



Development Control System for Reclamation Development in Malacca

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Abstract

It is apparent that the weakness in coastal reclamation development in Malacca includes the incapability of the existing laws regarding guiding the delivery of development, and the lack of comprehensiveness of the present development plan causes the inefficiency of the planning procedures for development. This paper focuses on the power of planning authorities, related laws, as well as the development control instruments in relation with development within reclamation area. This study will directly contribute to the effectiveness of administration and development control system to assist Malacca towards a systematic and efficient way of planning and development for coastal reclamation.

Keywords: Planning Administration; Development Plan; Development Control; Coastal Reclamation

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1.0 Introduction

Coastal reclamation by means of expanding the boundary and widening the territory provides good opportunities to the small state or countries that are facing problems especially increasing in population and high demand for residential area (Win and Choa, 2004). Coastal reclamation is a method that is used to create a new landform ocean into a state which it can be useful for human benefits (Moore, Fox and Elliot, 2003). This shows that coastal reclamation is important especially to increase land supply and helps to provide a new land to fulfill the demand for human interest. This is because the land resources had become more limited (Nadzir, Ibrahim, and Mansor, 2014).

This paper focuses on coastal reclamation development process in Malacca. The study area is located within Tanjung Kling and Telok Mas and the reclamation development was concentrated along the coastal areas of the Straits of Malacca includes Pantai Klebang, Pekan Klebang, Taman Kota Laksamana, Pulau Melaka, Permatang Pasir Permai and Telok Mas. The study area was under the administration of Malacca Historical City Council (MBMB). MBMB is the only local authorities in Malacca that involved in coastal reclamation developments projects (Malacca Historical City Council, 2015). As consequences of rapid development and in line with the achievement of UNESCO World Heritage City, the city of Malacca is required to maintain this status as an obligation toward guideline set up by UNESCO. As one of the World Heritage City, the city of Malacca facing problems regarding rapid urban development. Thus, the city of Malacca unlike other cities in Malaysia is developed with low-rise building because most of the heritage buildings located in the town centre of Malacca. Due to this limitation and high demand for settlement, commercials and increase of population, city of Malacca seeks solutions regarding this matter (Malacca Town and Country Planning, 2015). It appears that the coastal reclamation is the most suitable solution for the time being.

The study evaluates the provisions of laws and policies that relates to planning administration and development control for coastal reclamation development. It examines the structure and function of planning authorities and the involvement of the stakeholders in developing the coastal reclamation area. The study also reviews on the provision of development plan system and development control process for coastal reclamation development. The outcome of this study expected to enhance the planning and development for coastal reclamation development in Malacca especially in the aspects of legal framework, administrative system, development plan and development control system.

2.0 Literature Review

Coastal reclamation is the process of creating a new vacant land from sea or riverbeds (Ning, Ming, Lee and Yin, 2010). The coastal reclamation development provides a good solution and well-managed in terms of physical, social and economic development in fulfilling human needs (Maryati, 2012). Furthermore, this type of development provides an

opportunity to expand the land for human benefits in a variety of purposes (Win and Choa, 2004). In Malacca, most of the reclamation projects is to develop residential and commercial or mix development (development for an industrial area is not allowed on reclaimed land in Malacca) (Malacca Economy Planning Unit, 2015). This action was to meet the demand for development and reduce population pressure. At the same time, it also can be one of the tools that can attract foreign investment to increase and strengthen the economy of Malacca and Malaysia.

Malaysia has an extensive laws and policies related to the land development as guidance. National Land Code (NLC) 1965, Town and Country Planning Act 1976 (Act 172) and Local Government Act 1976 (Act 171) is main legislation used in facilitating development in Malaysia. In planning aspects, National Land Code (NLC) 1965 helps in standardising the tenure systems and land matters in Malaysia, especially in Peninsular Malaysia. While, Act 171 outlines the form, organisational structure, duties and responsibilities of local government as whole especially responsibility in the affairs of the town and country planning. Act 172 plays a vital role as guidance towards a uniform law and development especially in a development plan and development control system, and it is designed to overcome the shortcomings of planning in Malaysia.

In Malaysia, the planning administration consists of three levels namely Federal Government, State Government and Local Authority. Each level has own roles and responsibilities, especially in physical planning. Federal Government is responsible in policy formulation, planning, implementation, coordination and evaluation in governing Malaysia's towards a good physical development (The Commissioner of Law Revision, 2014). The State Government responsible for the land matter and Local Authority is the one that responsible for planning, coordinating and controlling the use as well as the development of land and buildings within their area. Good practice in planning administration helps in governing the development (The Commissioner of Law Revision, 2014). Implementation by the lower planning authority is significant to improve efficiency in planning administration (Yusup, 2013).

The development plan is the instrument used to guide future development, and it is important as one of the mechanism in development control system (Yusup, 2013). It also enables Federal and State Governments to assist the Local Planning Authority (LPA) to produce a comprehensive and systematic development of public interest (Yusup, 2013). There are four main development plans that help in guiding Malaysia's towards good physical planning includes National Physical Plan, Structure Plan, Local Plan and Special Area Plan (The Commissioner of Law Revision, 2014). In the development of coastal reclamation, it is important to have good and comprehensive Structure Plan and Local Plan to avoid future conflict (Malacca Town and Country Planning, 2015). Structure Plan explains the details of the development framework for the particular state. It is used to guide the development for the whole state (Yusoff, Yusof and Arshad, 2014). Besides, Local Plan is the plan that explains most of the action plan at a local level. This plan is used to execute the general policies and development frameworks that have been directed at national and

state level. Every development plan functions as a guideline and reference in every aspect of the urban planning (The Commissioner of Law Revision, 2014). Hence, this is important to understand each function of a development plan as a way of improving the current practices for coastal reclamation development in Malacca as well as Malaysia.

In Act 172, the development control system is provided under Part IV. Development control is a process of accessing and processing planning application before the planning permission is granted for land development. According to Arshad (2010), the development control is a method of giving license or consent for any development activity or any material change to the land and building. The legal aspect, planning policy, public objection and the local planning authority implementation will be considered before granting the planning permission in the development control system. Development control consists of two main mechanisms that are the statutory development control mechanism and non-statutory development control mechanism (Arshad, 2010). The statutory development control mechanisms are formed by the legal provision and approval procedure by the authority, whereas the non-statutory development control mechanisms are the gazetted and approved documents by the legal procedure. Apart from that, the statutory development control is usually prepared by systematic procedure and approval period (Arshad, 2010). While, non-statutory development control mechanisms are the non-gazetted documents used for the purpose of planning development control. This development control mechanism supports the statutory development control mechanism and eases the implementation of development control. The purpose of a development control system in urban planning is to create a better physical environment for the society.

At present, Malacca also recognised as one of the states that actively practicing coastal reclamation. However, Malacca currently facing with problems regarding coastal reclamation development involves the inefficiency of planning administration system, incapability of development plan system and unresponsive development control system (Malacca Town and Country Planning, 2015). MBMB is the responsible planning authority in facilitating the planning permission for land development. In making the decision concerning planning permission, MBMB are required to refer to gazette Central Malacca Local Plan 2003-2015, which has been gazetted on 14 August 2008 (Malacca Historical City Council, 2015). In spite of this, the existing local plan, it has no clear zoning for the proposed development on coastal reclamation area (Malacca Town and Country Planning, 2015). This may lead to conflicts of land use and the public interest. Without a proper plan, land use zoning and specific guidelines for coastal reclamation development, it leads toward conflict of land use, infrastructure and monitoring of the development by the local authority. This research expected to contribute indirectly to the better decision-making process for MBMB in planning permission.

3.0 Methodology

The research design for the study is a case study as it is the most suitable approach for this study in the attempt to improve the planning administration and development control process for the coastal reclamation development. Face-to-face interview with related government agencies was used to collect the primary data. The primary data includes the issues and problems with regards to development control process, opinions and suggestions by the related authority and stakeholder involved in the coastal reclamation planning and development process. It provides views and thoughts on the provision in the local plan of Malacca city and recommendation and views on planning approval process. Meanwhile, secondary data collection will cover the official documents that include the role and function, local plan, the procedure of planning permission and approval condition of planning permission. It will look into the State Government development policy and geographical information concerning the study is gathered throughout the study. The content analysis was used in the analysing all the data before any recommendation and proposal could be made.

4.0 Results And Discussions

The following findings listed as guidance to the provision of appropriate recommendations especially in improving and enhancing the planning administration and development control process for coastal reclamation development in Malacca.

- There are some cases in the coastal reclamation plan for the development that is not legally provided (Malacca Town and Country Planning, 2015). For example, there are issues when some of the developers that have already started the land work, even though their application for planning permission had not yet being approved by the Committee set up by the State Government (Malacca Economy Planning Unit, 2015). It is clearly stated in Section 19, under Act 172 that they are prohibited from doing any development without getting planning permission but, this process is being ignored by some of the developers. Thus, the parties involved need to take an action regarding this issues because if this situation continuously happen, this will result in infirmity of the physical planning system as well as giving impact on the power of State Government and Local Authority. This matter can be improved by putting the law as the top priority in planning for any development.
- Local authority responsible for coastal reclamation development in Malacca is MBMB, and its boundary has been gazetted under Central Malacca Local Plan 2003-2015 (Malacca Historical City Council, 2015). In Section 3 of Act 171 stated the declaration and determination of the status of local authority areas. This includes the declaration of any area that is under State Government to be under local authority area and assign the name of that local authority area as well as define the boundaries. Since the coastal reclamation area is located outside the boundary of the local authority, it

creates a dispute between related agencies particularly in facilitating the development. Thus, according to this circumstance, there are legal implications toward the current practice.

- Central Malacca has gazetted their local plan by State Government but, coastal reclamation area or newly reclaimed areas are still not fully covered by structure plan or local plan (Malacca Historical City Council, 2015). The existing development plan includes structure plan, and local plan is out-dated and less comprehensive in detailing on the coastal reclamation development. The failure of the development plan as a legislative document to be referred will result in shortcomings in the future development planning. Overall in the development plan in Central Malacca have no clear policy in the development of coastal reclamation as one of the ways that generate the economy of Malacca. The planning for coastal reclamation in Malacca can be classified as an ad-hoc development, and this shows that the planning is conducted not accordance with policies in Malacca development plan. Due to that, Malacca new local plan should be reformed by the provisions of Section 16 (1) Act 172. Apart from that, the development of coastal reclamation can be considered as rapid development and Special Area Plan should be created in guiding the developments includes the policies and procedures provided in National Physical Plan for Coastal Zone (NPP-CZ).
- In Central Malacca Local Plan, the reclamation area located within Planning Block I and III. But, in the local plan, it is only stated some of the guidelines for the application of coastal reclamation and the detailed content about coastal reclamation is incomplete (Malacca Town and Country Planning, 2015). This matter can cause problems related to the planning application process and development control process in the future because there is no details for the procedure, process, guidelines, zoning and master plan for coastal reclamation area. The content of guidelines for coastal reclamation in the local plan is incomprehensive for Local Planning Authority to control the development of reclamation area. The development control cannot be done in details as results of the existing development plan are incomplete. This study was conducted to improve and ensure the effectiveness of coastal reclamation development towards future sustainable developments in the context of planning administration and development control in coastal reclamation in Malacca. In settling this problem, Malacca Town and Country Planning can create a specific guidelines concerned in controlling the density and height of the development on reclamation area. Special zoning for reclamation area also can be created through the gazetting the Special Master Plan for reclamation area in Malacca includes the specific plan for utility lines and infrastructure for the whole development on reclaimed land. The following recommendations and proposals intended to overcome the problem exists towards an efficient administration and development control system for coastal reclamation.

5.0 Recommendation

The following recommendations and proposals intended to overcome the problem exists towards an efficient administration and development control system for coastal reclamation development.

5.1 Develop Strategic Policies for Coastal Reclamation

In relation to coastal reclamation, strategic policies should be introduced and recommended to have positive impacts in the future. The recommended policies are; (i) coastal reclamation is only allowed to be developed for the project that has been identified and agreed by State Government and National Physical Planning Council; (ii) development of coastal reclamation must comply with the National Physical Plan Policy (Coastal Zone) and Integrated report Shoreline Management Plan, (iii) the designs of the reclaimed area will be determined by the detailed study of EIA and hydraulic study and must be approved by the State Planning Committee; (iv) maintaining and replacing public beach waterfront reclaimed through beautification of the area, provision of open space for recreation, sightseeing and picnicking; (v) the development of the coastal reclamation must be integrated with the surrounding development and; (vi) ensure that the reclaimed land is allowed to be developed before the permission is granted or gazetted. The proposed policies can be included in the planning process for coastal development to ensure a balanced planning for development continuously serve for current and future benefits.

5.2 New Procedures For Coastal Reclamation Development

The new procedure for coastal reclamation development should be introduced especially in enhancing Malacca coastal reclamation planning process. The planning process is important as guidance for the planning authorities and developers to refer in approving and proposing new projects. This is a mechanism for planning authorities to control the development especially an excessive development of coastal reclamation in Malacca. The procedure is to facilitate the process of planning permission at Local Authority level.

5.3 Alteration of Malacca Development Plan

According to the provisions from Section 11 (Act 172), structure plan is subject to be reviewed in every five years. Malacca Structure Plan was enacted in 2005 and up until now it has not been revised. The structure plan is very important to show the development of the whole area of Malacca especially in proposing a new development that needs to be based on the zoning and in line with the existing surrounding development. The structure plan is proposed to be revised once again due to the rapid development that faced by Malacca as a result of an ad-hoc planning and it is not based on the structure plan. Besides, Central Malacca Local Plan is also proposed to be revised and replace with a new local plan because the existing local plan only covers proposal up to 2015. The existing local plan does not cover full aspects of the coastal reclamation area such as the zoning, policy,

standards, guidelines and no master plan of the area. The proposed local plan must be in line with structure plan because the planning for coastal reclamation should be taken into the consideration on the policies of Malacca Structure Plan. Zoning for coastal reclamation area is necessary to ensure and control the proposed development because all the development must be based on the zoning that has been stated in the structure and local plan. Every application for new development through planning permission can be controlled in terms of land use planning and type of development ensuring that there will be no conflict of land use and type of development may happen in the future.

5.4 Details of Coastal Reclamation Master Plan

The provision of the master plan will help State Government and Local Authority to cover all aspects that need to be covered such as the area, administration, policies, standards and guidelines for coastal reclamation. This is one of the development strategies that should be vital for the State Government and MBMB to plan for the current and future towards a balanced and sustainable coastal reclamation area. Master plan can serve as a control mechanism and a tool for development control.

5.5 Formulate Planning Guideline for New Reclaimed Area

The guideline is important to ensure the uniformity of the development as well as the efficiency of the proposed guidelines in standardising and controlling the development. Currently, there is no guideline pertaining to the development on coastal reclamation area. The guideline should emphasis on the technical aspect the building and standard for planning purposes. This guideline will be useful to all stakeholders in the development process on the reclamation area.

6.0 Conclusion

The improvement of current development control process in coastal reclamation including; i) establishment of new policy and guideline; (ii) new boundary for MBMB to be gazette; (iii) alteration of development plan; and (iv) new procedure in planning permission process.

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References

Arshad, A. F. (2010). *Kertas 1: Prosedur Statutori dalam Kawalan Pembangunan dan Konsep Pemakaian Piawaian Perancangan (Paper 1: Statutory Procedure in Development Control and Implementation Concept of Planning Standard)*. Paper presented at the Professional Courses for Malaysia Board of Town Planning, Selangor, Malaysia.

Malacca Economy Planning Unit. (2015). *Planning Process in Reclamation Area*. Malacca Economy Planning Unit.

Malacca Historical City Council. (2015). *Issues and Problems of Land Reclamation in Malacca*. Malacca Historical City Council.

Malacca Town and Country Planning. (2015). *Coastal Land Reclamation in Malacca*. Malacca Town and Country Planning.

Maryati, S. (2012). Land Capability Evaluation of Reclamation Area in Indonesia Coal Mining Using LCLP Software. *International Symposium on Earth Science and Technology, CINEST 2012* (p. 9). Procedia Earth and Planetary Science 6 (2013) 465 – 473.

Moore, H. M., Fox, H. R., and Elliot, S. (2003). *Land Reclamation: Extending the Boundaries*. A. A. Balkema Publishers.

Nadzir, N. M., Ibrahim, M., and Mansor, M. (2014). Impacts of Coastal Reclamation to the Quality of Life: Tanjung Tokong community, Penang. *AMER International Conference on Quality of Life* (p. 10). Kota Kinabalu, Sabah, Malaysia: Procedia Social and Behavioral Sciences.

Ning, A. C. T., Ming, A. C. T., Lee, D. and Yin, K. K. (2010). *Towards a Sustainable Reclamation for Hong Kong*. HKIE Environmental Division.

The Commissioner of Law Revision. (2006). *Local Government Act 1976 (Act 171)*. International Law Book Services.

The Commissioner of Law Revision. (2011). *National Land Code Act 1965 (Act 56)*. International Law Book Services.

The Commissioner of Law Revision. (2014). *Town and Country Planning Act 1976 (Act 172)*. International Law Book Services.

Win, B., and Choa, V. (2004). *Reclamation and ground Improvement*. Thomson Learning.

Yusoff, S. M., Yusof, F., and Arshad, A. F. (2014). An Analysis of Local Plan for Development Control at Local Planning Level in the State of Selangor. *AcE-Bs 2014 Sabah ASEAN Conference on Environment-Behaviour Studies* (p. 11). Kota Kinabalu, Sabah, Malaysia: Procedia Social and Behavioral Sciences.

Yusup, M. (2013). *Statutory Procedure and Planning Machinery for Urban Development in Sarawas*. Universiti Teknologi MARA, Malaysia.