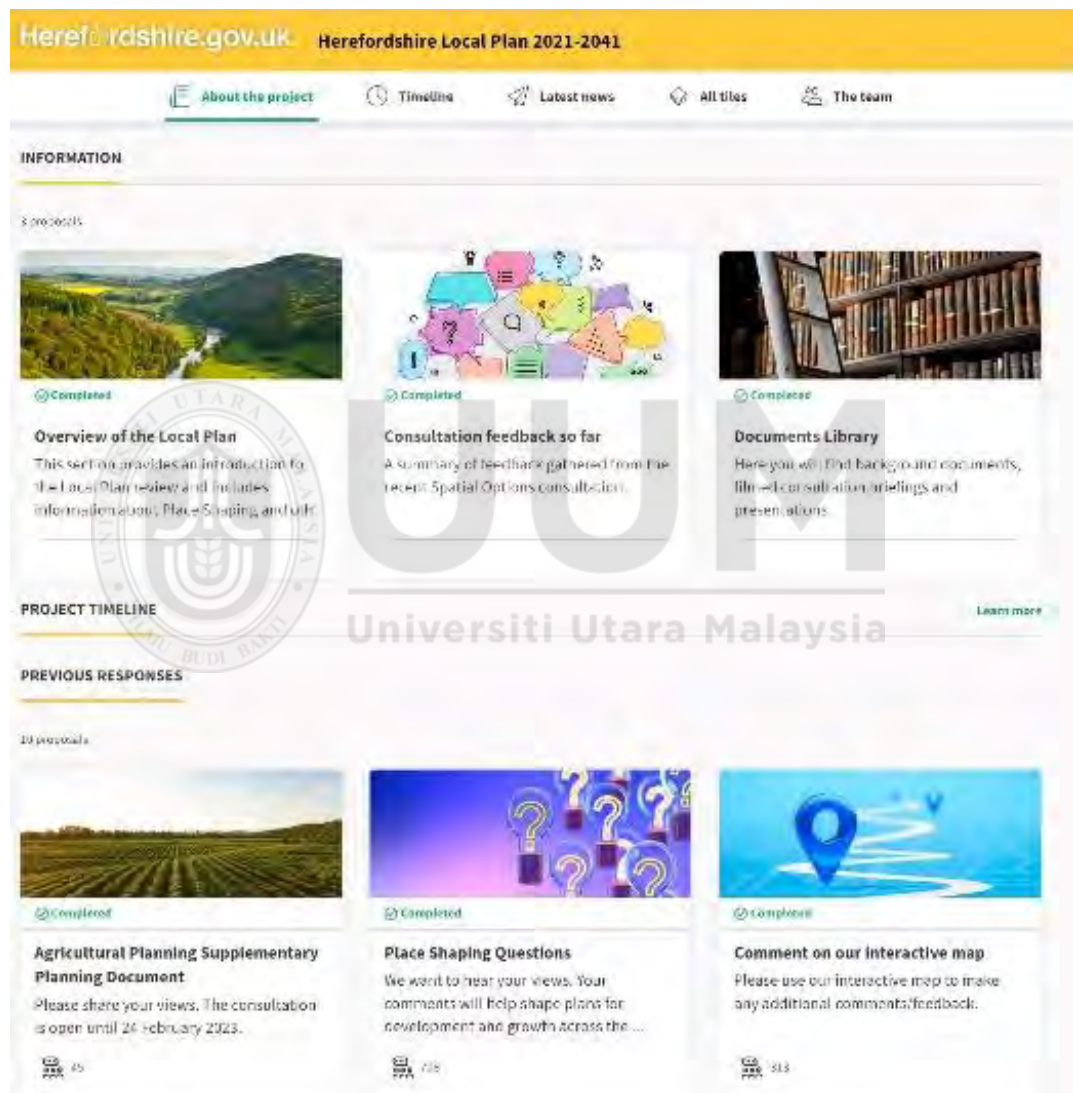


Figure 6-8 Online Public Participation engagement

<sup>821</sup> Herefordshire Council, Interactive Map, *Commonplace*, <https://hlp.commonplace.is>.



Figure 6-9 Interactive map for public participation for local plan preparation

On the other hand, the process involving public involvement is also done in the planning permission process. In contrast to the practice in Malaysia, where a notice to the adjoining landowner is only required for areas without a local plan, the United Kingdom follows a more comprehensive approach to planning applications. Regardless of the type of development, all planning applications in the UK necessitate a notice or notification to the neighbouring properties.<sup>822</sup> To provide specific guidelines for publicising planning permission applications, Article 15 of the Development Management Procedure Order details the procedural provisions to be followed.<sup>823</sup> The United Kingdom's approach to the planning permission process is characterised by high transparency and public access. This is evident in the general

<sup>822</sup> Section 61W(1) of the TCPA 1990 establishes the obligation for individuals intending to apply for planning permission or permission in principle in England to conduct consultations on their proposed applications.

<sup>823</sup> Under Article 15 of the TCP (Development Management Procedure) (England) Order 2015, the specific requirements for publicising planning permission applications are outlined. According to Article 15(3), an application falling within the criteria specified in Order 15(2)(a), (b), or (c) must be publicised by site display in at least one location near the land for a minimum of 21 days and by publication of a notice in a newspaper circulating in the locality, as stated in Order 15(3)(a) and (b), respectively. Article 15(7) mandates that certain information related to the proposed development must be published on a website maintained by the local planning authority, including the address or location of the development, a description of the proposed development, the date by which representations must be made, where and when the application can be inspected, how representations can be made, and specific details regarding appeals for householder or minor commercial applications.

public's ability to access a comprehensive list of planning applications.<sup>824</sup> Figure 6.7 below shows that the planning permission application that are publicised in the LPA website.

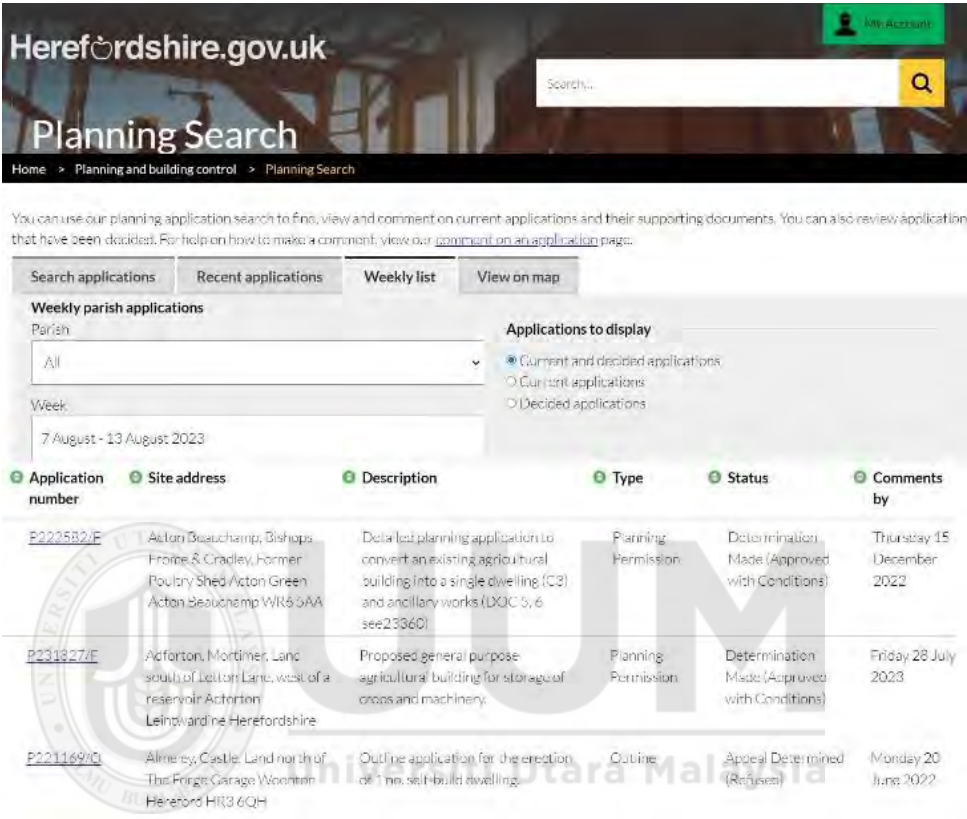


Figure 6-10 Planning Permission database and status being published online at the Local Authority website

<sup>824</sup> Order 40(2) under the TCP (Development Management Procedure) (England) Order 2015 specifies the inclusion of detailed information in the planning application register, encompassing application dates, decision outcomes, and the particulars of the application. Additionally, Order 40(14) obligates the authority to ensure the register is available for public examination on an official website.

MyHerefordshire Register Login

Herefordshire.gov.uk

Home Services

### Comment on a planning application

Details Your comment

Nature of your feedback \*

☐ Support the application

☐ Objecting to the application

☐ Submitting a general comment

Comment: \*

Do you want to upload a picture/document? \*

☐ Yes

☐ No

If the council were minded to approve this application what infrastructure would you like to be considered from the Section 106 contribution \*

Previous Cancel Submit

Figure 6-11 Public are given opportunity to make their comment/objection on the planning permission online

Additionally, the UK system emphasizes the need for a publicity process in the planning application procedure, regardless of the existence of a local plan. Figure above shows example of the online comment for planning applications that the related stakeholders can fill. This approach starkly contrasts with the Malaysian context, where the public lacks mechanisms under the act or regulation to express opinions on future developments post-adoption or gazetting of a local plan. The UK's method stresses the importance of ongoing public engagement throughout the planning process, ensuring that stakeholders have opportunities to contribute their input and influence development proposals that may impact their communities.<sup>825</sup> This commitment to continuous public involvement reinforces the UK's dedication to a participatory and inclusive urban and regional planning approach.

<sup>825</sup> Ahmad Sarkawi, "The Legal Considerations of Neighbouring Lands in Development Planning : The Malaysian Context."

### 6.3.3.2 Singapore

In the Singapore Planning Act 1998 framework, Part Two specifically addresses the process of preparing the Master Plan. This part mandates a review of the Master Plan every five years. This section, particularly in Section 10(2), outlines the role of the competent authority, in this instance, the Urban Redevelopment Authority (URA).<sup>826</sup> It stipulates the URA's need to announce any proposed amendments to the Master Plan publicly. Following this public disclosure, the authority must consider any objections raised by the public in response to the proposed changes.

The Master Plan Rules further elaborate on the procedural aspects of its preparation.<sup>827</sup> Parts 2 and 3 are central to these rules, which delve into specific operational details. Part 2 meticulously outlines the Procedure for Submission and Approval of Amendments to the Master Plan, ensuring a structured and systematic approach to any modifications.<sup>828</sup> Meanwhile, Part 3 focuses on Hearings and Public Inquiries, a critical component that ensures stakeholder engagement and transparency in the planning process.<sup>829</sup>

The accessibility of the draft Master Plan, as outlined in the Planning (Master Plan) Rules, is comparable to the Malaysian context in certain aspects. Specifically, the legislation mandates that any notice regarding amendments to the Master Plan must be publicised for at least two weeks.<sup>830</sup> According to the legislative provisions examined,

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<sup>826</sup> Section 10(2)(a) of the Planning Act 1998 mandates the competent authority to publish notices about proposed amendments to the Master Plan, specifying where the public can access and inspect these proposals. Concurrently, Section 10(2)(b) highlights the need for considering public objections and representations regarding these proposed amendments, including provisions for public inquiries or other hearings as part of the process.

<sup>827</sup> Government of Singapore, *Planning (Master Plan) Rules*.

<sup>828</sup> Part 2 of Planning (Master Plan) Rules.

<sup>829</sup> Part 3 of Planning (Master Plan) Rules.

<sup>830</sup> Under Rule 4 of the Planning (Master Plan) Rules, once a proposal for amending the Master Plan is submitted to the Minister, the competent authority is required to publish a notice by advertisement. This



unlike in the UK where specific mention is made of the requirement to publish Master Plan details online, Singapore's Planning Act and the accompanying Planning (Master Plan) Rules do not explicitly mandate online publication of the Master Plan.

However, in line with modern best practices, URA of Singapore, as the competent authority, proactively facilitates online accessibility of the Master Plan.<sup>831</sup> This is done notwithstanding the absence of a formal legal obligation to do so. URA's initiative to provide online access to the Master Plan demonstrates a commitment to transparency and public engagement in urban planning, exceeding the minimum statutory requirements. Figures below show some of the online, together with the physical but interactive features of the process that invite the public to share their opinion and be part of the public participation process in the preparation of their Master Plan.

Identity Corridors



[Engagements] Ongoing

Our five Identity Corridors are well-loved, distinctive stretches rich with heritage and identity. Sign up for engagement sessions to co-create more walkable streets and engaging public spaces along these corridors.

**Find out more and sign up**

Rail Corridor - Queensway Node



[Feedback Form] Ongoing

Agencies are studying plans to transform the space under the Queensway viaduct into a new multi-functional and inclusive community space.

**Share your feedback on Queensway Node**

Figure 6-12 Online Feedback by URA

notice must specify a period of not less than two weeks during which the public can submit objections to and representations concerning the proposed amendment.

<sup>831</sup> Urban Redevelopment Authority, Draft Master Plan 2025 Public Engagement, last modified 2021, <https://www.ur.gov.sg/Corporate/Planning/Master-Plan/Draft-Master-Plan-2025>.





Figure 6-13 Interactive Public Participation in Singapore

Unlike in the UK and Malaysia, Singapore's planning permission process does not legally require notification to neighbouring landowners. However, guidelines suggest that developers should inform their neighbours about upcoming work. Although Singapore's legislation does not provide specific examples in this regard, an interesting aspect of their planning permission process is the integration of a database map. The figure below, illustrates how the public can access planning permission decisions. By selecting any desired lot, the system generates a comprehensive list of past and present planning decisions for that specific lot. This feature not only provides the latest information but also allows access to historical decision-making records for each lot.

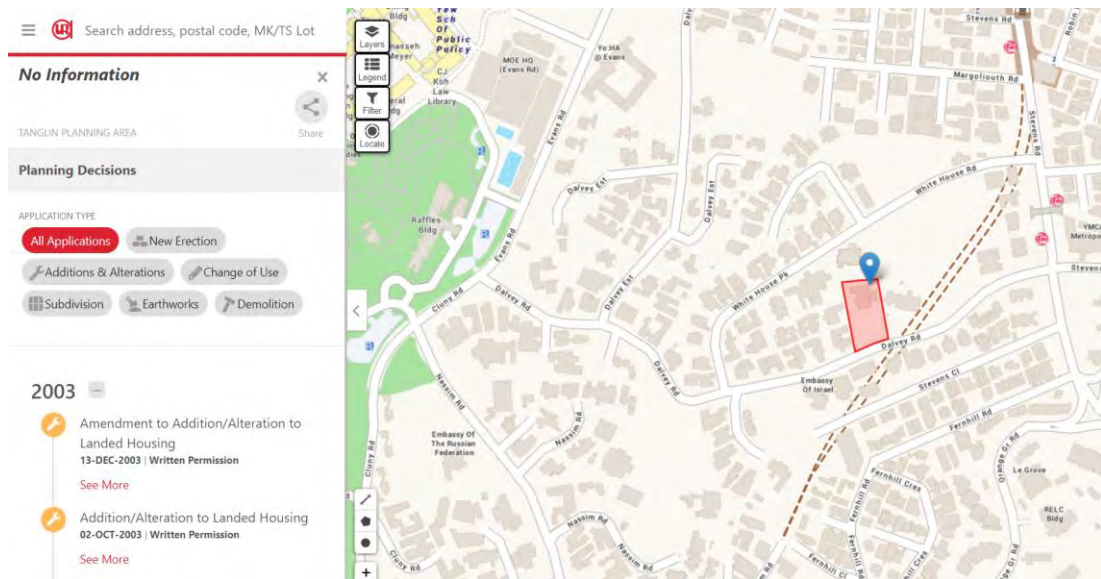


Figure 6-14 Map show Planning Permission Decision

### 6.3.3.3 Key Lessons for SBEZ Development

The abovementioned discussion highlights some important lessons that can be adapted in Malaysia's context, to be specific in SBEZ development. Firstly, legislation related to planning should mandate that public participation extends beyond conventional methods, incorporating modern channels like social media and websites. An online participation process is essential to ensure broader public access. Additionally, using technology for explanations, illustrations, and visualisations can help the public understand upcoming developments in their urban areas. This is particularly relevant in the SBEZ context, where a comprehensive master plan exists. Strengthening public awareness of the development concepts and future projects allows them to assess the suitability of living or investing in the area. Additionally, it provides them with a means to engage in the planning process if they have concerns.

On the other hand, getting the public involved in public participation is also one of the good mechanisms to enhance the planning process. For example, the UK's approach, which requires the applicant to publicise their planning permission application, is one

of good governance practices. This practice ensures that the public has a platform to express opinions on specific planning permissions rather than leaving decisions solely to local authorities. Additionally, publishing planning permission statuses, as seen in the UK and Singapore, is valuable for ensuring public access to information. The public will have access to the information of not just the zoning for a particular land, but also the details of the planning permission of that land as well. Why this is important? Because it also can be part of public involvement in the enforcement of the development that contradicts the granted planning permission.

| Issues                                                                                                                                                                                                                                                                                                                                                                                                                                       | Best Practices                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                     | Key Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                              | United Kingdom                                                                                                                                                                                                                                                                                                                                                                                                                                     | Singapore                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Public Participation Process in Development Planning and Planning Permission</b> <ul style="list-style-type: none"> <li>• Limited public awareness and participation in local plan development.</li> <li>• Insufficient use of modern communication channels by authorities.</li> <li>• Focus on meeting legal obligations, not genuine involvement.</li> <li>• Exclusion of non-adjoining landowners in significant projects.</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Mandatory Online and Physical Publication</b> – Regulation requires local plans to be available both on official websites and at physical locations.</li> <li>• Interactive Digital Platforms – Use of online tools, like interactive maps, for community engagement.</li> <li>• Transparent Planning Application Notices – Public notifications with comment options for all developments.</li> </ul> | <ul style="list-style-type: none"> <li>• Five-Year Master Plan Review – Public objections considered for proposed amendments.</li> <li>• Proactive Online Accessibility by URA – Draft plans available online to boost transparency.</li> <li>• <b>Database Map for Planning Decisions</b> – Public access to historical and current planning decisions.</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Require Online and Physical Plan Access</b> – Publish SBEZ plans on websites and in physical locations.</li> <li>• Ensure Transparent Planning Notices – Make notifications mandatory for all developments, with online access.</li> <li>• Use Interactive Online Tools - Engage the public with maps and other interactive features.</li> <li>• <b>Expand Outreach via Social Media</b> Use modern channels to increase public reach.</li> <li>• Maintain Ongoing Public Feedback Channels – Offer forums for feedback throughout planning stages.</li> </ul> |

Figure 6-15 Summary of Public Participation in Preparation of Development Plan

#### **6.3.4 Land Administration**

Before delving into the specifics of land administration in the UK and Singapore, it is important to note that both countries place urban and regional planning at the core of their development processes. Unlike Malaysia, where land legislation plays a significant role in controlling land use alongside planning laws, the UK and Singapore predominantly rely on their planning frameworks as the main tool for development control. In both countries, the planning system, rather than detailed land legislation, dictates how land is subdivided, used, and developed, streamlining the process and reducing legal complexities related to land alienation and re-alienation. This reliance on planning laws, such as the UK's Town and Country Planning Act and Singapore's Planning Act, provides a more integrated and efficient approach to land management. Therefore, the following section will briefly touch on the land administration practices in both countries.

##### **6.3.4.1 Challenges of Land Alienation in Government-Linked Projects**

Three main issues have been identified under this point:

- 1) Inadequate consultation and planning in the land alienation process, leading to project failures.
- 2) Political influence and discrepancies between state and federal guidelines complicate land use decisions.
- 3) Missed strategic opportunities due to poor integration of planning department input and regional economic considerations.

#### 6.3.4.1.1 United Kingdom

A few mechanisms that might be implemented in the context of Malaysia. By establishing frameworks that promote public participation, the government has ensured active community involvement in land-use decisions, reducing project failures due to inadequate consultation.<sup>832</sup> Furthermore, improved alignment between regional and national guidelines has helped resolve political discrepancies, leading to smoother land-use planning processes.<sup>833</sup> Additionally, integrating regional economic factors into planning efforts has allowed the UK to seize strategic growth opportunities, resulting in more efficient land and resource utilisation.<sup>834</sup> These initiatives showcase the UK's dedication to addressing land alienation issues and fostering sustainable development..

#### 6.3.4.1.2 Singapore

To understand the process of land alienation and development in Singapore, particularly in the context of Special Economic Zones (SEZs), it is important to begin with a basic overview of the land ownership structure in Singapore. In this city-state, all land is ultimately owned by the state, but for practical purposes, it is classified into two categories: freehold and leasehold.<sup>835</sup> Since gaining independence in 1965, Singapore has faced immediate developmental challenges, requiring a strong land

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<sup>832</sup> J. B. Cullingworth, British Land-Use Planning: A Failure to Cope with Change?, *Urban Studies* 34, no. 5–6 (1997): 945–960.

<sup>833</sup> Janet Dwyer, UK Land Use Futures: Policy Influence and Challenges for the Coming Decades, *Land Use Policy* 28, no. 4 (2011): 674–683, <http://dx.doi.org/10.1016/j.landusepol.2010.12.002>.

<sup>834</sup> Richard Cowell and Jonathan Murdoch, Land Use and the Limits to (Regional) Governance: Some Lessons from Planning for Housing and Minerals in England, *International Journal of Urban and Regional Research* 23, no. 4 (1999): 654–669.

<sup>835</sup> Freehold land grants owners perpetual ownership, making it highly valuable and desirable. On the other hand, leasehold land is limited by time, with common durations being 99 or 999 years. Once the lease expires, the land reverts back to state ownership. Stanley, Land Ownership in Singapore – Here Is Everything You Need to Know, Stacked, last modified 2018, <https://stackedhomes.com/editorial/land-ownership-in-singapore/#gs.5g3odg>.

management approach. In response, the government enacted the Land Acquisition Act in 1967 (Cap 118), giving itself the power to acquire land compulsorily for public development.<sup>836</sup> This Act also regulated compensation for landowners, based on the land's value before development. By 1985, this strategic approach led to the government owning a significant majority (76.2%) of Singapore's land.<sup>837</sup>

Within Singapore's industrial development framework, the Jurong Town Corporation (JTC) plays a critical role, governed by the Jurong Town Corporation Act of 1968. Established on June 1, 1968, JTC was tasked with developing and managing the country's industrial estates.<sup>838</sup> This responsibility was transferred to JTC from the Economic Development Board (EDB), signifying a strategic shift in the management and development of Singapore's industrial infrastructure.<sup>839</sup> The establishment of JTC marked a significant milestone in Singapore's industrial strategy, positioning the corporation as a key player in shaping the nation's industrial landscape and driving economic growth. This approach has been essential to Singapore's industrial development, enabling systematic planning and optimal utilisation of industrial areas.

#### **6.3.4.1.3 Key Lessons for SBEZ Development**

The discussion on land alienation in government-linked projects provides several important lessons that can be applied to the development of SBEZs in Malaysia. First, ensuring comprehensive consultation and planning in the land alienation process is

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<sup>836</sup> Ameen Talib, A Note on the Land Acquisition Act of Singapore and Social Re-Engineering, *Indonesian Journal of Multidisciplinary Science* 2, no. 7 (2023): 2889–2895.

<sup>837</sup> Stanley, "Land Ownership in Singapore – Here Is Everything You Need to Know."

<sup>838</sup> According to the Jurong Town Corporation Act 1968, JTC's functions under Section 12 of the Act include the development of sites, parks, estates, and townships for industrial and business use, as well as providing facilities and amenities for those working and living in these areas.

<sup>839</sup> National Library Board Singapore, Jurong Town Corporation Is Established, *National Library Board Singapore*, <https://www.nlb.gov.sg/main/article-detail?cmsuuiid=9206cd21-7c6f-44fa-bd8d-c46e15cbbee3>.

crucial to preventing project failures. The UK's emphasis on public participation in land-use decisions demonstrates how involving stakeholders can lead to better project outcomes. Malaysia could benefit from formalising similar mechanisms that allow community engagement in the early stages of land alienation to minimise conflicts and enhance project viability.

Second, aligning regional and national land policies is essential to reducing political interference in decision-making. The UK's approach to resolving discrepancies between different levels of government provides a model for ensuring more coordinated and transparent land-use planning. In the SBEZ context, clear legal frameworks should guide decision-making to prevent conflicts between state and federal authorities, ensuring that land alienation decisions support long-term economic goals rather than short-term political interests.

Third, integrating regional economic factors into land planning is key to maximising strategic opportunities. Singapore's systematic approach, particularly through the role of JTC, highlights the importance of a dedicated agency managing industrial land. A similar approach in Malaysia could help ensure that land within SBEZs is allocated and utilised based on economic and strategic priorities rather than fragmented decision-making. This would also help avoid missed opportunities in regional development and ensure that land alienation supports broader economic objectives.

By adopting these key principles—enhancing public consultation, ensuring policy alignment, and integrating economic considerations—Malaysia can improve the effectiveness of land alienation processes within SBEZs, leading to more sustainable and strategically beneficial development.

#### **6.3.4.2 Surrender and re-alienation process**

Three main issues have been identified under this point:

1. Complexity and confusion in the land development application process, with multiple sections of the NLC involved.
2. Bureaucratic delays and entrenched working practices within land offices contribute to prolonged timelines.
3. Overwhelming volume of registrations for large-scale developments strains the land approval and title registration system.

##### **6.3.4.2.1 United Kingdom**

In Malaysia, the subdivision of land is governed by both planning regulations under the Town and Country Planning Act (TCPA) and land legislation under the National Land Code (NLC), which prescribes land use classifications. This dual-layered approach ensures that both planning authorities and land offices have jurisdiction over land subdivision and its designated use.

In the United Kingdom's development process, the surrender and re-alienation of land primarily functions as an administrative process rather than a legally intricate procedure under land law. The subdivision of land is largely governed by planning regulations, with land law playing a secondary role in formalizing ownership and title registration. Unlike systems where land legislation dictates land use alongside planning policies, the UK framework separates land subdivisions under planning law from land registration under property law. The Land Registration Act 2002 primarily



focuses on establishing and maintaining a comprehensive land registration system.<sup>840</sup> It ensures that land ownership and interests are clearly recorded, creating a definitive legal record to simplify conveyancing and enhance certainty in property transactions. Under this act, the registration of land title occurs upon transfer, ensuring a transparent and efficient land market. This approach reduces legal ambiguities, facilitates property dealings, and supports a fully documented land tenure system.

#### **6.3.4.2.2 Singapore**

Similar to United Kingdom, Singapore's land subdivision process also primarily functions as a registration process rather than a mechanism requiring separate land use approval. The Registration of Deeds Act 1988 governs unregistered land, ensuring that any subdivision is properly recorded, while for registered land, the Land Titles Act 1993 mandates that newly subdivided parcels be placed under a separate folio in the land register.<sup>841</sup> This registration process is regulated by the Planning Act 1998, which imposes restrictions on subdivision to ensure compliance with national planning policies. The Third Schedule of the Planning Act further specifies the permissible types of land use,<sup>842</sup> effectively integrating land subdivision with planning control.

Unlike in Malaysia, where land subdivision involves compliance with both planning and land laws, Singapore treats surrender and re-alienation as a standard subdivision process without requiring approval under multiple legislative frameworks. The process

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<sup>840</sup> Government of UK, *Land Registration Act 2002*, 2022.

<sup>841</sup> Section 54 of the Land Titles Act 1993, Singapore, states that when land is newly allocated or subdivided in compliance with the Planning Act 1998, the applicant must submit the approved plan for registration.

<sup>842</sup> Schedule 3 of the Planning Act 1988 specifies the permissible types of land use, with Part 1 covering developments intended for condominiums, townhouses, cluster housing, strata bungalows, or residential flats, while Part 2 applies to flatted factories, flatted warehouses, offices, shopping centres, or a combination of office, shopping, and residential flat uses.

is primarily administrative, ensuring that subdivisions align with land registration laws and planning policies without the need for additional regulatory steps.

#### **6.3.4.2.3 Key Lessons for SBEZ Development**

The lesson learned from the United Kingdom and Singapore's land surrender and re-alienation processes is the simplification and integration of land subdivision under fewer legal frameworks compared to Malaysia. In the UK, the subdivision process primarily relies on the Planning Act and involves minimal reference to the Land Act, streamlining land registration and planning approvals. Similarly, in Singapore, the subdivision process is closely tied to the Registration of Deeds Act and the Land Titles Act, with land use determined under the Planning Act. This contrasts with Malaysia, where both land legislation and planning laws govern land use, adding complexity to the process. The UK and Singapore's approaches offer valuable lessons in reducing procedural redundancies and simplifying land administration, which could improve efficiency in land management practices.

| Issues |                                                                    | Best Practices                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Key Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------|--------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1      | <b>Challenges of Land Alienation in Government-Linked Projects</b> | <b>United Kingdom</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <b>Singapore</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <ul style="list-style-type: none"> <li>Public Engagement Frameworks: <ul style="list-style-type: none"> <li>Adopt UK's models for active community input.</li> <li>Mitigates failures through better consultation.</li> </ul> </li> <li>Integrated Guidelines: <ul style="list-style-type: none"> <li>Align state-federal policies like in the UK.</li> <li>Reduces political conflicts in land decisions.</li> </ul> </li> <li>Strategic Land Management: <ul style="list-style-type: none"> <li>Leverage Singapore's JTC-like frameworks.</li> </ul> </li> <li>Systematic planning boosts industrial efficiency.</li> </ul>                                                                                       |
|        |                                                                    | <ul style="list-style-type: none"> <li><b>Public Participation:</b> <ul style="list-style-type: none"> <li>Frameworks ensure community input in decisions.</li> <li>Reduces project failures from poor consultation.</li> </ul> </li> <li><b>Alignment of Guidelines:</b> <ul style="list-style-type: none"> <li>Regional and national guidelines harmonised.</li> <li>Political discrepancies minimised in land planning.</li> </ul> </li> <li><b>Economic Integration:</b> <ul style="list-style-type: none"> <li>Regional economic factors included in planning.</li> <li>Seizes strategic opportunities for growth.</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li><b>Land Ownership Structure:</b> <ul style="list-style-type: none"> <li>State owns and manages most land.</li> <li>Freehold and leasehold land classifications.</li> </ul> </li> <li><b>Land Acquisition Act:</b> <ul style="list-style-type: none"> <li>Government can acquire land for public use.</li> <li>Compensation regulated by pre-development values.</li> </ul> </li> <li><b>Industrial Development via JTC:</b> <ul style="list-style-type: none"> <li>JTC manages industrial estates systematically.</li> <li>Strategic planning supports economic growth.</li> </ul> </li> </ul> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2      | <b>Surrender and re-alienation process</b>                         | <ul style="list-style-type: none"> <li><b>Simplified Subdivision Process:</b> <ul style="list-style-type: none"> <li>Minimal reliance on land-specific acts.</li> </ul> </li> <li><b>Subdivision linked primarily to the Planning Act.</b></li> <li><b>Integration with Property Laws:</b> <ul style="list-style-type: none"> <li>Law of Property Act governs conveyancing.</li> </ul> </li> <li><b>Focuses on land registration and property management.</b></li> </ul>                                                                                                                                                                       | <ul style="list-style-type: none"> <li><b>Integrated Land Registration:</b> <ul style="list-style-type: none"> <li>Registration under Deeds Act or Titles Act.</li> <li>Planning Act defines land use guidelines.</li> </ul> </li> <li><b>Streamlined Subdivision Process:</b> <ul style="list-style-type: none"> <li><b>Subdivision tied directly to land registration.</b></li> <li>Avoids multiple legal frameworks for zoning.</li> </ul> </li> </ul>                                                                                                                                                                             | <ul style="list-style-type: none"> <li><b>Simplified Legal Frameworks:</b> <ul style="list-style-type: none"> <li>Reduce reliance on multiple acts, as in the UK.</li> </ul> </li> <li><b>Streamline approvals through unified planning laws.</b></li> <li><b>Integrated Land Use Determination:</b> <ul style="list-style-type: none"> <li>Use planning frameworks like Singapore's system.</li> </ul> </li> <li><b>Link land use directly to zoning guidelines.</b></li> <li><b>Efficient Land Subdivision Processes:</b> <ul style="list-style-type: none"> <li>Simplify Malaysia's processes to avoid redundancies.</li> </ul> </li> <li><b>Integrate land registration and planning seamlessly.</b></li> </ul> |
|        |                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

Figure 6-16 Summary of Land Administration

## 6.4 Summary

This chapter provides a detailed analysis of the legal frameworks and practices of SEZs in the United Kingdom and Singapore, offering insights that address the challenges identified in Chapter Four. It examines how both jurisdictions manage key aspects of SEZ development, including planning control, public participation, and land management, highlighting best practices that could be adapted for SBEZ Bukit Kayu Hitam. The UK's planning system, with its plan-led approach and Enterprise Zones (EZs), demonstrates how strategic regulatory mechanisms can facilitate economic growth while ensuring development aligns with national and local policies. Meanwhile, Singapore's model, which integrates long-term infrastructure planning, public engagement, and targeted economic policies, showcases a coordinated approach to land use and investment promotion. Key lessons from these case studies include enhancing zoning flexibility, improving stakeholder engagement, strengthening legal clarity in land alienation, and leveraging digital planning tools. By incorporating these practices, SBEZ Bukit Kayu Hitam can address planning enforcement, public participation, and land administration challenges, ultimately supporting its long-term growth and sustainability.

## **CHAPTER SEVEN**

### **FINDING AND PROPOSAL FOR SPECIAL BORDER ECONOMIC ZONE BUKIT KAYU HITAM**

#### **7.1 Introduction**

This chapter will discuss the findings and proposal for the SBEZ Bukit Kayu Hitam. Building upon the key issues identified in Chapter 4, where four main thematic challenges were highlighted, this chapter seeks to address these obstacles through actionable solutions that can guide the development and management of SBEZ and SEZs towards achieving their full potential. The insight and lessons learned from the best practices in Penang and Johor for local best practices, along with the international practices from the UK and Singapore, provide the foundation for this analysis. By integrating best practices with the specific needs of SBEZ BKH, this chapter will propose a comprehensive framework to overcome the identified challenges. The recommendations presented in this chapter are intended to guide SBEZ towards achieving its full potential, ensuring sustainable development and long-term success in the region.

#### **7.2 Legal and Planning Framework**

Before proceeding with the findings and proposals, it is essential to revisit the land development framework in Malaysia, particularly concerning land matters and planning permission. As discussed in Chapters 4, 5, and 6, both land law and planning

law present structural weaknesses that require legislative improvements to enhance clarity, consistency, and enforcement. These challenges impact the effectiveness of land development, particularly within SBEZ Bukit Kayu Hitam (BKH). Addressing these issues is crucial for ensuring a more coordinated, transparent, and investor-friendly regulatory environment that can facilitate sustainable growth within the SEZs and SBEZ.

In Peninsular Malaysia, land development is governed by two main legal frameworks: land law, regulated by the National Land Code (NLC), and planning law, covered by the TCPA. The State Authority retains control over land matters, as land falls under the State List in the Federal Constitution.<sup>843</sup> In contrast, planning matters fall under the Concurrent List,<sup>844</sup> allowing both federal and state governments to legislate on these issues. Although these two frameworks operate independently, their interdependence is crucial for effective development governance. However, as noted in previous chapters, gaps in governance, regulatory frameworks, and enforcement have led to inconsistencies, resulting in inefficiencies and challenges in development management.

To support the development of SEZs and SBEZs, amendments and new policy recommendations are necessary. Strengthening legal and procedural frameworks will help address existing challenges and enhance overall coordination, enforcement, and investment facilitation. These reforms should also incorporate modern approaches to ensure a more efficient, transparent, and adaptive regulatory environment. By addressing these gaps, Malaysia can establish a clear, structured, and investor-friendly

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<sup>843</sup> See Item II 2, State List, Ninth Schedule of the FC.

<sup>844</sup> See Item III 2, Concurrent List List, Ninth Schedule of the FC.

framework, ensuring that the development and management of SEZs and SBEZs are well-regulated, strategically planned, and aligned with best practices for long-term economic success.

### **7.3 Challenges in enforcing the development plan**

This section will explore proposals and recommendations concerning issues related to enforcing development plans. The discussion will focus on two main aspects: addressing gaps in data management and the use of databases in planning, as well as the difficulties encountered during the implementation of development plans.

#### **7.3.1 Data Deficiencies and Database Utilisation in Development Plan**

The first issue highlighted in the process of establishing SBEZ or SEZs across Malaysia is the lack of formal designation for these zones within the existing legislation. Currently, the only applicable legal framework that prescribes the declaration of an area as a Free Zone is under the Free Zone Act 1990 (Act 438). Section 3(1) of the FZA mentioned that the minister, by notification, can declare any area in Malaysia to become FCZ or FIZ. However, the Act does not mandate these declarations to align with land-use planning provisions under the TCPA. This gap separates economic zone development and broader urban planning frameworks. Therefore, it is advisable in the future that if there is a need for any new development of the economic zone, the related agencies which has been

Further, a key issue identified in Chapter 3 regarding the SBEZ development is the lack of detailed and comprehensive data within the existing development plan. The current planning framework, which designates specific areas for SBEZ BKH and other SEZ projects in Malaysia, lacks the necessary level of detail, limiting its effectiveness

as a development tool. To address this, it is proposed that SEZ development in Malaysia, including SBEZ BKH, adopts the Special Area Plan (SAP) under Section 16B of the Town and Country Planning Act (TCPA). The SAP serves as a targeted planning tool, enabling more detailed and area-specific planning within a local area. By incorporating SEZ or SBEZ projects into the SAP framework, it would provide greater clarity on land use, infrastructure needs, and economic functions. Therefore, it is recommended that any future SEZ development, including SBEZ BKH, should have its own SAP, ensuring a more structured and adaptable planning approach.

Rationale: Currently, SEZs and SBEZ BKH development lack specific legal classification under the TCPA, which sets them apart from the development areas. Given that SEZs are intended to promote “special” economic and development activities, it makes sense for them to be granted a unique status under the TCPA. By incorporating these SEZs and SBEZs into the SAP framework, the planners can provide more comprehensive and tailored development strategies that align with this zone's economic goals and physical planning needs. This approach draws on lessons learned from previous legislation, such as the UK’s Enterprise Zone legislation, which establishes and delineates the structure for these areas. However, the aim in this context is not to confine the focus of the SAP exclusively for SEZs or SBEZ but to provide a much more flexible planning tool that can be applied to guarantee comprehensive consideration of all development facets, including economic zones within the overarching planning framework.

On the other hand, for any development to be successful, including the development of SEZs and SBEZ BKH, it is important to create a strong and cohesive planning database. In the context of the development plan and planning control, having access



to detailed and real-time information is very important. The land development process should not be limited to just planning the proposed development types but must be supported by using the data-driven approach. This could be materialised through a comprehensive planning database that integrates various systems for land-use planning, zoning, infrastructure, soil structure, environmental considerations, etc. Thus, to facilitate this efficient planning and decision-making process, the database must be integrated with the technical agencies involved in Malaysia's land development process. This approach can be one of the important points for the SEZs and SBEZ BKH, where large-scale development requires coordination among these multiple stakeholders.

In line with the broader planning strategy by PlanMalaysia, the establishment of Malaysia Urban Observatory (MUO) is one of the good moves to centralise data collection and analysis. For the system to be comprehensive and effective, the MUO must integrate various databases, including the GIS system, such as the zoning system, land lot registration, and data from various technical agencies, to ensure a holistic approach to urban and regional planning in Malaysia. In the context of SEZs and SBEZ, this integrated database will be further integrated with the proposed development data, allowing for detailed projection and simulations to identify optimal development scenarios. This will ensure that the zones are positioned to become successful economic zones through the data-driven planning and decision-making process. Therefore, to support the successful implementation of this system, proposed amendments to a few sections in the TCPA will facilitate the MUO's role in gathering and utilising planning data for the development in Malaysia, including the SEZs and SBEZ.

Therefore, it is recommended to introduce a new sub-section immediately following subsection 2A(6) of the TCPA as follows:

Addition to sub-section 2A(7):

*"(7) In furtherance of its functions, the National Physical Planning Council shall establish a centralised data centre for town and country planning purposes.*

*(a) The data centre shall collect, analyse, and manage related data from various technical agencies, local planning authorities, and relevant stakeholders.*

*(b) The data centre shall facilitate integrating and sharing comprehensive spatial data, including relevant data sets and indicators, to support evidence-based decision-making in town and country planning.*

*(c) The data centre shall collaborate with technical agencies, local planning authorities, and other relevant entities to ensure timely data sharing and promote data standardisation, quality control, and data privacy and security.*

*(d) The data centre shall provide accessible and user-friendly platforms, tools, and resources for data visualisation, analysis, and reporting to enhance the understanding and utilisation of urban data.*

*(e) The data centre shall regularly report to the National Physical Planning Council on its activities, data collection efforts, and recommendations to improve urban planning processes in the country."*

The recommendation is also to incorporate a definition of the term "data centre" within Section 2 of the TCPA, defining its characteristics as:

Addition to Section 2:

*" "data centre" means a central facility that collects, analyses, and disseminates urban-related data. Moreover, it supports monitoring and evaluation activities, offers technical services, facilitates data analysis for informed decision-making, and fosters knowledge exchange."*

Rationale: Drawing from the UK's concept of "planning data", establishing a dedicated database is essential to ensure effective implementation of the data-driven decision-making process. Without a clear framework and prescription for this data, practical practice is at risk without legislation governing it. Similarly, Singapore's practice of integrating its MasterPlan GIS database serves as a valuable example of how various databases from different agencies can effectively be consolidated. This approach allows the use of the planning data for a better decision-making process, which can streamline the planning process and facilitate more organised and official development of planning.

However, to ensure that the planning data system can be collected, it is important that various agencies, authorities, and stakeholders can accommodate the data-sharing process. The success of this MUO and the proposed centralised data centre focus on the ability of different entities to provide their relevant data. The following provision regarding the "Duty to Cooperate" is proposed to facilitate this collaboration, ensuring that all relevant bodies are legally required to share their data and cooperate in the

planning process. Therefore, it is recommended to introduce a new sub-section immediately following sub-section 2A(7) of the TCPA as follows:

**Duty to Cooperate**

*(8) The Council may request each body or person who is-*

*(a) a local planning authority or*

*(b) the Government of any state, or*

*(c) technical agencies or other relevant bodies,*

*to cooperate with every other person or body within paragraphs (a), (b), or (c) to maximise the effectiveness with which activities under subsection (7) (data gathering and sharing) are undertaken.*

Rationale: The proposed “Duty to Cooperate” provision is essential to ensure the success of the MUO and the centralised data centre, as effective planning relies on timely and accurate data from multiple sources. Without a legal requirement, agencies may be unwilling or slow to share relevant data, leading to fragmented planning and inefficiencies. By embedding this duty within the TCPA, the proposal establishes a clear legal obligation for cooperation, promoting accountability, improving coordination, and ensuring that planning processes for SEZs and other developments are supported by comprehensive and integrated data.

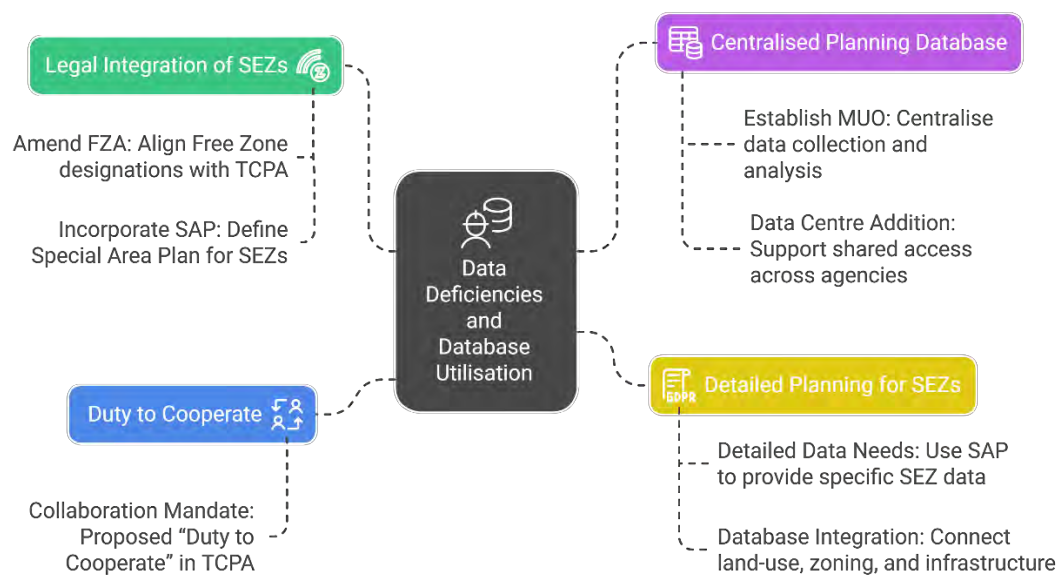


Figure 7-1 Summary of Recommendation for Data Deficiency and Database Utilisation

The above recommendation emphasises the need to strengthen legal and planning integration for SEZs by incorporating them into Special Area Plans under the TCPA. It also proposes establishing a centralised planning database through the MUO to support data-driven decision-making. To ensure effective coordination, legal amendments are suggested to formalise the role of the data centre and introduce a “Duty to Cooperate” among agencies, enabling better data sharing and collaborative planning for SEZ and SBEZ development.

### 7.3.2 Challenges of executing the development plan

In the previous section, the approval of the Special Area Plan (SAP) was suggested as a governing document for SEZs, including SBEZ BKH. To ensure the successful development and governance of SEZs and the SBEZ BKH, the SAP will serve as the specific development plan tailored to meet the unique needs of these economic zones. This approach aims to make the development process more streamlined and

executable. The details of the SAP, as the guiding document, will be formulated based on comprehensive guidelines that address the establishment, implementation, and management of SEZs and SBEZs, ensuring they align with national and regional economic goals. These guidelines will provide clear directions for the integration of infrastructure, zoning, economic development strategies, and stakeholder involvement within the framework of SEZ planning and execution.

To further ensure that there is a governing document for SEZs and SBEZ BKH, it is essential to incorporate legislative measures that formalize its role within the planning framework. By integrating SEZs development into the economic development area framework under the TCPA, the SAP can be fully utilised as a legally binding document. This would ensure that the SAP would not only focus on the zoning part but it will further be supported by other strategies such as infrastructure needs, economic strategies, investment promotion, and stakeholder collaboration. Therefore, it is proposed to add a new sub-section that specifically governs the development of the designated economic development area within the SAP framework. The proposed sub-section is to be inserted after sub-section 16B(3).

Addition of sub-section 16C:

*Designation of Economic Development Area*

*(1) At any time, a State Director or local planning authority, on its own initiative or as directed by the Committee, may submit a proposal for the designation of an economic development area. This area shall receive special and detailed treatment for the development, which includes the planning permission process in line with the strategic economic goals under the National Physical Plan, structure plan and local plan.*

*(2) For each of the designated economic development areas, the responsible authority, as determined by the Committee, shall prepare a Special Area Plan in accordance with Section 16B. This plan must include a detailed guideline of the economic development area for economic, infrastructural and environmental development.*

*(3) The special area plan for each economic development area must incorporate:*

*(a) Economic development strategies, including incentives for investment and business growth.*

*(b) Infrastructure development plans, covering transport, digital connectivity, and essential utilities.*

*(c) Environmental sustainability guidelines, ensuring that the development aligns with national environmental goals.*

*(d) Stakeholder engagement plans, ensuring collaboration between government, private sector, and local communities.*

*(4) In relation to the “responsible authority” under sub-section (2), the Committee shall establish an entity comprising representatives from local authorities, economic development agencies, technical agencies, the owner of the designated economic development area and other relevant stakeholders.*

Rationale: Drawing from the lesson learned from the UK, particularly on the incorporation of the enterprise zone under their planning act, this proposal intended to distinguish the economic development areas from the development zones. Additionally, taking inspiration from Pasir Gudang, Johor, which the Johor

Corporation initially managed, this proposal ensures that this area will not only be focused on economic activities but also will involve multiple stakeholders, including the local communities, developers or the owner of the economic development area, and relevant authorities. This is similar to the LEP concept in the UK, which emphasises stakeholder collaboration; furthermore, the proposal is detailed as part of their strategic plan to include the concept of PPP to fund and develop the infrastructure, reducing the reliance on government funding.

The SAP is proposed as a legally recognised planning tool for SEZs, including SBEZ BKH, tailored to their specific development needs. To strengthen its role, a new provision under the TCPA is suggested to formally designate economic development areas, ensuring the SAP integrates economic strategies, infrastructure plans, stakeholder collaboration, and sustainability goals.

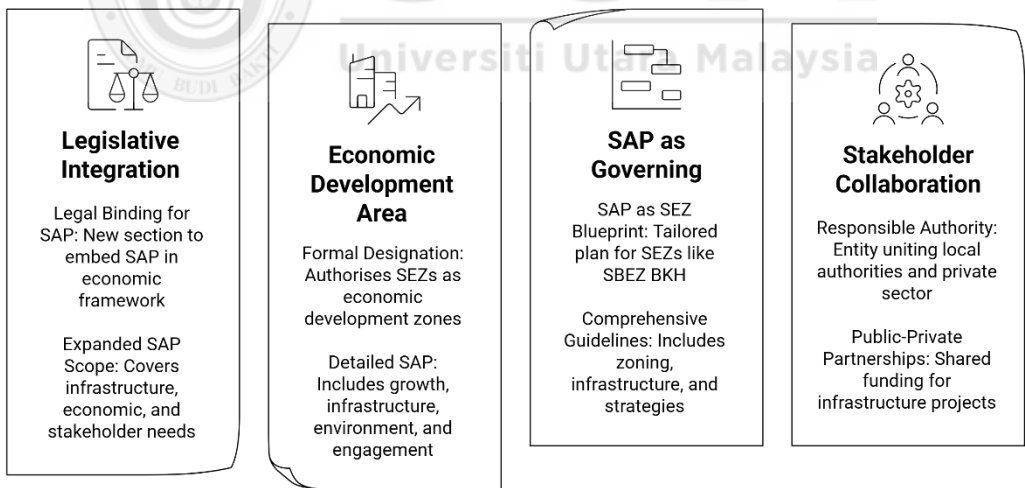


Figure 7-2 Recommendation for Challenges of Executing the Development Plan



## **7.4 Challenges in enforcing the planning control mechanism**

This section will discuss proposals to address and improve upon the challenges in enforcing planning control mechanisms, focusing on balancing developer needs with public interest in planning conditions and effectively managing post-development issues. The proposed solutions aim to strengthen planning control and ensure sustainable, well-regulated development within the SEZ, including the SBEZ Bukit Kayu Hitam.

### **7.4.1 Legal Challenges in Balancing Public Interest and Developer Needs in Planning Conditions**

This section will present proposals to improve the enforcement of planning control mechanisms in Special Economic Zones (SEZs). The focus will be on introducing solutions such as mandatory pre-application consultations and outline planning to streamline the planning permission process, reduce delays, and ensure efficient management of development projects. These proposals aim to create a more effective and transparent process, benefiting both developers and public interests.

#### **7.4.1.1 Introducing Mandatory Pre-Application and Outline Planning to Streamline Planning Permission Processes**

One key issue in Chapter 4 concerns compliance with the planning condition process during the planning permission application. Delays often occur due to numerous amendments required throughout the process, causing significant delays. Additionally, conditions imposed by the technical agencies sometimes might not be fully integrated, leading to future complications. To address this, it is proposed that pre-application planning permission be introduced as a mandatory early engagement step. This process will require the applicant to consult with the LPA together with the related technical

agencies before submitting the application to ensure that the potential issues can be addressed early. Therefore, it is recommended to add a new sub-section immediately following Section 20A of the TCPA to formalise this requirement.

Addition to Section 20(A) of the TCPA:

*(2) A mandatory pre-application planning permission process shall be instituted, as outlined in the standard procedures and guidelines established under subsection (3).*

*(3) The Director General of Town and Country Planning, in collaboration with local planning authorities, shall develop and establish comprehensive standard procedures and guidelines for the planning permission process incorporating the pre-application process. These standards shall define the categories of planning permission applications subject to the pre-application process and include procedural details, submission requirements, and consultation guidelines to ensure a uniform and effective approach to pre-application consultations.*

In addition to that, there will be a new insertion of the definition for the “pre-application” process in Section 2(1) as follows:

Addition of term “pre-application” in Section 2(1):

*““Pre-application” process refers to the formal process that should be undertaken before the submission of the planning permission application.”*

Rationale: Lesson learnt from the UK practise: this pre-application process is designed to minimise the issues that may arise during the planning permission process. Previously, this pre-application process was included under the OSC process.

However, the newer practice no longer mandates it as a compulsory part of the procedure. The introduction of this mandatory pre-application would help re-establish the importance of addressing the potential problem early, which can streamline the overall planning process later on.

Additionally, given that SEZs often involve large areas, it is important to provide applicants with a clear understanding of the potential requirements that the authorities may impose for the proposed development. A method that has been practised in the UK and Singapore, known as “outline planning”, offers a solution. This process allows the developer, and applicant to submit a preliminary proposal to understand the requirements and associated costs of the project. By incorporating outline planning into TCPA, developers will have an opportunity to gain insight into planning conditions and make the incoming division before finalising their development plans, helping to mitigate unforeseen complications and costs. Therefore, it is proposed to add the following section after Section 21A.

#### Addition of Section 21AA of the TCPA

##### ***21AA Outline Planning***

- (1) An application for outline planning permission regarding a development may be submitted to the local planning authority. If the applicant is not the owner of the land on which the development is to be carried out, the written consent of the owner thereof to the proposed development. This application shall be in a prescribed form and contain particulars focusing on land use, development intensity, type, form, and height of the proposed development.*

- (2) *The local planning authority shall assess the application for outline planning permission based solely on land use, development intensity, type, form, and height, akin to the criteria for standard planning permission applications.*
- (3) *Granting of outline planning permission shall constitute approval in principle of the proposed development but shall not authorize the commencement of the development.*
- (4) *Outline planning permission shall be valid for a period of six months from the date of its issuance, unless an extended period is specified or directed by the local planning authority.*
- (5) *Subsequent to the grant of outline planning permission, any detailed application for planning or conservation permission made within its validity shall include additional details and shall be assessed based on these further particulars.*
- (6) *The local planning authority shall determine and prescribe a fee structure for the processing of applications for outline planning permission, considering the scale and complexity of the proposed development.*

Rationale: The integration of Section 21AA for Outline Permission into the TCPA, inspired by practices from the UK and Singapore, revolutionises Malaysia's approach to planning in SEZs. This provision enables preliminary assessments, allowing developers to gauge the future potential and planning requirements of specific areas. It facilitates early-stage strategising on land use and development intensity, providing a roadmap for future developments. This proactive approach enhances decision-

making efficiency, promotes stakeholder engagement, and ensures regulatory clarity, aligning with sustainable, long-term economic growth objectives in SEZs.

In light of the issues that have occurred in Penang, such as in the Sunway case, and similar situations where the development plan designates a specific area for certain purposes, external influences, including political interventions, may sometimes affect development decisions. These political forces can come through the State Planning Committee (SPC), which holds considerable power and can influence the approval of planning permissions. The problem arises when planning permissions, which should align with the development plan, are instead influenced by directions from the SPC, potentially allowing deviations from the original plan. This is particularly problematic because, as it stands, Section 22(2) of the Town and Country Planning Act (TCPA) 1976 does not clearly prioritise the development plan over other considerations.

Although the development plan is listed first in the section, it does not explicitly state that other considerations, such as directions from the SPC, must comply with or follow the development plan. Based on the Sunway case, while the development plan is theoretically binding, in practice, the directions from the SPC can be interpreted as being on the same level, creating a conflict in decision-making. The current wording of Section 22(2) allows for this ambiguity by not giving explicit superiority to the development plan. Amendment of Section 22(2)(a) of the TCPA:

Amendment and addition of Section 22(2)(a)

*(a) the provisions of the development plan, if any, **which shall be the primary consideration;***

**Provided that the provisions of subsection (a) shall prevail, and any matters referred to in subsections (aa) to (c) shall be considered subject to the development plan.**

Rationale: In the context of Special Economic Zones (SEZs), such as the SBEZ Bukit Kayu Hitam, it is crucial to maintain the integrity of development plans like the Special Area Plan (SAP). SEZs are designed to attract investment and foster economic growth based on strategic, long-term planning. Allowing political influences, such as directives from the State Planning Committee (SPC), to override these plans disrupts this process and undermines the SEZ's goals. By amending Section 22(2)(a) of the TCPA, the development plan will have clear priority, ensuring consistency, transparency, and adherence to the intended objectives without external interference.

To improve planning efficiency in SEZs, proposed amendments to the TCPA include making the pre-application process and outline planning permission mandatory. These steps, inspired by UK and Singapore practices, promote early coordination between applicants, authorities, and technical agencies, helping to avoid delays and unforeseen issues. An amendment to Section 22(2)(a) also seeks to prioritise the development plan in decision-making, reducing political interference and ensuring greater consistency and transparency in planning outcomes.

#### **7.4.1.2 Establishment of MyMudah under MP Kubang Pasu for SBEZ Bukit Kayu Hitam Development**

While many of the proposals for SBEZ Bukit Kayu Hitam, such as the Special Area Plan (SAP) and other long-term strategies, will require legal amendments and regulatory changes, these processes will take time. Legislative adjustments, such as amending the Town and Country Planning Act (TCPA) or creating new regulations, involve lengthy processes, including consultations, drafting, and approvals.

To address immediate needs and facilitate economic activity in the short term, it is proposed to establish a MyMudah Unit under MP Kubang Pasu for SBEZ Bukit Kayu Hitam. This initiative, learned from Johor, which in turn adapted the model from MP Kulim, has proven to streamline the planning permission process significantly. For instance, the Kulim E10 process reduced the time for businesses to start operations from 24 months to 10 months.

In the context of SBEZ Bukit Kayu Hitam, the introduction of MyMudah would provide an immediate solution to ease regulatory burdens, allowing businesses to begin operations faster while the broader legislative and regulatory reforms are being developed. By leveraging this proven model, the MyMudah Unit would play a crucial role in maintaining investor confidence and ensuring smooth development progress.

Proposed Job Scopes for the MyMudah Unit at MP Kubang Pasu:

- 1) Act as a facilitator for development within SBEZ Bukit Kayu Hitam.
- 2) Regulate and enhance management systems to create an investor-friendly ecosystem.

- 3) Monitor development and project implementation in SBEZ Bukit Kayu Hitam to ensure adherence to timelines and regulatory requirements.
- 4) Address complaints and resolve issues related to the SBEZ Bukit Kayu Hitam area.

Rationale: The MyMudah Unit will serve as a dedicated point of contact between the Local Planning Authority (LPA) and developers or investors. Acting as a mediator, the unit will coordinate and streamline communications, ensuring that planning permissions and development processes are handled efficiently. This reduces delays and simplifies procedures, allowing businesses to start operations faster. By having a single unit responsible for coordination, MyMudah ensures a more investor-friendly environment and smoother progress in the zone's development.

To address short-term regulatory hurdles while long-term legal reforms are underway, it is proposed to establish a MyMudah Unit under MP Kubang Pasu for the development of SBEZ Bukit Kayu Hitam. Modelled after successful implementations in Johor and Kulim, this unit would streamline planning and approval processes, enabling faster business operations. It would serve as a dedicated facilitator between the local authority and investors, helping resolve issues, monitor projects, and enhance investor confidence by providing a more efficient and responsive regulatory environment.

#### **7.4.1.3 Establishment of Planning Obligation**

Planning obligations will be introduced as a key element under the planning permission process. These obligations, often referred to as developer contributions, are legally binding agreements between developers and local planning authorities. They



ensure that developments provide necessary infrastructure or services, such as affordable housing, public amenities, or environmental improvements, that directly benefit the surrounding community. By integrating planning obligations into the rules and regulations of the Special Area Plan (SAP), these commitments will ensure that developers contribute to the sustainable growth and development of the SBEZ Bukit Kayu Hitam.

The SAP will outline specific requirements for planning obligations, ensuring that they are transparently enforced and aligned with the broader economic and social goals of the zone. These obligations will be tailored to meet the unique needs of the SBEZ, such as infrastructure improvements, green spaces, and workforce housing. By incorporating planning obligations into the SAP, the framework will create a balanced approach where developer interests are aligned with public benefits, fostering long-term sustainable development within the zone.

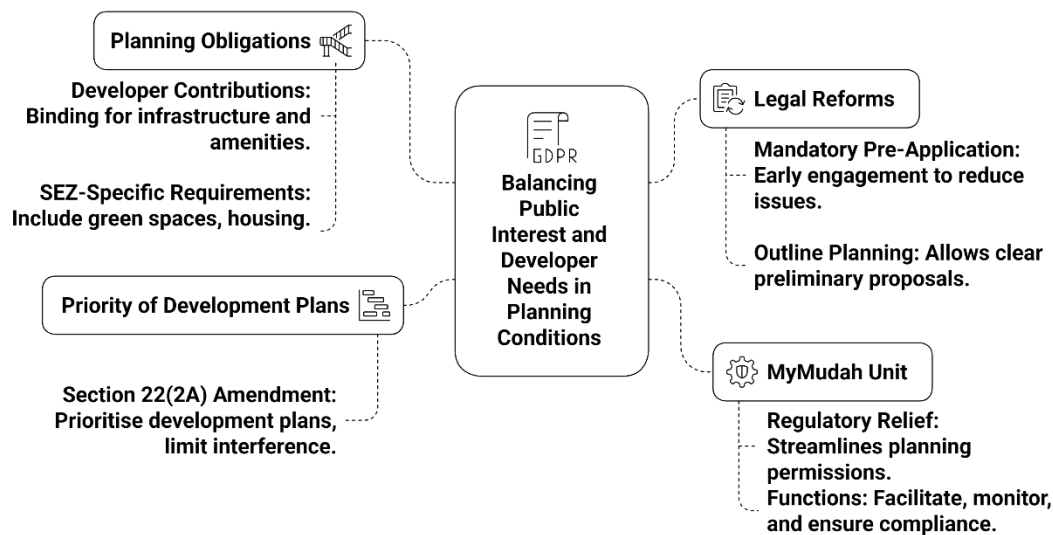


Figure 7-3 Recommendation for Challenges in Enforcing Planning Control

## **7.4.2 Challenges of Managing Post-Development Issues Through Effective Planning Control**

Under this section, several proposals will be introduced to address the challenges of managing post-development issues through effective planning control. These proposals aim to ensure that the Special Border Economic Zone Bukit Kayu Hitam (SBEZ BKH) can manage its growth efficiently and sustainably, focusing on maintaining long-term development goals while addressing emerging challenges. Each proposal will highlight the necessary measures to strengthen planning controls, enhance governance, and ensure that post-development issues are effectively managed through comprehensive strategies and frameworks.

### **7.4.2.1 Establishment of New Local Planning Authority for SBEZ Bukit Kayu Hitam**

The Special Border Economic Zone Bukit Kayu Hitam (SBEZ BKH) covers approximately 11,000 acres and is predominantly owned by two master developers, Perbadanan Kemajuan Negeri Kedah (PKNK) and Northern Gateway. Given the large scale and ownership structure of the zone, it is crucial to establish a dedicated local planning authority to manage development and align with long-term goals effectively.

A relevant model to consider is the governance framework of the Taman Perindustrian Hi-Tech Kulim (PBT TPHTK) Local Planning Authority, which oversees the Kulim Hi-Tech Park. Established under Section 7 of the Local Government Act 1976, PBT TPHTK uses a Modified Local Planning Authority Model that centralises decision-making, including administrative, technical, financial, and project approvals, within a Top Management Committee. This streamlined governance structure ensures efficient oversight and development execution. Additionally, the experience of Pasir Gudang

provides another valuable example. During its industrial development phase, a specific local authority was established to manage the area, and JCorp, being the State Economic Development Corporation (SEDC), was appointed to oversee its growth and industrialisation. This model of appointing a specialised local authority to manage industrial areas like Pasir Gudang underscores the importance of having a dedicated management entity to ensure smooth operations and development aligned with economic objectives.

In the case of SBEZ BKH, it is proposed that a similar Joint-Venture Local Planning Authority be established, co-managed by PKNK and Northern Gateway, following the successful models of PBT TPHTK and Pasir Gudang, with adjustments to meet the specific requirements of SBEZ BKH. This authority will implement the Special Area Plan (SAP), ensuring coordinated zoning, infrastructure development, economic strategies, and environmental sustainability.

In the early stages of development, when major projects are not yet underway, the MyMudah Unit will regulate activities in SBEZ BKH. However, as the zone expands, the establishment of a dedicated local planning authority will become essential. This authority will manage land use, project approvals, and infrastructure coordination, while ensuring compliance with environmental and safety standards, as outlined in the SAP.

The proposed local planning authority for SBEZ BKH must have the following powers:

- 1) Plan, approve, and oversee development projects in line with the SAP's objectives.
- 2) Manage land use and zoning in accordance with the economic strategies and infrastructure needs identified in the SAP.
- 3) Monitor compliance with environmental and safety standards to promote sustainable development.
- 4) Engage stakeholders, including local communities, investors, and government agencies, ensuring transparency and accountability in decision-making processes.

By establishing a Joint-Venture Local Planning Authority, SBEZ BKH can benefit from a centralised governance structure, similar to the models applied in Kulim Hi-Tech Park and Pasir Gudang, ensuring efficient management and growth of the zone in line with its strategic development goals.

#### **7.4.2.2 Rules and Regulations**

To ensure the long-term sustainability and effective management of post-development issues within SBEZ BKH, it is essential to incorporate specific rules and regulations within the Special Area Plan (SAP). Since the SAP is a binding document, these regulations will be enforced to maintain the zone's growth and align with best practices from other successful economic zones. Below are the proposed regulations based on lessons learned from Johor, Penang, and Singapore.

#### **7.4.2.2.1 Outline of the Propose Rules and Regulation**

##### **1) Adoption of Smart City Technologies**

Proposed Regulation: The SAP for SBEZ BKH should mandate the implementation of smart city technologies, including:

- a) Integrated traffic management systems for seamless transportation flow.
- b) IoT-based waste management systems for efficient and sustainable waste disposal.
- c) Smart surveillance systems to improve security.
- d) Digital platforms for public services to enhance transparency and public engagement.

These technologies will ensure the efficient functioning of urban infrastructure, support sustainability goals, and improve the overall livability of the zone.

##### **2) Construction of Centralised Labour Quarters (CLQ)**

Proposed Regulation: The SAP should require the development of CLQ facilities within SBEZ BKH, ensuring:

- a. Adequate and regulated housing for workers.
- b. Compliance with health, safety, and living standards.

- c. Inclusion of essential amenities such as healthcare, recreational spaces, and dining facilities within CLQs.

This regulation would promote better living conditions for the workforce, help prevent housing shortages and reduce social tensions between industrial workers and local communities.

### 3) Green Building Practices

Proposed Regulation: The SAP should include regulations mandating green building practices, including:

- a. Mandatory green roofs and vertical gardens to increase urban greenery and reduce heat island effects.
- b. Rainwater harvesting systems to promote water sustainability.
- c. Energy-efficient building materials and renewable energy sources, such as solar panels, to reduce carbon footprints.

By enforcing these practices, SBEZ BKH can align with global sustainability goals, making it an attractive destination for environmentally conscious investors and businesses.

### 4) Public-Private Partnerships (PPP) for Infrastructure Development

Proposed Regulation: Encourage PPPs in certain infrastructure projects, where private investors collaborate with government agencies to build and maintain, for example, smart city technologies, green buildings, and worker housing.

#### 5) Regular Monitoring and Compliance Mechanisms

Proposed Regulation: The SAP should establish a compliance unit within the local planning authority, responsible for:

- a) Monitoring adherence to smart city, CLQ, and green building regulations.
- b) Imposing penalties for non-compliance.
- c) Conducting regular audits to ensure infrastructure meets sustainability and safety standards.

Rationale: The proposed rules and regulations for SBEZ Bukit Kayu Hitam (SBEZ BKH) are essential to address post-development challenges through effective planning control. By incorporating smart city technologies, Centralised Labour Quarters (CLQ), and green building practices, these measures will ensure sustainable growth, improve quality of life, and promote environmental stewardship within the zone. Lessons learned from Johor and Penang demonstrate the importance of smart technologies and CLQs in managing urban environments and worker housing effectively, while Singapore's LUSH initiative offers valuable insights into integrating green practices into development. These proposals align with international best practices, enhancing SBEZ BKH's competitiveness and ensuring its infrastructure, environmental goals, and economic development are managed efficiently. Public-private partnerships and

regular compliance mechanisms further ensure that these initiatives are implemented and maintained, promoting long-term success.

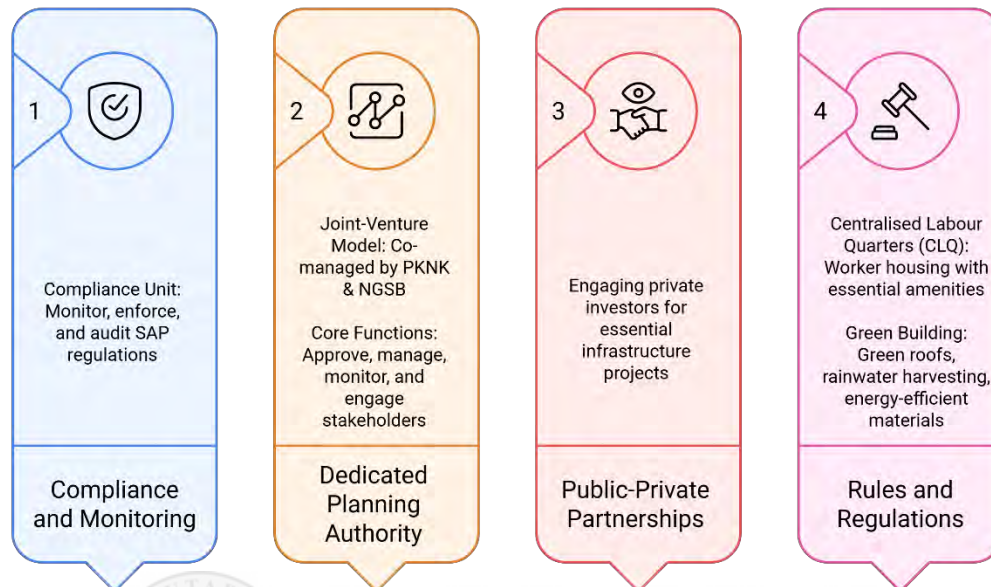


Figure 7-4 Summary of Managing Post-Development Issue

### 7.4.3 Public Participation in Planning Process

As discussed in Chapters 4, 5, and 6, public participation plays a vital role in the planning process. To provide a clearer understanding of the proposed recommendations and amendments, this section is divided into two parts. The first part will address public participation in the context of development plan matters, while the second part will focus on public involvement in the planning permission process.

#### 7.4.3.1 Public Participation in the preparation of development plan

Public participation is crucial in the development process, as it ensures individuals are informed and involved in decision-making. As discussed in Chapter 4, residents near the SBEZ Bukit Kayu Hitam were aware of the development but lacked a clear understanding of its impact, resulting in their area becoming isolated by surrounding



industrial zones. This highlights the importance of accurate and effective information dissemination to the public. Section 13 of the TCPA 1976 requires only a one-month publicity period, which is often seen as fulfilling legal obligations rather than truly engaging the public.

The current method of publishing draft plans in newspapers, as required by the TCPA 1976, is inadequate in today's digital age. Alternative media channels, including digital platforms, are needed to ensure development information reaches a broader audience. Establishing a benchmark for assessing information reach is necessary, as effective publicity ensures transparency and enhances public participation. Policymakers must ensure that development plan information is disseminated efficiently and inclusively to facilitate meaningful participation.

Recognising the inadequacies of traditional methods, the following amendments to Sections 9 and 13 of the TCPA are proposed to incorporate contemporary media channels:

Amendment to Section 9 (2) (a)

*(2) As soon as practicable after a draft structure plan has been submitted to the Committee, the State Director shall—*

*(a) publish, in three issues of at least two local newspapers, one of which being in the national language, a notice **‘or through other contemporary media, including online platforms’** stating that copies of the plan are available for inspection at the office of the State Director and at such other places as he may determine and the time within which objections to the plan may be made to the Committee; and*

Amendment to Section 13 (2)

*(2) Before making copies of a draft local plan available for inspection under subsection (1), the local planning authority shall publish, in three issues of at least two local newspapers, one of which being in the national language, a notice **'or through other contemporary media, including online platforms'** stating the date on which copies of the draft local plan will begin to be available for inspection, the places where they will be available for inspection, and the time, which shall not be less than four weeks from the date on which copies of the draft local plan begin to be available for inspection, within which objections to or representations in respect of the draft local plan may be made to the local planning authority.*

In relation to the abovementioned addition of "or through other contemporary media, including online platforms", the term "contermprorary media" shall be define as follows:

Addition the term "contemporary media" in Section 2 of the TCPA

*"Contemporary media" refers to any current form of communication channels, including both traditional (e.g., print, television) and digital media (e.g., website, social media platforms, mobile apps)."*

Rationale: Drawing from the UK's practice, where publicity is mandated to be published both physically and online, this proposed amendment aims to follow a similar approach. On the other hand, lessons from Singapore, as well as Johor and Penang, emphasise the elements of the publicity process for development plans published online, further justifying this proposal. Given the current increasing importance of digital engagement, it is essential to mandate the related authorities that

publicity of the draft development plan be published online and through social media platforms to reach a wider audience and encourage greater public participation.

Meanwhile, a mandatory five-year review cycle is essential in addressing the information gaps in development plans. This ensures that development plans remain relevant, adapting to demographic changes, economic shifts, and technological advancements. Regular updates make development plans dynamic and responsive to the evolving needs of the community and environment. While the Local Plan Manual 2020 prescribes a 15-year review, a five-year cycle ensures plans stay current and aligned with ongoing government initiatives like the Malaysia Plan. Considering the need for up-to-date information in the local plan, the proposed amendments are as follows:

A new sub-section immediately following subsection 12(2):

"12(2A): The local plan period under this section shall not exceed a maximum duration of fifteen (15) years from the date of its adoption, ensuring timely updates and relevance to the evolving urban and community contexts."

A new sub-section immediately following subsection 16(1):

"16(1A): The local planning authority shall undertake a comprehensive review of the local plan once every five (5) years to ensure its continued relevance and effectiveness in addressing current and future planning needs."

Rationale: The introduction of subsections 12(2A) and 16(1A) is crucial for ensuring that local plans remain dynamic, reflecting ongoing societal and environmental changes. Regular reviews as mandated in these subsections promote adaptability and

relevance in urban planning, aligning with international best practices. This approach mirrors lessons learned from the UK's Section 23 of the Act and Singapore's Section 8 of the Planning Act 1998, both of which stipulate a five-year review cycle for local plans, underscoring the importance of continuous assessment and updates to effectively address evolving urban development challenges.

On the other hand, to enhance the transparency and efficacy of decision-making, the integration of technical reports into development plans is crucial. These reports, covering traffic, environmental factors, infrastructure needs, and social impacts, provide vital insights for informed decision-making. Incorporating such findings into development plans not only builds trust but also aids stakeholders in aligning future projects with existing capacities.

To further improve stakeholder understanding, these technical data should be accompanied by clear visual presentations such as diagrams and maps. Visual aids bridge the gap between technical information and layperson comprehension, enhancing public engagement and allowing thorough evaluation of development proposals.

Addition of Section 3a under the TCPA:

*"(3a) The local planning authority shall ensure that the proposals presented in the draft local plan, as stated in subsection (3)(a), are supported by relevant and substantiated information. This information shall encompass a comprehensive assessment of various factors essential to the proposed development, ensuring consideration of its implications on the local area. The resulting information shall be incorporated as supporting documents or*

*concise summaries within the development plan, establishing a solid basis for informed decision-making*

Rationale: The rationale for the proposed amendment, which integrates technical report findings into the development plan, is informed by UK practices. In the UK, local plans are developed based on an "evidence-based" approach, ensuring that proposals are grounded in thorough research and factual data. This amendment mirrors the principles outlined in Section 10A of the TCP (Local Planning) (England) (Amendment) Regulations 2017, which emphasize the importance of maintaining the relevance and accuracy of data and policies within local plans. By adopting this approach, the amendment aims to enhance informed decision-making and improve the overall quality of development plans, reflecting lessons learned from UK planning practices.

Public participation in development planning is essential to ensure transparency, relevance, and inclusivity. The proposed amendments aim to modernise communication through digital platforms, mandate five-year review cycles for local plans, and require technical data integration supported by visual tools. These changes enhance public engagement, ensure updated planning responses, and support informed decision-making.

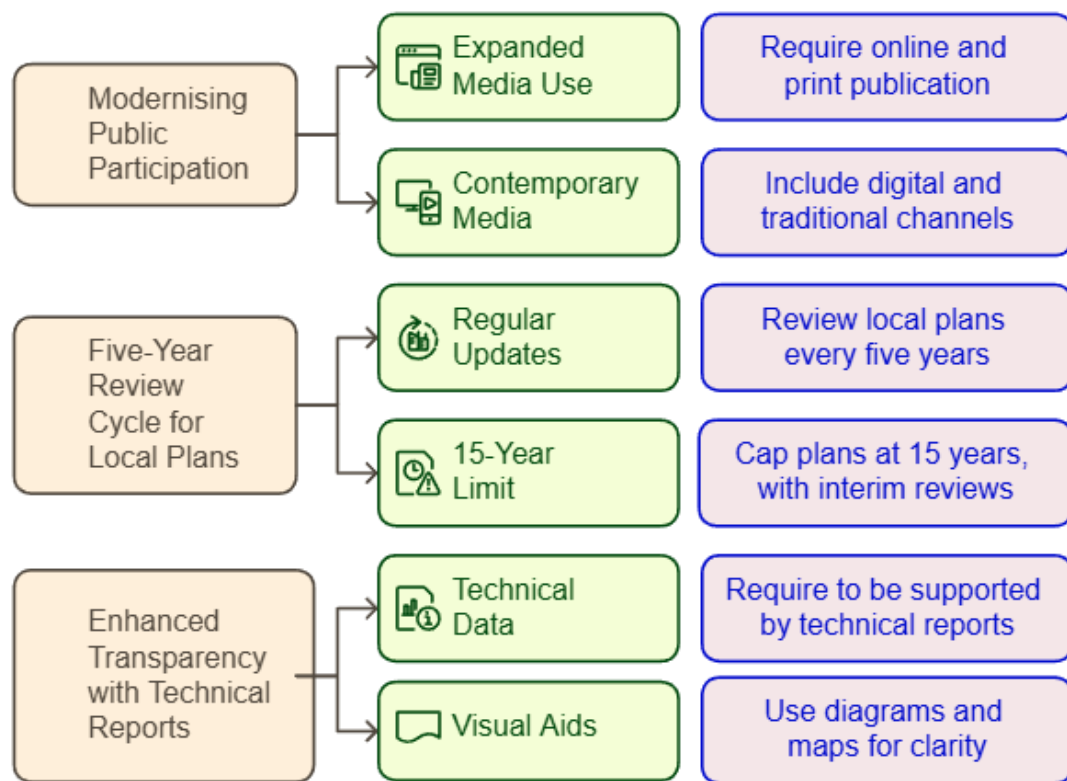


Figure 7-5 Summary of Summary Public Participation in Preparation of Development Plan

#### 7.4.3.2 Public Participation in Planning Permission Process

Section 21(6) of the TCPA provides clarity regarding the obligation of the local planning authority when there is a planning application in an area without a local plan. In such a scenario, the local planning authority is required to serve a written notice to the owners of the neighboring lands. The notice should contain information on their right to object to the application and state their grounds for objection within a period of twenty-one days from the date of notice. On the other hand, in the case where the area has an established local plan, there is no requirement for the local planning authority to provide notice to the adjoining landowners concerning new planning applications submitted to them. Nevertheless, this provision does not undermine the importance of effective communication and transparency in the planning process.

The UK's planning system, under Article 15 of the Town and Country Planning (Development Management Procedure) Order 2015 and the Environmental Impact Assessment Regulations 2017, requires publicity for all planning applications, whether they need an Environmental Impact Assessment (EIA) or not. This contrasts with Malaysia, where there's no legal mandate to notify adjoining landowners for areas with a gazetted Local Plan, although some local authorities do so as a good governance practice. The UK process involves posting information on websites and newspaper advertisements, ensuring inclusivity and community responsiveness. For instance, developments exceeding ten houses undergo public publicity, a practice that underscores the importance of community engagement.

In Malaysia, expanding the publicity process to inform local communities about all planning applications, regardless of the existence of a Local Plan, is essential. This expansion would grant the public the right to object and appeal developments, mirroring UK practices where public engagement is a key feature of the planning system. By adopting such an approach, Malaysia could enhance transparency, accountability, and community involvement in its development process, creating a planning system that is more responsive to local needs and aspirations. This would align Malaysia's practices with those of the UK and other nations, prioritising community engagement in planning and development. Therefore, it is proposed that section 21(6) and 21(8) of the TCPA 1976 be amended as follows:

Amendment to Section 21(6) of the TCPA

*“Where the local planning authority receives an application for planning permission, or where directions have been given under subsection (3) of this section, the local planning authority shall, within a reasonable time, serve notice in writing to the owners of neighbouring lands of a proposed development. **The provision of the notice shall apply to major developments, irrespective of whether the area has an existing local plan or not.** The notice shall inform them of their right to object to the application and to state their grounds of objection within twenty-one days of the date of service of the notice.”*

Addition to Section 21(6A) of the TCPA

*“The notice required under subsection (6) shall also be published on the local planning authority's website or any other latest relevant media.”*

Addition to Section 21(6B) of the TCPA

*“(6B) The notice required under subsection (6) shall also be provided through site display in at least one place on or near the land to which the application relates for not less than 21 days.”*

Rationale: The proposed amendments to Section 21(6) of the TCPA, introducing comprehensive notification requirements for planning applications, are informed by best practices from the UK and Singapore. These amendments mandate written notices to neighbouring landowners and online publicity for all major developments, regardless of the existence of a local plan. This inclusive approach ensures transparency and enhances public participation in the development process. By expanding the scope of public notification, the amendments aim to foster a more



participatory and informed planning system, reflecting lessons learned from jurisdictions that prioritise community engagement and informed decision-making.

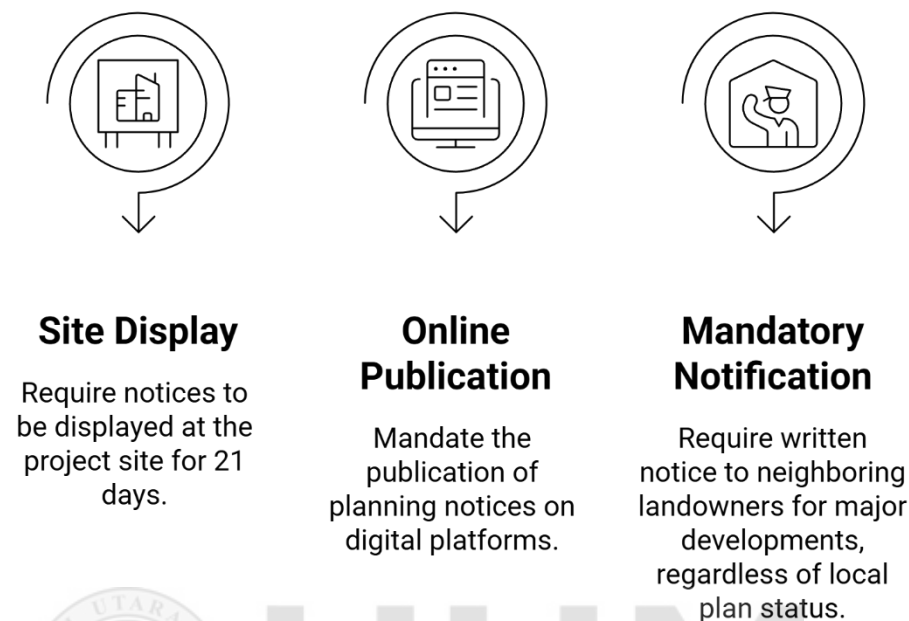


Figure 7-6 Recommendation for Public Participation in Planning Permission

The proposed amendments to Section 21(6) of the TCPA aim to enhance transparency and community engagement by requiring public notices for major developments, regardless of local plan status. Drawing from UK practices, the use of written, online, and on-site notices ensures better public awareness, enabling a more inclusive and participatory planning system.

#### 7.4.4 Land Administration

This section will examine the issues related to land administration, focusing on two important aspects: the challenges faced in the land alienation process, particularly in government-linked projects, and the procedures involved in the surrender and re-alienation of land. Both topics highlight the complexities of managing land rights and ensuring efficient use of land in accordance with legal and planning requirements.

#### 7.4.4.1 Challenges of Land Alienation in Government-Linked

In the land alienation process, one issue arises when land is alienated without proper consultation with the planning authority. This can result in inefficient land development due to land use inconsistencies. In addition, there some political influence often complicates the alienation process, leading to further problems, such as land being allocated for a purpose that may not align with the local plan. Therefore, there is a proposed addition on for a new section immediately section 15(6) as follows:

Addition of sub-section 15(7) under the TCPA:

*(1) Once the local plan has been approved and gazetted under Section 15(1C) in any process related to the disposal of the land, including land alienation and the land use category or condition in the land title document under the National land Code, shall take into account the land use zoning, land and building use class order specified in the local plan.*

To ensure that the land alienation process is more structured and not carried out arbitrarily, one crucial improvement is to make the process clearer and more organised. This can be achieved by requiring the land alienation process to refer directly to the development plan and the planning authority. It is proposed that an additional section be introduced at the end of the current provisions to ensure that the process aligns with the development plan and the planning authority, or any other relevant authority. The additional section shall be immediately after section 79(2)(g).

Addition to Section 79(2)(h) under the NLC:

*(h) the development plan and the planning authority's regulations,  
or any other relevant authority.*

Rationale: Ensuring that land alienation aligns with development plans and planning authorities is crucial to prevent land from being underutilised. By referring to development plans, the alienation process ensures that land is designated for the appropriate uses, such as housing, industry, or agriculture, in line with the community's current and future needs. This reduces the risk of land being allocated for purposes that do not match local demand, thereby preventing valuable land from remaining idle or underused. Additionally, aligning land alienation with these plans enables authorities to allocate land based on the specific demand for various types of development. This ensures that land is used efficiently, maximising its potential for growth and development while supporting broader economic and social objectives.

Land is sometimes alienated without consulting planning authorities, causing zoning conflicts and politically driven misallocation. To curb this, new TCPA and NLC clauses would oblige land disposals to follow the gazetted local plan and require reference to development plans and planning regulations, ensuring coherent, demand-led, and efficient land use.

#### **7.4.4.2 Surrender and re-alienation process**

In the process of surrender and re-alienation of land, multiple sections of the National Land Code come into play, as outlined in Chapter 4. These include sections such as 124, 197, 76, and 204, which are used in different situations. This complexity highlights the need to streamline the process and make it more straightforward. Future

studies should focus on simplifying these procedures, aiming for a more efficient system similar to the approaches in the UK and Singapore, where land law is more focused on registration, in contrast to the current practices in Malaysia.

On the other note, the researcher opined that the process of surrender and re-alienation under the National Land Code (NLC) currently centralises the approval authority with the State Authority, as outlined in Section 204E. While this provides a level of oversight and consistency, it also results in delays, particularly when the number of applications is high. The Land Administrator plays a procedural role in processing these applications but lacks the authority to approve them, even in routine cases where the decision could be made more quickly at the local level.

To address these inefficiencies, Section 204E could be amended to decentralise part of this approval process, delegating certain types of applications to the Land Administrator. Therefore, it is proposed that an additional section immediately after section 204E(1) of the NLC

Addition to section 204E(1A) of the NLC:

*(1A) Notwithstanding subsection (1), the Land Administrator shall have the authority to approve applications for surrender and re-alienation of land where:*

*(a) The land involved is a contiguous lot or a smaller parcel, as prescribed by the State Authority;*

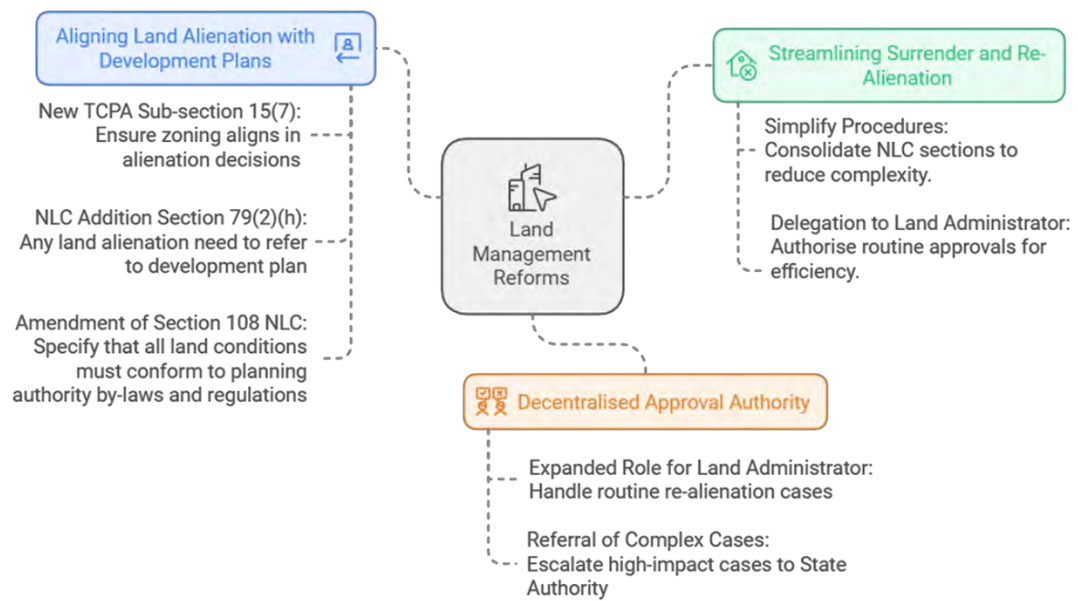
*(b) The application does not involve significant changes in zoning or land use;*

*(c) The application pertains to routine re-alienation that complies with the relevant development plan and local authority regulations.*

*(1B) The Land Administrator may refer any application to the State Authority for further review if the application involves complex issues or public interest considerations.*

Rationale: The rationale for amending Section 204E is to decentralise the approval process for surrender and re-alienation applications by delegating certain powers to the Land Administrator, thereby reducing delays and improving efficiency. As the State Authority often faces a high volume of applications, allowing the Land Administrator to approve routine or smaller-scale cases, such as contiguous lots or parcels, would streamline the process and relieve the burden on the State Authority. This decentralisation also leverages the Land Administrator's local expertise, ensuring that decisions are aligned with local development plans and regulations. At the same time, the amendment maintains flexibility by allowing the Land Administrator to refer more complex cases back to the State Authority when necessary, ensuring proper oversight where needed.

The current surrender and re-alienation process under the NLC is complex and centralised, often causing delays. A proposed amendment to Section 204E would delegate authority to Land Administrators for routine cases, improving efficiency while maintaining oversight for complex matters. This approach mirrors more streamlined systems in the UK and Singapore.



## 7.5 Summary

Chapter 7 provides proposals and recommendations to address the key challenges identified in the development of SEZs, specifically Bukit Kayu Hitam's SBEZ. The Special Area Plan (SAP) is emphasized as the core document, integrating land use planning with legal and regulatory frameworks under the TCPA. Proposals include enhanced planning obligations, better enforcement mechanisms, public participation, and the creation of a centralised planning database. Furthermore, the chapter recommends the creation of dedicated governing bodies for SEZs and SBEZ to provide structured oversight and ensure that future development is guided by long-term economic objectives while maintaining environmental responsibility, in pursuit of more sustainable and orderly growth.

## **CHAPTER EIGHT**

### **CONCLUSION**

#### **8.1 Introduction**

SEZs are important instruments for bolstering economic growth within a country, closely interlinked with Foreign Direct Investment (FDI). These zones attract international investors to designated areas, setting them apart from conventional FDI models. SEZs are unique in the context of investment as they not only involve the demarcation of specific regions but also encompass physical development aimed at boosting the economy, both nationally and locally. SEZs are defined as "demarcated geographic areas contained within a country's borders where the business rules and regulations differ from the national territory." This definition suggests that to ensure the "special" status of SEZs, the regulations within these zones differ from the rest of the country in aspects such as taxation, customs, and other administration process. As SEZs globally necessitate the physical development of industrial areas to drive economic initiatives, it begs an inquiry into the governing processes of land development for these industrial pursuits.

Every nation implements strategies to ensure orderly land development within its borders, prohibiting haphazard construction of homes, factories, or commercial spaces at will. This structured approach is encapsulated in the concepts of 'land use planning', 'urban planning', and 'town planning'. These disciplines involve the strategic arrangement of land use and siting of buildings and communication routes to maximice

efficiency, utility, and aesthetic value. Land use planning thus acts as a crucial framework, intricately linking with the previous discussion on SEZs to ensure that their development is methodical and aligns with the desired economic and social outcomes, safeguarding against any adverse effects.

In line with its developmental aspirations, Malaysia has embraced the concept of Special Economic Zones as a catalyst for its national economic advancement. As elucidated in Chapter 2, the nation has instituted an array of SEZs, each with distinct focal areas. These include the Regional Economic Corridors, the Multimedia Super Corridor (MSC) which is a beacon of technology and innovation, the Kulim Hi-Tech Park specialising in high-technology industries, and the Bayan Lepas Free Industrial Zone, a pivotal centre for the Electronics and Electrical (E&E) sector that contributes to 7% of global E&E production. This strategic implementation of SEZs underscores Malaysia's commitment to diversifying its industrial landscape and positioning itself as a significant player in the international market.

Simultaneously, the Malaysian government has earmarked a significant expanse for the development of a SBEZ. Spanning over 11,000 acres, this SBEZ is strategically situated at the primary gateway between Thailand and Malaysia, forming a crucial link in the Singapore-Malaysia-Thailand corridor that extends to China via the Asian Highway AH-2. This positions it as a potential major logistics hub within Southeast Asia. A pertinent query arises concerning the regulatory oversight of land use planning for SBEZ development. The aim of this thesis, as previously outlined, is to scrutinise the legal framework governing land use planning specific to SBEZ Bukit Kayu Hitam. It is pertinent to note that the SBEZ Bukit Kayu Hitam is currently in the nascent phase of its development, with existing developments occupying less than 100 acres—



merely a fraction of the total designated area. This research endeavours to delve into the present and potential issues that could influence the evolution of SBEZ Bukit Kayu Hitam and to recommend enhancements to the land use planning law and legal framework that will steer its future growth.

Chapter 1 elucidated five critical issues commonly encountered globally, including within Malaysia, during the establishment of individual SEZs. These challenges, which have been detailed in the initial chapter, include: (1) a problematic legal and regulatory framework overseeing SEZs and Special Border Economic Zones (SBEZ), (2) inefficiencies in development control and land use planning, (3) side-effects and complications arising from development spillovers, (4) conflicts between various federal and state-level agencies, and (5) land-related concerns. One prominent issue revolves around the regulatory frameworks for SEZs; despite the term "special", many nations still face significant hurdles. Bureaucratic impediments that investors encounter when investing in a country are often under scrutiny. Moreover, there are inefficiencies in development oversight, leading to spillover effects such as skyrocketing land prices, increased living costs, and migrant influxes. Consequences of these spillovers include environmental degradation, flooding, and escalating population density. Additionally, disputes among the different entities and agencies involved have also emerged as contentious points. In India, for instance, while the elite push for SEZ development to cater to their interests, land acquisitions displace farmers who are unable to transition to the sector due to skill deficits.

While Chapter 1 has addressed various challenges faced by SEZs on a global scale, the undeniable positive impact of these zones on economic growth in respective countries has also been highlighted. Chapter 2 provides comprehensive data and

statistics that illustrate the efficacy of SEZs worldwide. Moreover, it details the diverse array of SEZs implemented in Malaysia and how economic policy within the country has been shaped to accommodate the SEZ concept. Additionally, Chapter 2 delves into the economic influence of Malaysian SEZs, particularly in terms of boosting trade activities, creating employment opportunities, and their effect on the cost of living.

Following an exploration of SEZs globally and within Malaysia in Chapter 2, Chapter 3 shifts focus to legal issues concerning land development in Malaysia. Interestingly, the study reveals no specific legal cases directly related to SEZs and SBEZs in Malaysia. However, given that the development of SBEZ and SEZ inherently involves land development processes, relevant Malaysian land development cases are examined. These cases shed light on the impact of development plans on construction projects and their particular significance in the context of SBEZ development, offering insights into potential dispute scenarios. Additionally, the chapter addresses legal issues arising from strict planning conditions imposed by Local Planning Authorities (LPAs) on planning permission applications. These scenarios provide valuable perspectives on balancing regulatory rigour with investor accommodation, vital to preventing investor flight due to excessive bureaucracy in Malaysia.

Chapter 4 stands as a pivotal element of this research, delving into the findings on the issues encountered in the SBEZ of Bukit Kayu Hitam. This chapter segments the discussion into five key areas: development plan issues, development control challenges, land administration concerns, safety and security aspects, and environmental impacts. A significant observation is the SBEZ's limited investment appeal, which has contributed to its slow development. Initially proposed in 2001, it took nearly two decades for tangible progress to be seen. A primary hurdle identified

is the lack of comprehensive infrastructure. Despite its strategic highway connectivity, the SBEZ area falls short in essential services like water and electricity supply.

Additionally, inadequacies in the development plan have emerged as a major concern. The lack of detailed information in the plan has left stakeholders unclear about prospective developments in their vicinity. Another critical issue identified relates to the cumbersome process of obtaining planning permission. Frequent proposal modifications to meet stringent conditions, along with protracted timelines for approval, have been pinpointed as deterrents to investor confidence. These factors significantly affect the perceived ease of doing business in the SBEZ and SEZs at large, underscoring the need for streamlined processes and clear, informative development plans.

In Chapter 4, another prominent issue identified concerns the authority vested in the State Authority regarding land alienation. This aspect becomes problematic in the context of SBEZ Bukit Kayu Hitam's development, where financial constraints have been a key factor slowing progress. The Perbadanan Kemajuan Negeri Kedah (PKNK), as a major stakeholder and subsidiary of the State of Kedah, plays a crucial role in this development. However, one of the primary hurdles identified is PKNK's financial limitations in providing necessary infrastructure for the SEZ. Adequate infrastructure is essential for attracting investors, who expect to plug into readily available facilities. The financial challenges faced by PKNK have thus significantly impeded the swift development of SBEZ Bukit Kayu Hitam, highlighting the need for robust financial planning and resource allocation in SEZ projects.

Building on the issues identified in Chapter 4, Chapter 5 delves into best practices and solutions employed at the SEZ level in Malaysia, particularly focusing on the successful SEZs in Penang and Johor. The chapter examines how these zones tackle challenges like the need for comprehensive information in development plans. For instance, in Penang, the implementation of a GIS system for development analysis is highlighted. This system aids in generating optimal scenarios for future area development. Additionally, the chapter explores the approach to planning conditions in Johor's SEZs. Here, the concept involves issuing planning conditions that may not be immediately actionable but are set in place for future implementation. This proactive strategy helps avert ad-hoc planning, ensuring a smoother developmental process in the long run. These case studies provide insights into effective strategies that can be emulated or adapted in other SEZs, including SBEZ Bukit Kayu Hitam, to address similar challenges.

Chapter 6 expands the scope of analysis to include international best practices, focusing on the United Kingdom and Singapore. The choice of the UK is influenced by its specific legislative section governing Enterprise Zones, akin to SEZs. The UK's approach includes a unique 'Planning Obligation' concept, where developers sign agreements to provide infrastructural in-kind contributions, in exchange for reductions in development charges. Singapore, effectively functioning as a large SEZ, has been selected for its practice of granting public access to planning permission information, a level of transparency not yet fully realised in Malaysia. The chapter provides a comparative perspective, highlighting how these countries manage their SEZs and the potential lessons that can be applied to the development of SBEZ Bukit Kayu Hitam and other Malaysian SEZs. The insights gleaned from these international examples

offer valuable guidance on improving the legislative framework and operational strategies for SEZs in Malaysia.

Building on the issues identified in Chapter 4 and the best practices from Chapters 5 and 6, the researcher proposes legal reforms to better facilitate the development of SBEZs and SEZs in Malaysia. Five key stages form the basis of these proposed legal changes. Firstly, the Malaysian development plan needs enhancements to better support SBEZ and SEZ development. This includes a recommendation for local plans to undergo a review every five years, ensuring their continual relevance and updating. Additionally, the study advocates for a nationwide integration of planning databases, inspired by the UK model, which legally mandates the synchronisation of planning data across all involved agencies. This integrated database would be instrumental in the local plan preparation process, utilising a Planning Support System to analyse and project development scenarios for each area. This system is particularly pertinent to SEZs and SBEZs, as it would enable an analysis focused on determining the most suitable types of development for specific areas, aligning with their unique needs and objectives.

Improvements are essential in the process of amending the local plan, a critical phase that can significantly delay planning permission applications. Streamlining this process involves eliminating certain unnecessary steps. Additionally, public involvement in the planning process warrants enhancement, particularly in two key areas: the preparation of the local plan and the planning permission process. For the local plan preparation, it is suggested to utilise diverse mediums for publicising proposed reviews, thus broadening public engagement. Furthermore, providing public access to the local plan online is highly recommended, a facility not currently

available. This approach would ensure greater transparency and inclusivity, allowing the public to be more actively involved and informed about the planning developments in their area, especially pertinent for projects like the SBEZ.

In relation to planning permission, the current legal framework, specifically Section 21(6) of the relevant act, allows only neighbouring landowners to object or comment on planning permission applications in areas without a gazetted local plan. This limitation excludes those in areas with an established local plan from raising objections or comments about planning permissions in their vicinity. The proposed legal reform advocates for a more inclusive approach, suggesting that public notification should be mandatory for all planning permission applications, irrespective of whether the local plan is gazetted. This change aims to enhance public awareness and involvement in the planning process

The proposed legal reform includes establishing a preliminary phase in the planning permission process. This stage necessitates applicants to engage in early discussions with agencies involved in granting planning permissions. Such a preliminary step aims to address potential issues beforehand, ensuring a smoother and more efficient process once full planning permission is sought. By preemptively ironing out problems, it reduces the likelihood of delays caused by iterative corrections and consultations. Additionally, the introduction of planning obligations through the planning permission process is recommended. This approach would foster a collaborative environment where both local planning authorities (LPAs) and developers can contribute constructively. It creates a scenario where both parties can benefit, leading to a 'win-win' situation. This is particularly relevant for the development of SEZs and SBEZ,

ensuring that both the regulatory requirements and developmental objectives are met effectively.

Given that the development of SEZs and SBEZ involves industrial activities, there exists a significant risk of legal violations. Therefore, it is crucial to reinforce regulatory compliance measures in these zones. Currently, enforcing rules against violations is challenging, largely due to protracted court proceedings. This often leads to a situation where extensive resources are expended in pursuing legal action against offenders, colloquially termed as "good money chasing bad money." To address this issue, it is suggested to establish a compound mechanism. This mechanism would allow for the imposition of penalties on developers who commit offenses by not adhering to the established regulations. The introduction of such a system would facilitate more efficient and expedient enforcement of compliance, ensuring that development within SBEZs and SEZs aligns with legal and regulatory standards.

The final proposal involves establishing a dedicated unit for the development of the Bukit Kayu Hitam SBEZ. This unit would be responsible for coordinating all aspects of the Bukit Kayu Hitam SBEZ's development, including managing planning permission processes, development control, maintenance, and other related activities. Additionally, once the development of the SBEZ reaches a certain threshold, the creation of a distinct entity or a standalone Local Planning Authority (LPA) is recommended. This separate entity would be similar to those governing Kulim Hi-Tech and Pasir Gudang, focusing exclusively on the SBEZ's development. Establishing such a unit or entity would ensure concentrated attention and resources are devoted to the SBEZ, facilitating more effective and streamlined development processes.

## 8.2 A Framework for Development of SBEZ and SEZ in Malaysia

Introduction: The establishment of SBEZ has become increasingly popular as a tool for promoting economic growth and development in border regions. SBEZs are designated areas along the border between two countries that offer special economic incentives to attract investment, stimulate trade, and create jobs. To ensure the successful implementation of SBEZs, it is essential to have a clear legal framework that defines their geographic boundaries, objectives, and governance structure. This chapter will propose a legal framework for SBEZs that draws on the concept of Simplified Planning Zones (SPZs) that also being proposed in the Town and Country Planning Act 1972 of Malaysia. Therefore, it is propose the following as the fundamental framework for the establishment of SEZ or SBEZ in Malaysia.

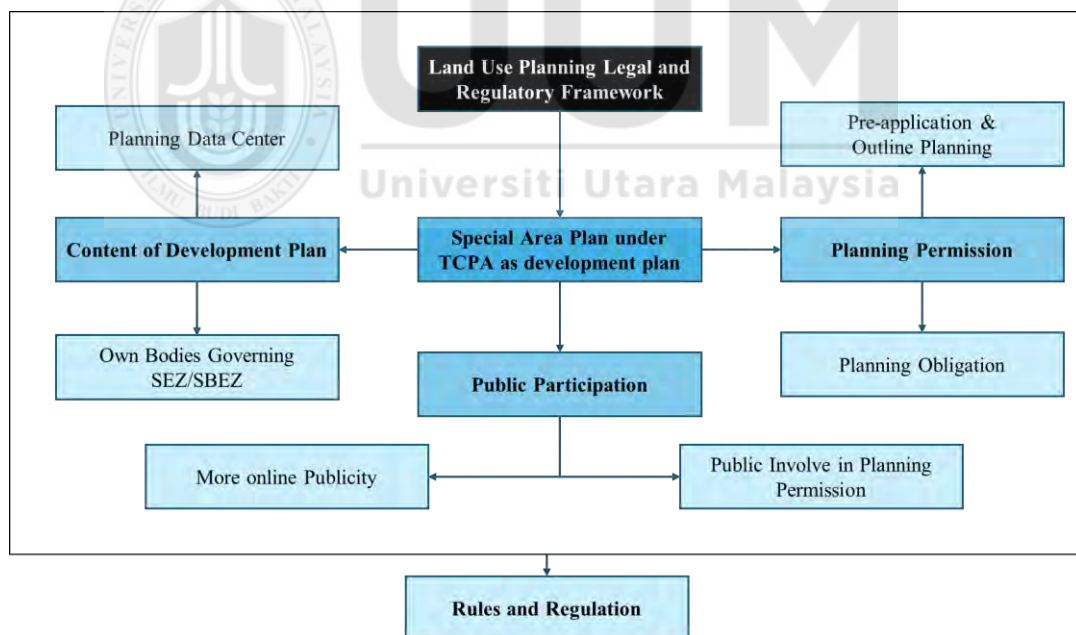


Figure 8-1 Regulatory Framework for SEZ/SBEZ



This framework is designed specifically for the Special Economic Zones (SEZs) and Special Border Economic Zones (SBEZs), with the Special Area Plan (SAP) serving as the cornerstone document. The SAP, embedded within the Town and Country Planning Act (TCPA), outlines a detailed development strategy for SEZs, ensuring that all land use and economic activities align with broader national and regional planning objectives. It guides how infrastructure, zoning, and economic development will be implemented in a way that supports the unique goals of the SEZ/SBEZ while ensuring that sustainable growth and effective governance are maintained.

In addition, the SAP incorporates comprehensive rules and regulations that dictate the conditions for development within the SEZ/SBEZ. These include legal frameworks for planning permissions, obligations that developers must meet, and zoning requirements to ensure efficient land use. Planning obligations, in particular, are integrated to ensure that developers contribute to the necessary infrastructure, public services, and environmental standards, benefiting both the economic zone and its surrounding areas. Overall, this framework establishes a structured and regulated approach, ensuring that SEZs and SBEZs develop in a manner that is sustainable, economically viable, and well-governed.

To conclude, the development of SBEZ Bukit Kayu Hitam, while progressing at a measured pace, necessitates a robust regulatory framework to effectively govern its land use planning. The need for such planning is underscored by global evidence demonstrating long-term challenges and impacts faced by SEZs during and post-development. Thus, refining the land use planning approach for SBEZ Bukit Kayu Hitam is not only essential for facilitating a smooth development process free of significant obstacles but also for minimizing potential future issues. The aim is to

establish SBEZ Bukit Kayu Hitam as a model of exemplary planning, setting a benchmark for excellence in SEZ development. This would not only enhance the zone's operational efficiency and attractiveness to investors but also ensure its sustainable integration into the broader economic landscape.

### **8.3 Contributions to Knowledge**

The research findings of this thesis contribute significantly to the existing corpus of knowledge, particularly in the area of land use planning and legal aspects. This submission enhances understanding and offers fresh perspectives in this field. It delves into the nuances of the legal and regulatory frameworks governing land use in SEZs, an area previously not extensively explored, especially in the Malaysian context. This research enriches the academic discourse by providing a comprehensive analysis of the complexities and challenges inherent in the legal governance of SEZs. It unveils the intricate interplay between various legal instruments and the practical implications of these on the development of SBEZs. The thesis stands out in its thorough examination of the current laws, identifying gaps and inconsistencies that could impede the effective implementation of land use planning in SBEZ Bukit Kayu Hitam. By doing so, it lays the groundwork for future legislative enhancements and offers a blueprint for better regulatory practices in the planning and development of SEZs.

This thesis illuminates a significant gap in Malaysian legislation pertaining to the intersection of land use planning and SEZs. Unlike other countries, Malaysia lacks a distinct legal framework that specifically addresses land use planning within SEZs. The governance of Economic Zones in Malaysia falls under the Free Zone Act, which does not explicitly incorporate land use planning considerations. This research brings to light the fact that land use planning in Malaysia is treated similarly to other

conventional developments, without special provisions for the unique needs of SEZs. Additionally, the study's analysis of legal cases potentially influencing SEZ development underscores the relevance of these findings for the future planning and development of the SBEZ. By identifying this legislative void, the thesis contributes valuable insights into the need for more tailored legal and regulatory mechanisms that can effectively guide land use planning in SEZs, ensuring their optimal development and alignment with national economic objectives.

The issues highlighted in this research underscore the crucial need for a comprehensive development plan to prevent disputes during the development of SEZs and SBEZ. The study draws attention to the necessity of integrating Geographical Information System (GIS) databases and refining the planning permission process. This contribution is particularly significant as it advocates for the modernisation of land use planning. The incorporation of advanced GIS technology in the planning process represents a departure from traditional methods, offering planners and consultants a more expansive and nuanced view. This technological advancement can greatly enhance the planning and development of SEZs and SBEZs, providing a more detailed and accurate framework for decision-making. Such innovations in planning processes not only streamline development but also lay the groundwork for more effective and efficient land use in SEZs and SBEZs, thereby contributing to their successful development and management.

This research has pinpointed the deficiencies in public participation within the planning process from two standpoints: the preparation of the local plan and the planning permission process. The proposed enhancements to public involvement are poised to significantly elevate transparency and raise public consciousness in these

procedures. Enabling public engagement in planning allows for broader access to current information and pricing related to land use planning and development in their area. This involvement ensures that the public is not only informed about developments after their completion but is actively aware and possibly influential in the developmental stages. This aspect of the research contributes to the knowledge base by underscoring the importance of public involvement in the planning process, particularly in the context of SEZs and SBEZs. It suggests a shift towards more inclusive and participatory planning approaches, which can lead to more informed, equitable, and community-aligned development outcomes.

In examining the planning permission process, this research has made a significant contribution by identifying common obstacles in land development. One key issue highlighted is the repetitive nature of the approval process, often slowed down due to repeated checks and modifications of development requirements, stemming from a lack of initial dialogue during planning permission submission. The research suggests that refining this process could lead to more streamlined and efficient planning approvals. By advocating for early discussions and consultations at the onset of planning permission applications, the research proposes a solution that could significantly reduce delays and redundancies in the development process. This finding is particularly relevant for enhancing the operational efficiency of SEZs and SBEZs, ensuring smoother and faster development cycles that are crucial for their success.

The emphasis on public participation and information sufficiency in the development plan highlights the necessity of engaging local communities in the planning process and guaranteeing that all stakeholders have access to precise and up-to-date information. Involving local communities in the planning process ensures that their

needs and concerns are considered when making decisions about land use and development within the SBEZ. Moreover, by scrutinising the sufficiency of information in the development plan, this research can help identify potential knowledge gaps and propose ways to enhance information sharing among stakeholders.

An examination of the planning permission process and planning stipulations during the planning permission process offers valuable insights into the regulatory framework governing SBEZs. By studying the various stages of the planning permission process and analysing the conditions imposed during this process, this research can provide valuable insights into the practical application of regulations and suggest ways to improve regulatory adherence. This analysis can help identify potential areas for enhancement and propose ways to streamline the planning process while maintaining compliance with all relevant regulations.

In conclusion, this research significantly advances the understanding of SBEZs and their role in fostering economic development. By presenting a detailed analysis of the land use planning process at the Bukit Kayu Hitam SBEZ, this research can guide future efforts to establish SEZs worldwide. Additionally, by emphasising the importance of public participation, information sufficiency, GIS application, and regulatory compliance in the planning process, this research can help improve the effectiveness of SBEZs in promoting sustainable economic development from a town planning perspective.

#### **8.4 Future Works**

The investigation of land use planning for the SBEZ at Bukit Kayu Hitam and its connection to the establishment of SEZs globally has provided a robust foundation for future studies in this field. A promising area for subsequent research could involve a thorough examination of the long-term economic and social consequences of SBEZs on local communities. Such research may encompass the analysis of employment trends, income levels, and social indicators like health and educational outcomes over a specific duration. The objective of this research would be to offer valuable insights into the impact of SBEZs on local communities and propose methods to amplify their positive effects.

An additional potential area for future research could involve exploring the role of community involvement in the planning and execution of SBEZs. This study could concentrate on examining the methods employed to engage local communities in decision-making processes related to land use planning and development within SBEZs. This could help identify possible areas for enhancement in community involvement within SBEZs and suggest ways to increase their responsiveness to local requirements. By examining various mechanisms for community engagement, this research could provide valuable insights into effective strategies to involve local communities in the land use planning legal process and ensure their needs and concerns are adequately addressed.

A third prospective area for future research could entail examining the role of technology in the planning and implementation of SBEZs. This study could involve a detailed analysis of the use of technologies, such as GIS, remote sensing, and data analytics, in the planning process and their impact on the effectiveness of SBEZs. By

scrutinizing the various technologies utilised in SBEZ land use planning, this research could offer valuable insights into how technology can be harnessed to improve the land use planning process and enhance the effectiveness of SBEZs. It could also identify potential areas for improvement in the use of technology in SBEZ land use planning and recommend ways to augment the efficacy of these tools.

In conclusion, the examination of land use planning for the Special Border Economic Zone at Bukit Kayu Hitam and its connection to the establishment of SEZs globally has opened up new avenues for future research in this domain. By delving into the long-term economic and social impacts of SBEZs on local communities, the role of community engagement in land use planning and implementation, and the utilisation of technology in the land use planning process, these potential research areas aim to further enhance the understanding of SBEZs and SEZs. Ultimately, this continuous pursuit of knowledge will contribute to more effective land use planning and implementation strategies, ensuring that these zones foster sustainable economic development and deliver tangible benefits to local communities.

### **8.5 Summary**

As this thesis reaches its conclusion, it is vital to recognise the ever-changing landscape of land use planning law and the establishment of SEZs, including the SBEZ at Bukit Kayu Hitam. This research, titled "Land Use Planning Legal and Regulatory Framework for SBEZ Bukit Kayu Hitam," has made a meaningful contribution to the comprehension of land use planning processes and the legal and regulatory framework governing the creation of SEZs, particularly the SBEZ at Bukit Kayu Hitam. Consequently, it is essential to adopt a dynamic approach to research and practice in this domain. The findings of this thesis not only augment the existing body of

knowledge within the academic community but also offer the potential to influence and inform policy-making, industry practices, and future academic inquiries. As this thesis draws to a close, there is an optimism that it will serve as a foundation for subsequent research efforts and practical applications in the field of land use planning legal aspect and the development of SEZs and SBEZs. Ultimately, this thesis aims to pave the way for a more prosperous and sustainable future for all stakeholders involved in the land use planning and implementation of SEZs and SBEZs.

This study aimed to examine the legal and regulatory framework governing SEZs and SBEZ in Malaysia, with a focus on the case study of Bukit Kayu Hitam. Through the examination of existing policies, plans, and practices, this study sought to identify the challenges and issues facing land use planning in SEZs and SBEZs in Malaysia and propose recommendations for improving governance, planning control, and incentives in Bukit Kayu Hitam.

The findings of this study suggest that the current legal and regulatory framework governing SEZs and SBEZs in Malaysia lacks clarity, consistency, and effective enforcement mechanisms, leading to issues such as inadequate land use planning control, insufficient governance and budget, and unattractive incentives. These issues have hindered the development of SEZs and SBEZs and impacted their ability to attract investments and generate economic growth.

The case study of Bukit Kayu Hitam revealed several challenges in the development plan, land use planning control, governance, and incentives. The reality of the development plan did not align with the local plan, leading to discrepancies and a lack of clarity. Land use planning control lacks proper enforcement mechanisms, leading



to illegal developments and encroachment of the green belt. Governance and budget were insufficient, leading to a lack of adequate facilities and services for the local population. Incentives were unattractive and do not encourage investment.

To address these challenges and issues, this study proposes several recommendations for improving the governance, planning control, and incentives in Bukit Kayu Hitam. The recommendations include the development of a comprehensive development plan that aligns with the local plan and incorporates technical report findings, the establishment of effective planning control mechanisms, the provision of adequate governance and budget, and the creation of attractive incentives for investors.

The proposed recommendations have significant implications for SEZs and SBEZs in Malaysia and other countries, providing a roadmap for enhancing governance, planning control, and incentives in these zones. For policymakers and urban planners, these recommendations offer actionable solutions for addressing the challenges and issues facing land use planning in SEZs and SBEZs. For developers, the recommendations offer insights into creating more attractive incentives and improving the investment climate in these zones.

The originality of this research lies in its focus on SEZs and SBEZs in Malaysia, an area that has received relatively little attention in the academic literature. By examining the legal and regulatory framework governing land use planning of these zones and the challenges and issues facing land use planning, this study fills an important gap in the literature and provides valuable insights for researchers and policymakers.

In summary, this study provides a crucial contribution to the debates on SEZs and SBEZs in Malaysia and other countries. The study's findings and recommendations highlight the challenges and issues facing land use planning and propose a roadmap for improving governance, land use planning control, and incentives in Bukit Kayu Hitam. This study's importance extends to policymakers, urban planners, and developers, offering insights for enhancing the effectiveness and sustainability of SEZs and SBEZs. The proposed recommendations have significant implications for improving SEZs and SBEZs' governance and land use planning control mechanisms, leading to sustainable and vibrant economic development of the area.



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*Yam Tunku Dato" Seri Nadzaruddin Ibni Tuanku Jaafar v Datuk Bandar Kuala Lumpur & Anor* [ 2005 ] 5 MLJ 633. High Court of Malaya, Kuala Lumpur.



## APPENDICES

### Appendix A

#### List of Free Industrial Zone

| Num. | Name                                            | Authority                           | Year | Num. | Name                                                    | Authority                                      | Year |
|------|-------------------------------------------------|-------------------------------------|------|------|---------------------------------------------------------|------------------------------------------------|------|
| 1.   | Free Zone Pasir Gudang Port, Johor              | Johor Port Berhad                   | 1984 | 12.  | FIZ Tanjung Kling, Melaka                               | Melaka Historic City Council                   | 1974 |
| 2.   | Free Zone Tanjung Pelepas Port (Phase 1), Johor | Pelabuhan Tanjung Pelepas Sdn. Bhd. | 2006 | 13.  | FIZ Kinta, Perak                                        | Ipoh City Council                              | 1992 |
| 3.   | Free Zone Tanjung Pelepas Port (Phase 2), Johor | Pelabuhan Tanjung Pelepas Sdn. Bhd. | 2003 | 14.  | FIZ Jelapang, Perak                                     | Ipoh City Council                              | 1989 |
| 4.   | Free Zone Tanjung Pelepas Port (Phase 3), Johor | Pelabuhan Tanjung Pelepas Sdn. Bhd. | 2018 | 15.  | FIZ Seberang Perai, Penang                              | Seberang Perai Municipal Council               | 1974 |
| 5.   | FIZ Tanjung Bin, Johor                          | Johor Port Berhad                   | 2012 | 16.  | FIZ Bayan Lepas (Phase 1), Penang                       | Penang City Council                            | 1971 |
| 6.   | FIZ Sultan Ismail International Airport, Johor  | Senai Airport Terminal Services     | 2009 | 17.  | Zon Perindustrian Bebas Sama Jaya, Sarawak              | Ministry of International Trade and Investment | 1993 |
| 7.   | Senai Airport City (Phase 1), Senai, Johor      | Senai Airport City Sdn. Bhd.        | 2006 | 18.  | Zon Perindustrian Bebas Telok Panglima Garang, Selangor | Kuala Langat District Council                  | 1980 |
| 8.   | Senai Airport City (Phase 1), Tebrau, Johor     | Senai Airport City Sdn. Bhd.        | 2015 | 19.  | Zon Bebas Pelabuhan Klang, Selangor                     | Port Klang Authority                           | 2005 |
| 9.   | FIZ Batu Berendam, Melaka                       | Melaka Historic City Council        | 1973 | 20.  | Zon Perindustrian Bebas Hulu Klang, Selangor            | Ampang Jaya Municipal Council                  | 1978 |
| 10.  | FIZ Batu Berendam, Melaka                       | Melaka Historic City Council        |      | 21.  | Zon Perindustrian Bebas Sungai Way, Selangor            | Petaling Jaya Municipal Council                | 1972 |
| 11.  | FIZ Batu Berendam, Melaka                       | Melaka Historic City Council        | 1973 |      |                                                         |                                                |      |

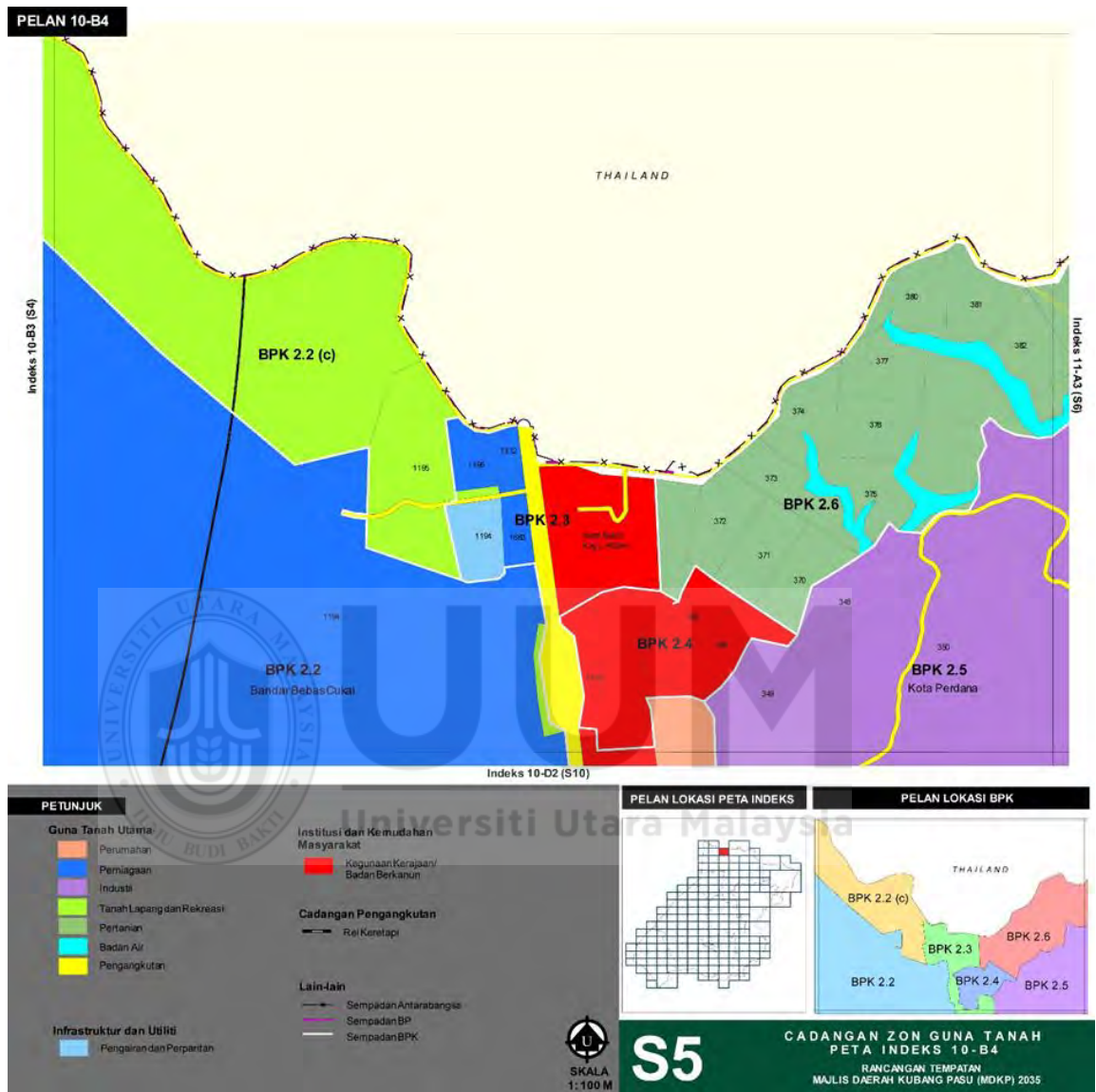
## Appendix B

### List of Free Commercial Zone

| Name                                            | Authority                           | Year | Name                                   | Authority                          | Year |
|-------------------------------------------------|-------------------------------------|------|----------------------------------------|------------------------------------|------|
| Duty Free Zone Stulang Laut, Johor*             | Johor Bharu City Council            | 1997 | FCZ Kompleks Kargo MAS, Penang         | Malaysia Airports Holdings Berhad  | 1996 |
| Pasir Gudang Port, Johor                        | Johor Port Berhad                   | 1984 | FCZ Kompleks Kargo Udara Kedua, Penang | Malaysia Airports Holdings Berhad  | 2000 |
| Tanjung Pelepas Port, Johor (Phase I)           | Pelabuhan Tanjung Pelepas Sdn. Bhd. | 1999 | Klang North Port, Selangor             | Port Klang Authority               | 1993 |
| Johor Port, Pasir Gudang, Johor (Terminal 2)    | Johor Port Berhad                   | 2018 | Klang West Port, Selangor              | Port Klang Authority               | 1996 |
| Tanjung Langsat Port, Johor                     | Johor Corporation                   | 2018 | Klang South Port, Selangor             | Port Klang Authority               | 2004 |
| Duty Free Zone Bukit Kayu Hitam, Kedah*         | Majlis Daerah Kubang Pasu           | 1996 | Port Klang Free Zone, Selangor         | Port Klang Free Zone               | 2005 |
| Free Zone Bukit Kayu Hitam, Kedah               | Majlis Daerah Kubang Pasu           | 1996 | MILS Logistic Hub, Selangor            | Meriah Selalu Sdn. Bhd.            | 2007 |
| Duty Free Zone Cukai Pengkalan Kubor, Kelantan* | Majlis Daerah Tumpat                | 1991 | Tasik Kenyir, Terengganu               | Lembaga Kemajuan Terengganu Tengah | 2017 |
| Free Zone Rantau Panjang, Kelantan*             | Majlis Daerah Pasir Mas             | 2002 | Kuantan Port, Pahang                   | Kuantan Port Authority             | 1975 |
| Kuala Lumpur International Airport, Selangor    | Malaysia Airports Holdings Berhad   | 1998 | Pulau Layang-Layang, Sabah             | Nil                                | 1979 |
| FCZ Dermaga Air Dalam, Penang                   | Suruhanjaya Pelabuhan Pulau Pinang  | 1996 |                                        |                                    |      |

## Appendix C

### Example of Detailed Zoning Plan for Kubang Pasu Local Plan



## Appendix D

### Example of Land Use Classes Order for Kubang Pasu Local Plan

DRAF RANCANGAN TEMPATAN MAJLIS DAERAH KUBANG PASU, KEDAH 2015 | 8-18

JADUAL KELAS KEGUNAAN TANAH PETA INDEKS 10-84, S5 –BPK 2.2, BPK 2.2(c), BPK 2.3, BPK 2.4, BPK 2.5, BPK 2.6

| KOLUM I                     | KOLUM II                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | KOLUM III                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                     | KOLUM IV                                                      | KOLUM V                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| JENIS GUNA TANAH            | AKTIVITI YANG DIBENARKAN                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | AKTIVITI LAIN YANG DIBENARKAN DENGAN SYARAT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | SYARAT                                                                                              | AKTIVITI YANG TIDAK DIBENARKAN                                | LAIN-LAIN SYARAT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PERNIAGAAN DAN PERKHIDMATAN | <b>A1: PERKEDAIAN</b><br><b>A2: KOMPLEKS PERNIAGAAN</b><br><b>A3: INSTITUSI SWASTA (BERMOTIF KEMUNGKATAN)</b><br><b>A4: PUSAT REKREASI DAN HIBURAN KELUARGA</b><br><b>A5: BANGUNAN PENGINAPAN</b><br><b>A6: PUSAT KEWANGAN</b><br><b>A7: PASAR</b><br><b>A8: MAKANAN DAN MINUMAN</b><br><b>A9: STESAN MINYAK</b><br><b>A10: PERKEDAIAN BERORIENTASIKAN PELANGGONGAN</b><br><b>A11: PEMBANGUNAN BERCAMPUR</b><br><br><b>AKTIVITI SEDIA ADA</b><br>Aktiviti yang telah disediakan sebelum penerbitan RT dan telah mendapat kelulusan Pihak Berkuasa Negara. | <b>PERUMAHAN</b><br><b>C3: PERUMAHAN BERDENSI Sederhana TINGGI</b><br><b>C4: PERUMAHAN BERDENSI TINGGI</b><br><b>C5: PEMBANGUNAN BERCAMPUR PERUMAHAN</b><br><br><b>INSTITUSI DAN KEMUDAHAN MASYARAKAT</b><br><b>D1: PENDIDIKAN</b><br><b>D2: KESEHATAN</b><br><b>D3: KEGAMAAN</b><br><b>D5: KESELAMATAN</b><br><b>D6: RUMAH KEBAJIKAN</b><br><b>D7: KEMUDAHAN MASYARAKAT</b><br><b>D8: KEGUNAAN KERAJAAN</b><br><b>D9: INSTITUSI SWASTA (BERMOTIF SOSIAL)</b><br><br><b>PENGANGKUTAN</b><br><b>E1: PENGANGKUTAN DARAT</b><br><b>E4: JALAN</b><br><br><b>INFRASTRUKTUR DAN UTILITI</b><br><b>F1: BEKALAN ELEKTRIK</b><br><b>F2: BEKALAN GAS</b><br><b>F3: BEKALAN AIR</b><br><b>F4: PENGALIRAN DAN SALURAN</b><br><b>F5: TELEKOMUNIKASI</b><br><b>F6: PEMBETUNGAN</b><br><br><b>TANAH LAPANG DAN REKREASI</b><br><b>G1: TANAH LAPANG</b> | 1. Mengikut keputusan Pihak berkuasa perancangan yang ditetapkan dan tertakluk kepada keputusannya. | <b>SELAIN AKTIVITI YANG DINYATAKAN DI KOLUM I, II DAN III</b> | 1. Kelengkapan bangunan (ketinggian maksimum): <b>30 Tingkat</b><br>2. Nisbah Plot : 1:56 (bergantung kepada keluasan maksimum)<br>3. Kawasan hijau<br>i. <1 ekar = 80%<br>ii. >1 ekar = 60%<br>4. Semua pemajuan perlu mematuhi garis panduan dan piawaian yang ditetapkan oleh MBKP.<br>5. Sebarang aktiviti yang bercanggah dengan Kolum I, II dan III perlu mendapat kelulusan khas daripada Pihak Berkuasa Negara.<br>6. Menggantikan pengiraan sumber tenaga boleh diperbaharui dalam pembangunan.         |
| PERINDUSTRIAN               | <b>B1: PERINDUSTRIAN RINGAN</b><br><b>B2: PERINDUSTRIAN SEDERHANA</b><br><b>B3: PERINDUSTRIAN BERAT</b><br><b>B5: PERINDUSTRIAN KHAS (TEKNOLOGI TINGGI)</b><br><br><b>AKTIVITI SEDIA ADA</b><br>Aktiviti yang telah disediakan sebelum penerbitan RT dan telah mendapat kelulusan Pihak Berkuasa Negara.                                                                                                                                                                                                                                                  | <b>PERNIAGAAN DAN PERKHIDMATAN</b><br><b>A1: PERKEDAIAN</b><br><b>A6: PUSAT KEWANGAN</b><br><b>A8: MAKANAN DAN MINUMAN</b><br><b>A9: STESAN MINYAK</b><br><br><b>PENGANGKUTAN</b><br><b>E1: PENGANGKUTAN DARAT</b><br><b>E4: JALAN</b><br><br><b>INFRASTRUKTUR DAN UTILITI</b><br><b>F1: BEKALAN ELEKTRIK</b><br><b>F2: BEKALAN GAS</b><br><b>F3: BEKALAN AIR</b><br><b>F4: PENGALIRAN DAN SALURAN</b><br><b>F5: TELEKOMUNIKASI</b><br><b>F6: PEMBETUNGAN</b><br><br><b>TANAH LAPANG DAN REKREASI</b><br><b>G1: TANAH LAPANG</b>                                                                                                                                                                                                                                                                                                        | 1. Mengikut keputusan Pihak berkuasa perancangan yang ditetapkan dan tertakluk kepada keputusannya. | <b>SELAIN AKTIVITI YANG DINYATAKAN DI KOLUM I, II DAN III</b> | 1. Kelengkapan bangunan (ketinggian maksimum): <b>5 Tingkat</b><br>2. Semua pemajuan perlu mematuhi garis panduan dan piawaian yang ditetapkan oleh MBKP.<br>3. Kawasan hijau<br>i. <1 ekar = 80%<br>ii. >1 ekar = 60%<br>4. Keperluan zon penempatan perlu disediakan dalam lot pemohon.<br>5. Sebarang aktiviti yang bercanggah dengan Kolum I, II dan III perlu mendapat kelulusan khas daripada Pihak Berkuasa Negara.<br>6. Menggantikan pengiraan sumber tenaga yang boleh diperbaharui dalam pembangunan. |

## Appendix E

### Interview Protocol



Ghazali Shafie Graduate School of Government (GSGSG)  
UUM College of Laws, Governments and International Studies  
Universiti Utara Malaysia

Tajuk Kajian

*Research Topic:*

**Rangka Kerja Kawal Selia dan Undang-Undang Perancangan Guna Tanah  
Bagi Zon Ekonomi Sempadan Khas (SBEZ) di Malaysia**

***Land Use Planning Legal and Regulatory Framework of  
The Special Border Economic Zone (SBEZ) in Malaysia***

- 1) Protokol Temu Bual ini mengandungi lima (5) muka surat termasuk muka hadapan.  
*This interview protocol contains five (5) pages, including the front page.*
- 2) Temu bual ini bertujuan untuk mengumpul data bagi menyiapkan proses tesis Phd dalam bidang Undang-undang berkaitan dengan rangka kerja perancangan guna tanah di bawah Akta Perancang Bandar dan Desa 1976 (Akta 172) dan Kanun Tanah Negara 1965 bagi pembangunan kawasan Zon Ekonomi Sempadan Khas (SBEZ). Bersama ini disertakan ringkasan mengenai tajuk kajian untuk rujukan anda  
*The purpose of this interview is to collect data in completing the thesis for PhD in Law regarding the topic of land use planning legal and regulatory framework under the Town and Country Planning Act 1976 (Act 172) and National Land Code 1965 for the development of the Special Border Economic Zone. Attached herewith is the summary of the research for your reference.*
- 3) Soalan-soalan yang akan diajukan adalah berkisar dengan perancangan guna tanah, dan pembangunan Zon Ekonomi Bebas.  
*The questions that will be asked will involve within the scope of land use planning and the Special Economic Zones (SEZs) development*
- 4) Jika terdapat sebarang pertanyaan mengenai kajian ini, sila hubungi:  
*If you have any further inquiries on this research, kindly contact:*  
Muhammad Fadhlullah Bin Najimudin, 010-4018801, fadhlullah.najimudin@gmail.com

Perincian Penemu bual:  
*Interviewer detail:*

|                     |                                                                                                                                                                   |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nama/Name           | : Muhammad Fadhlullah Najimudin                                                                                                                                   |
| Matric              | : 904214                                                                                                                                                          |
| Jawatan/Designation | : 1. Calon PhD/ PhD Candidate<br>School of Law UUM<br>2. Felo, Jabatan Perancangan Bandar & Wilayah UTM/<br>Fellow, Department of Urban and Regional Planning UTM |

**TEMU BUAL SEMI-STRUKTUR**  
**SEMI STRUCTURED INTERVIEW**  
\_\_\_\_\_  
**CODE**  
\_\_\_\_\_

Agensi/Agency : \_\_\_\_\_  
Jabatan/Department : \_\_\_\_\_

**A. Maklumat Asas/ Basic Particulars**

**Informan/ Informant**

Nama/ Name : \_\_\_\_\_  
Jawatan/ Position : \_\_\_\_\_  
Umur/ Age : \_\_\_\_\_  
Jantina/ Gender : \_\_\_\_\_  
Tahap Pendidikan/  
Level of Education : \_\_\_\_\_  
Pengalaman Kerja/  
Working Experience : \_\_\_\_\_

**Ringkasan Eksekutif**

**Executive Summary**

Zon Ekonomi Khas (SEZ) adalah antara mekanisma yang digunakan oleh pembuat dasar untuk menarik Pelaburan Langsung Asing (FDI). Malaysia, salah satu negara membangun di Asia Tenggara, telah secara efektif membuka ekonominya untuk menghadapi cabaran dan peluang global baru dengan memperkenalkan SEZ (juga dikenal sebagai Zon Perdagangan Bebas) pada tahun 1970-an. Penubuhan FTZ ini adalah dibawah Akta Zon Perdagangan Bebas 1971 (Akta 438). Pembangunan SEZ di Malaysia telah mengalami perubahan yang luar biasa hingga hari ini. Di Malaysia sendiri, SEZ tidak hanya menumpukan pada kawasan eksklusif yang dikhaskan sahaja, namun pada tahun 2005, Kerajaan Malaysia telah mewujudkan lima Koridor Wilayah Ekonomi untuk mengatasi jurang perbezaan antara bandar dan luar-bandar di negara ini. Koridor Wilayah Ekonomi ini telah memperkenalkan cetakan biru (blueprint) mereka, di mana beberapa kawasan pembangunan telah dikenalpasti.

Walaubagaimanapun, terdapat terdapat pelbagai reaksi di peringkat global terhadap keberhasilan pelaksanaan SEZ dengan beberapa kegagalan dari sudut operasi, terutama dari perspektif kerangka undang-undang. Disamping itu, pembangunan SEZ di seluruh dunia turut dikenalpasti menghadapi beberapa masalah berkaitan dengan pengurusan tanah, termasuk ketidakcekapan kawalan pembangunan dan tadbir-urus yang bermasalah dalam perspektif perundangan dan peraturan. Oleh yang demikian, memahami amalan terbaik SEZ di seluruh dunia serta kajian undang-undang dan rangka kerja perancangan guna tanah SEZ tempatan adalah penting untuk meningkatkan prestasi dan tadbir-urus pembangunan SEZ semasa dan masa depan di Malaysia.

*Special Economic Zones (SEZs) is a known mechanism that policymakers commonly use to attract Foreign Direct Investment (FDI). Malaysia, one of the developing countries in Southeast Asia, has effectively opened up its economy to meet new global challenges and opportunities with SEZs' introduction (also known as Free Trade Zone) in 1970s. The establishment of this FTZ was governed by the Free Trade Zone Act 1971 (Act 438). SEZs development in Malaysia has undergone tremendous changes until today. In Malaysia itself, the SEZs not only focus on a dedicated or demarcated exclusive area, but in 2005, the government presented five Regional Economic Corridor to address the rural-urban disparities within the country. These Regional Economic Corridors have introduced their blueprint, which has identified several SEZs as part of their growth nodes.*

*However, there is a global mixed reaction towards its successful implementation with a few operational failures, especially from the legal framework perspective. More often, SEZs development worldwide encounters several identical issues related to land management matters, including the inefficiencies of development control and problematic governance in the perspective of legal and regulation. Therefore, understanding SEZs' best practices worldwide and a review of the land use planning law and regulation of local SEZs is essential to improve the current SEZs' and future development in Malaysia.*

Senarai Soalan:

*List of Questions:*

**Rancangan Pemajuan**

**Development Plan**

- 1) Apakah realiti yang berlaku dalam pelaksanaan Rancangan Pemajuan sedia-ada?  
*What are the realities of the current implementation of the Development Plan?*
- 2) Apakah kekuatan yang ada pada Rancangan Pemajuan sedia-ada?  
*What are the strengths of the current DP?*
- 3) Apakah kelemahan yang ada pada Rancangan Pemajuan sedia-ada?  
*What are the weaknesses of the current DP?*
- 4) Apakah potensi yang ada didalam Rancangan Pemajuan yang boleh diperluaskan lagi? Kenapa perkara tersebut berpotensi?  
*What are the potential areas in the Development Plan which need to be expanded? Why are that potentials?*
- 5) Apakah limitasi, isu dan masalah yang wujud dalam Rancangan Pemajuan sedia-ada? Mengapakah perkara tersebut berlaku dan bagaimanakah cara untuk mengatasi masalah tersebut?  
*What are the limitations, issues, and problems of the current Development Plan? Why the problems happened, and how to overcome them?*
- 6) Terdapat kes-kes yang telah diputuskan oleh Mahkamah menunjukkan bahawa Rancangan Pemajuan tidak wajib untuk dituruti dalam memberi kelulusan kebenaran merancang seperti di dalam kes *Majlis Perbandaran Pulau Pinang v Syarikat Bekerjasama-Sama Serbaguna Sungai Gelugor Dengan Tanggungan* [1999] 3 MLJ 1 (Mahkamah Rayuan, Putrajaya), *Sunway City (Penang) Sdn Bhd v Lembaga Rayuan Negeri Pulau Pinang & Ors and other appeals* [2017] MLJU 755 (High Court of Malaya at Penang), dan kes terbaru *Perbadanan Pengurusan Trellises & Ors v Datuk Bandar Kuala Lumpur & Ors* [2021] 2 CLJ 808 (Mahkamah Rayuan, Putrajaya). Mengapakah perkara sedemikian berlaku dan apa pandangan tuan?  
*Legal cases show that DP may not be mandatory, for examples Majlis Perbandaran Pulau Pinang v Syarikat Bekerjasama-Sama Serbaguna Sungai Gelugor Dengan Tanggungan* [1999] 3 MLJ 1 (Court of Appeal Putrajaya), *Sunway City (Penang) Sdn Bhd v Lembaga Rayuan Negeri Pulau Pinang & Ors and other appeals* [2017] MLJU 755 (High Court of Malaya at Penang) and the latest case *Perbadanan Pengurusan Trellises & Ors v Datuk Bandar Kuala Lumpur & Ors* [2021] 2 CLJ 808 (Court of Appeal at Putrajaya). Why that matter happened and what is your opinion?
- 7) Sekiranya berlaku kecuai dan ketidakpatuhan kepada undang-undang yang dilakukan oleh pihak berkuasa perancang tempatan (PBPT) yang secara tidak langsung boleh memberi kesan terhadap pihak berkepentingan, adakah PBPT tersebut boleh dikenakan tindakan undang-undang? Mengapa perkara tersebut berlaku?  
*Suppose the local planning authority and planning authority are negligent and fail to follow the law to the detriment of the development stakeholders and customers. Will they be subject to legal action and liable? Why did that matter happen?*
- 8) Adakah input dan komen daripada Agensi Teknikal (JKR, JAS, JPS, JMGS, dll) serta konsultan terlibat cukup komprehensif dalam menyediakan Rancangan Pemajuan yang holistik dan mampan?  
*Are the inputs and comments of the technical agencies (JKR, JAS, JPS, JMGS, etc) and consultants comprehensive in providing a holistic and sustainable DP? If not why? Provide examples of the inadequacy elements of the DP.*

- 9) Apakah ciri-ciri dan kriteria baik yang perlu ada didalam Rancangan Pemajuan bagi pembangunan Zon Ekonomi Bebas (SEZ) dan Zone Ekonomi Sempadan Khas (SBEZ) di Malaysia? Adakah Rancangan Pemajuan sedia-ada mencukupi bagi menyediakan infrastruktur dan logistik untuk menyokong dan memacu pembangunan SEZ dan SBEZ?  
*What are characteristics and features of the Development Plan that are good for development of the SBEZ and SBEZs in Malaysia? Have the current Development Plan adequate to provide the necessary logistics and infrastructure to support and spur the development of SBEZ and SEZs?*
- 10) Adakah prosesewartakan Rancangan Pemajuan mengambil proses yang agak lama? Dimanakah proses yang paling lama? Apakah kaedah terbaik bagi mempercepatkan proses kelulusan Rancangan Pemajuan?  
*Does the process of gazetting the Development Plan take a relatively long process? Where is the longest process? What is the best method to speed up the Development Plan approval process?*
- 11) Sejauh manakah penglibatan orang ramai dalam proses pendengaran awam bagi Deraf Rancangan Pemajuan yang telah dibuat?  
*To what extent the involvement of the stakeholders in the public hearing process for the Draft Development Plan that has been conducted?*
- 12) Adakah terdapat sebarang bantahan awam terhadap pembangunan secara berskala-besar di kawasan SBEZ Bukit Kayu Hitam?  
*Are there any public objections to the large-scale development SBEZ development in Bukit Kayu Hitam SBEZ area?*
- 13) Sekiranya terdapat rancangan pembangunan di SBEZ tidak mengikut Rancangan Tempatan (contoh dari segi kelas kegunaan tanah, plot ratio) adakah pihak PBPT akan memberikan kebenaran merancang? Adakah ianya perlu kepada perubahan 'zoning' didalam Rancangan Tempatan? Atau adakah terdapat pengecualian dengan memberikan kebenaran merancang terlebih dahulu berdasarkan justifikasi ianya akan melibatkan pembangunan ekonomi?  
*If there is a proposed development in SBEZ not in accordance with the Local Plan (for example in terms of land use class, plot ratio), will the Local Planning Authority give planning permission? Is it necessary to amend the zoning the Local Plan? Or is there an exception by giving planning permission in advance based on the justification that it will involve economic development?*
- 14) Berdasarkan kajian yang dibuat, antara faktor-faktor kejayaan sesebuah SEZ adalah berdasarkan lokasi strategik, pakej yang ditawarkan, kestabilan ekonomi dan politik, prasarana yang lengkap, sumber manusia, dan juga kurang kerenah birokrasi. Dalam konteks ini, bagaimanakah proses sediada dari segi rancangan pemajuan dan juga kawalan perancangan dapat membantu bagi menjayakan SBEZ berdasarkan ciri-ciri yang dinyatakan diatas?  
*Based on the study, among the success factors of an SEZ are based on a strategic location, packages offered, economic and political stability, complete infrastructure, human resources, and less bureaucracy process. In this context, how can the existing process in terms of development plans and planning control can help to make SBEZ a success based on the characteristics mentioned above?*

#### **Kawalan Perancangan**

##### **Planning Control**

- 15) Di dalam Akta 172, seksyen 18(1) memperuntukkan kebenaran menggunakan tanah atau bangunan melainkan menurut rancangan tempatan. Adakah klausa ini terlalu 'rigid' dan tidak memberi fleksibiliti kepada PBPT untuk melaksanakan kawalan perancangan atau sebaliknya?



*Section 18 (1) Act 172 prescribes for permission to use land or buildings except in accordance with local plans. Is this clause too 'rigid' and does not give flexibility to PBPT to implement planning control or vice versa?*

- 16) Adakah terdapat proses yang berbeza (*fast lane*) untuk pembangunan di SBEZ (contoh: tempoh yang singkat)?  
*Is there a different process (fast lane) for development in SBEZ (example: short period)?*
- 17) Sepanjang proses kebenaran merancang, agensi teknikal berperanan untuk memberi komen terhadap kebenaran merancang yang dihantar. Dari sudut bagaimanakah komen-komen tersebut diberikan? Adakah terdapat kes-kes dimana komen yang diberikan oleh agensi teknikal tidak lengkap dan telah menyebabkan berlaku masalah terhadap pembangunan yang telah dijalankan?  
*Throughout the planning permission process, the technical agency has a role to comment on the planning permission submitted. From what angle are these comments given? Are there cases where the comments provided by the technical agency are incomplete and have caused problems to the development that has been carried out?*
- 18) Adakah terdapat agensi teknikal yang berbeza terlibat dalam memproses kebenaran merancang untuk pembangunan SBEZ?  
*Are there different technical agencies involved in planning permission process for SBEZ development?*
- 19) Seksyen 21A memperuntukkan keperluan untuk mengemukakan Laporan Cadangan Pembangunan (LCP) bagi kebenaran merancang. Adakah terdapat pengecualian mengemukakan LCP bagi kebenaran merancang? Adakah terdapat pengecualian LCP bagi bagi mempercepat dan mempermudah proses kelulusan kebenaran merancang di SBEZ?  
*Section 21A prescribes to submit a Development Proposal Report (LCP) for planning permission. Is there any exception to submitting an LCP for planning permission? Are there any LCP exemptions to speed up and simplify the planning permission approval process in SBEZ?*
- 20) Adakah MPKP menggunakan Garis Panduan (GP) yang disediakan oleh PlanMalaysia atau mempunyai Garis Panduan lain? Adakah terdapat pengecualian atau pertimbangan bagi penggunaan GP terutamanya bagi pembangunan di SBEZ?  
*Does MPKP use the Guidelines (GP) provided by PlanMalaysia or have other Guidelines? Are there any exceptions or considerations for the use of GP especially for development in SBEZ?*
- 21) Adakah terdapat kes-kes dibawah MPKP yang dibawa ke Lembaga Rayuan? Adakah Lembaga Rayuan Kedah banyak mengendalikan kes-kes melibatkan penolakan kebenaran merancang?  
*Are there any cases under MPKP that are brought to the Appeal Board? Does the Kedah Appeal Board handle many cases involving rejection of planning permission?*
- 22) Bagaimanakah cara untuk semua peruntukan-peruntukan dan kaedah-kaedah yang sedia ada dapat menyokong dan memudahkan pembangunan dan kelestarian SEZ dan SBEZ?  
*How to make all these facilitative and supportive to the development and sustainability of SBEZs and SEZs?*
- 23) Apakah pandangan terhadap keperluan bagi mewujudkan satu 'database/big data' dan inventory bagi setiap daerah di Malaysia. Keperluan bagi agensi teknikal untuk menyediakan dan mengemaskini data-data secara berkala mengikut portfolio bidang kuasa masing-masing (JKR, JAS, JMG, JPS dll), supaya data-data tersebut dapat memberi gambaran senario semasa, isu dan cabaran yang dihadapi di samping akan menjadi aspek untuk menyokong pembangunan SEZ dan SBEZ di Malaysia.  
*Big data and inventory for each district in Malaysia. The duty of the technical agencies to provide and update regularly according to respective jurisdiction portfolios (JMGS, JKR, JAS, JPS etc.), so that the big data and inventory are commensurate with the current scenario, issues and challenges as well as can be supportive to the development and sustainability of the SBEZs and SEZs. What is your opinion?*

**Tamat/End**



Ghazali Shafie Graduate School of Government (GSGSG)  
UUM College of Laws, Governments and International Studies  
Universiti Utara Malaysia

Tajuk Kajian

*Research Topic:*

**Rangka Kerja Kawal Selia dan Undang-Undang Perancangan Guna Tanah  
Bagi Zon Ekonomi Sempadan Khas (SBEZ) di Malaysia**

***Land Use Planning Legal and Regulatory Framework of  
The Special Border Economic Zone (SBEZ) in Malaysia***

- 5) Protokol Temu Bual ini mengandungi lima (5) muka surat termasuk muka hadapan.  
*This interview protocol contains five (5) pages, including the front page.*
- 6) Temu bual ini bertujuan untuk mengumpul data bagi menyiapkan proses tesis Phd dalam bidang Undang-undang berkaitan dengan rangka kerja perancangan guna tanah di bawah Akta Perancang Bandar dan Desa 1976 (Akta 172) dan Kanun Tanah Negara 1965 bagi pembangunan kawasan Zon Ekonomi Sempadan Khas (SBEZ). Bersama ini disertakan ringkasan mengenai tajuk kajian untuk rujukan anda  
*The purpose of this interview is to collect data in completing the thesis for PhD in Law regarding the topic of land use planning legal and regulatory framework under the Town and Country Planning Act 1976 (Act 172) and National Land Code 1965 for the development of the Special Border Economic Zone. Attached herewith is the summary of the research for your reference.*
- 7) Soalan-soalan yang akan diajukan adalah berkisar dengan perancangan guna tanah, dan pembangunan Zon Ekonomi Bebas.  
*The questions that will be asked will involve within the scope of land use planning and the Special Economic Zones (SEZs) development*
- 8) Jika terdapat sebarang pertanyaan mengenaikajian ini, sila hubungi:  
*If you have any further inquiries on this research, kindly contact:*  
Muhammad Fadhlullah Bin Najimudin, 010-4018801, fadhlullah.najimudin@gmail.com

Perincian Penemu bual:

*Interviewer detail:*

|                     |                                                                                                                                                                   |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nama/Name           | : Muhammad Fadhlullah Najimudin                                                                                                                                   |
| Matric              | : 904214                                                                                                                                                          |
| Jawatan/Designation | : 1. Calon PhD/ PhD Candidate<br>School of Law UUM<br>2. Felo, Jabatan Perancangan Bandar & Wilayah UTM/<br>Fellow, Department of Urban and Regional Planning UTM |

## TEMU BUAL SEMI-STRUKTUR / SEMI STRUCTURED INTERVIEW

CODE

Agensi/Agency : \_\_\_\_\_

Jabatan/Department : \_\_\_\_\_

### B. Maklumat Asas/ Basic Particulars

#### Informan/ Informant

Nama/ Name : \_\_\_\_\_

Jawatan/ Position : \_\_\_\_\_

Umur/ Age : \_\_\_\_\_

Jantina/ Gender : \_\_\_\_\_

Tahap Pendidikan/

Level of Education : \_\_\_\_\_

Pengalaman Kerja/

Working Experience : \_\_\_\_\_

#### Ringkasan Eksekutif

##### Executive Summary

Zon Ekonomi Khas (SEZ) adalah antara mekanisma yang digunakan oleh pembuat dasar untuk menarik Pelaburan Langsung Asing (FDI). Malaysia, salah satu negara membangun di Asia Tenggara, telah secara efektif membuka ekonominya untuk menghadapi cabaran dan peluang global baru dengan memperkenalkan SEZ (juga dikenal sebagai Zon Perdagangan Bebas) pada tahun 1970-an. Penubuhan FTZ ini adalah dibawah Akta Zon Perdagangan Bebas 1971 (Akta 438). Pembangunan SEZ di Malaysia telah mengalami perubahan yang luar biasa hingga hari ini. Di Malaysia sendiri, SEZ tidak hanya menumpukan pada kawasan eksklusif yang dikhaskan sahaja, namun pada tahun 2005, Kerajaan Malaysia telah mewujudkan lima Koridor Wilayah Ekonomi untuk mengatasi jurang perbezaan antara bandar dan luar-bandar di negara ini. Koridor Wilayah Ekonomi ini telah memperkenalkan cetakan biru (blueprint) mereka, di mana beberapa kawasan pembangunan telah dikenalpasti.

Walaubagaimanapun, terdapat terdapat pelbagai reaksi di peringkat global terhadap keberhasilan pelaksanaan SEZ dengan beberapa kegagalan dari sudut operasi, terutama dari perspektif kerangka undang-undang. Disamping itu, pembangunan SEZ di seluruh dunia turut dikenalpasti menghadapi beberapa masalah berkaitan dengan pengurusan tanah, termasuk ketidakcekapan kawalan pembangunan dan tadbir-urus yang bermasalah dalam perspektif perundangan dan peraturan. Oleh yang demikian, memahami amalan terbaik SEZ di seluruh dunia serta kajian undang-undang dan rangka kerja perancangan guna tanah SEZ tempatan adalah penting untuk meningkatkan prestasi dan tadbir-urus pembangunan SEZ semasa dan masa depan di Malaysia.

*Special Economic Zones (SEZs) is a known mechanism that policymakers commonly use to attract Foreign Direct Investment (FDI). Malaysia, one of the developing countries in Southeast Asia, has effectively opened up its economy to meet new global challenges and opportunities with SEZs' introduction (also known as Free Trade Zone) in 1970s. The establishment of this FTZ was governed by the Free Trade Zone Act 1971 (Act 438). SEZs development in Malaysia has undergone tremendous changes until today. In Malaysia itself, the SEZs not only focus on a dedicated or demarcated exclusive area, but in 2005, the government presented five Regional Economic Corridor to address the rural-urban disparities within the country. These Regional Economic Corridors have introduced their blueprint, which has identified several SEZs as part of their growth nodes.*

*However, there is a global mixed reaction towards its successful implementation with a few operational failures, especially from the legal framework perspective. More often, SEZs development worldwide encounters several identical issues related to land management matters, including the inefficiencies of development control and problematic governance in the perspective of legal and regulation. Therefore, understanding SEZs' best practices worldwide and a review of the land use planning law and regulation of local SEZs is essential to improve the current SEZs' and future development in Malaysia.*

Senarai Soalan:

*List of Questions:*

- 1) Boleh terangkan sedikit sebanyak apakah perbezaan had kuasa Pejabat Tanah dan Galian (“PTG”) dan Pejabat Tanah Daerah (“PTD”) dalam pembangunan tanah di Kedah?
- 2) Bolehkah terangkan sedikit sebanyak berkenaan dengan proses pembangunan tanah di Kedah? Apakah proses-proses yang terlibat dalam pembangunan tanah di Kedah?
- 3) Adakah terdapat proses pembangunan tanah yang tidak melibatkan keperluan untuk membuat permohonan kebenaran merancang kepada Pihak Berkuasa Tempatan dan boleh terus kepada pihak PTG/PTD?
- 4) Berdasarkan Seksyen 43, Kanun Tanah Negara, Pihak Berkuasa Negeri (“PBN”) dibenarkan untuk membuat pelupusan tanah melalui pemberimilikan kepada perbadanan yang mempunyai kuasa di bawah perlembagaan masing-masing untuk memegang hak milik tanah seperti syarikat, badan berkanun dan koperasi. Dalam konteks ini, sekiranya pemberimilikan dilakukan, adakah terdapat syarat-syarat yang akan dikenakan terhadap penerima tersebut?
- 5) PBN di beri kuasa untuk melaksanakan proses berimilik tanah kepada sesiapa sahaja tertakluk kepada KTN. Apa pandangan Tuan/Puan berkenaan dengan pemberian tanah kepada agensi Kerajaan Pusat dalam usaha untuk menaik taraf ekonomi dan infrastruktur negeri? Adakah pemberian tanah tersebut akan dapat memacu perancangan guna tanah di kawasan tersebut?
- 6) Bolehkah terangkan prosedur bagi proses berimilik tanah dan berapa lamakah masa yang diambil untuk melengkapkan proses tersebut? Adakah sebarang projek pembangunan tanah (termasuk permohonan kebenaran merancang) boleh dilakukan sekiranya proses pemberimilikan tanah masih belum selesai?
- 7) Apakah mekanisma yang digunakan bagi mengawal aktiviti guna tanah pembangunan dibawah selian PTG/PTD?
- 8) Sebagai contoh, sekiranya pembangunan Special Border Economic Zone (“SBEZ”) Bukit Kayu Hitam ada melibatkan pengambilan tanah memandangkan tanah sedia-ada yang diberimilik oleh Kerajaan Negeri tidak mencukupi, adakah pampasan bagi pengambilan tanah tersebut akan dibayar oleh penerima milikan tanah tersebut (contohnya PKNK) atau akan dibayar oleh Kerajaan Negeri?
- 9) Terdapat hasil dapatan kajian menjelaskan bahawa proses-proses pembangunan yang memerlukan kepada kelulusan daripada PTG/PTD mengambil proses yang agak lama. Boleh tuan berikan pandangan dan penjelasan berkenaan faktor-faktor berikut (dikenalpasti berdasarkan kajian yang dibuat):

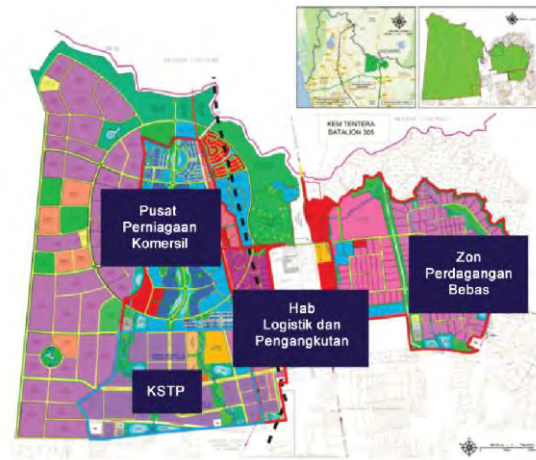
- Faktor Dalaman
    - Sumber Manusia
    - Peralatan dan Teknologi Maklumat
    - Sistem dan Proses Kerja
  - Faktor Luaran
    - Pemohon yang membuat permohonan tanah
    - Ulasan Jabatan Teknikal berkaitan permohonan tanah
    - Mesyuarat Jawatankuasa Tanah Daerah
- 10) Selain faktor-faktor seperti soalan di nombor 9, apakah cabaran utama lain yang dihadapi oleh Pejabat Tanah Galian/ Pejabat Tanah Daerah bagi perkara yang melibatkan pembangunan tanah di Kedah/ Kubang Pasu?
- 11) Apa pandangan Tuan berkenaan dengan perbezaan pemahaman kegunaan tanah di dalam Kanun Tanah Negara dan Zon Guna Tanah didalam Rancangan Tempatan? Sebagai contoh: (1) satu organisasi membuat permohonan tanah untuk tujuan perumahan tetapi zon guna tanah RT adalah untuk pertanian atau; (2) tanah yang dipohon adalah untuk tujuan perumahan tetapi zon guna tanah dalam RT adalah untuk kegunaan awam ataupun rezab. Adakah RT itu sendiri meminimalkan syarat nyata pada hakmilik? Bagaimanakah cara untuk mengharmonikan kedua-dua perbezaan tersebut?
- 12) Sekiranya pemilik membuat permohonan tukar syarat kategori guna tanah, adakah Rancangan Tempatan akan dijadikan rujukan? Adakah kategori guna tanah didalam geran boleh dibuat walaupun bertentangan dengan Rancangan Tempatan atau Rancangan Struktur?
- 13) Adakah pewartaan tanah atau kawasan bagi Zon Bebas di bawah Akta Kastam 1967 dan Akta Zon Bebas 1990 melibatkan proses di PTG atau PTD?
- 14) SBEZ Bukit Kayu Hitam mempunyai pelbagai jenis komponen pembangunan; Industri, Komersil, Perumahan, Institusi, Tanah Lapang dan lain-lain lagi. Berdasarkan KTN, kategori guna tanah dipecahkan kepada tiga (3): Pertanian, Bangunan, dan Industri. Sekiranya pemohon menghantar pelan induk berskala besar bagi pembangunan bercampur yang melibatkan jenis-jenis kegunaan tanah yang berbeza, bagaimanakah prosedur bagi penukaran syarat tanah dilakukan? Contoh senario seperti dibawah:

Pemohon membuat permohonan untuk menghantar pelan induk bagi Pembangunan A yang melibatkan pembangunan bercampur (mixed use development) di atas satu lot tanah berkeluasan 5,000 ekar, dan jenis kegunaan tanah yang dibenarkan didalam geran tanah adalah Pertanian. Pelan induk berkenaan telah di zonkan (plot-plot besar) mengikut jenis pembangunan masing-masing seperti perumahan, komersil, industri dan sebagainya.

- Memandangkan permohonan yang dibuat hanyalah pelan induk, adakah terdapat keperluan untuk menukar syarat guna tanah terlebih dahulu sebelum

membuat permohonan Kebenaran Merancang atau ianya boleh melalui proses serentak di One Stop Center (OSC)?

- Adakah plot-plot besar (seperti Rajah 1) tersebut akan dipecah kepada geran masing-masing?



**Pelan Induk SBEZ Bukit Kayu Hitam**

- 15) Sekiranya tanah bagi pembangunan SBEZ adalah berstatus Rizab Melayu, adakah dibolehkan untuk pemaju atau pemilik membuat perjanjian pajakan dengan pihak pelabur bagi lot-lot yang telah disediakan?
- 16) Proses tukar syarat tanah akan melibatkan pembayaran premium oleh pihak Pemaju. Dalam usaha untuk meminimalkan kos-kos yang perlu dikeluarkan oleh pemilik tanah bagi pembangunan SBEZ, adakah terdapat pengecualian atau diskaun pembayaran premium bagi proses tukar syarat tersebut?
- 17) Kita dapat melihat bahawa banyak berlaku isu-isu contohnya penerokaan tanah, pembalakan dan perlombongan secara haram. Dalam konteks ini, bagaimanakah PTG/PTD memainkan peranan dalam mengawal isu-isu melibatkan penerokaan tanah secara haram ini?
- 18) PBN dalam masa yang sama turut boleh membenarkan kegiatan seperti pembalakan dan perlombongan untuk dijalankan. Apakah cara-cara atau kaedah yang dilakukan dalam memastikan aktiviti-aktiviti tersebut dapat dijalankan tanpa menjejaskan alam sekitar serta ekosistem kawasan yang terlibat?
- 19) Adakah terdapat sebarang konflik dari segi had atau punca kuasa di antara PTG/PTD dengan agensi-agensi lain yang berkaitan dalam membuat kawalan perancangan pembangunan tanah? Bolehkah tuan berikan contoh-contoh konflik yang berlaku?
- 20) Apakah mekanisma yang digunakan bagi memastikan proses pengurusan tanah berada pada tahap yang berkualiti, cekap, memenuhi kehendak pelanggan dan undang-undang? Adakah terdapat pensijilan MS ISO yang dilakukan dalam sistem pengurusan tanah?

## PUBLICATIONS

*Najimudin, M. F., Md Dahlan, N. H., & Md Nor, M. Z. (2023). Developing Special Economic Zones (Sezs) In Malaysia: A Land Use Planning Legal Perspective. Planning Malaysia, 21.*

*Najimudin, M. F.,Md Dahlan, N. H., & Md Nor, M. Z. (2020). Establishment of Bukit Kayu Hitam as a Special Border Economic Zone (SBEZ): Global lessons. Environment-Behaviour Proceedings Journal, 5(14), 221-226.*

