

Telegram: "CHIEFMIN KOTA KINABALU"

BIL. ~~0123~~. JKM.100-4/62

Tolong sebutkan rujukan fail kami  
dalam jawapan surat ini  
(Please quote our file reference  
in your reply to this letter)



**JABATAN KETUA MENTERI**  
(CHIEF MINISTER'S DEPARTMENT)  
Kota Kinabalu  
Sabah, Malaysia

Tel: 088-369900/369901  
Faks: 088-211016

Semua Setiausaha Tetap

Semua Ketua Jabatan Negeri

Semua Pegawai Daerah / Penolong Pegawai Daerah

Semua Ketua Badan-Badan Berkanun dan Agensi Kerajaan Negeri/

Pihak Berkuasa Tempatan

#### **PROSEDUR PEMBANGUNAN TANAH 2017**

#### **ORDINAN KERAJAAN TEMPATAN 1961**

#### **ORDINAN PERANCANGAN BANDAR DAN DESA (Cap 141)**

#### **ORDINAN TANAH (Cap 68)**

#### **OBJEKTIF**

1. Objektif Pekeliling ini adalah untuk melaksanakan keputusan yang telah dicapai oleh Negeri berkaitan dengan perkara- perkara seperti berikut:-
  - (a) keperluan untuk menukar/mengubah syarat- syarat yang terdapat dalam sesuatu dokumen hakmilik sebelum tanah tersebut boleh dibangunkan/dimajukan, seperti yang telah ditetapkan dalam Seksyen 31(1)(e) Ordinan Tanah (Cap 68);
  - (b) untuk mempercepatkan kelulusan untuk aplikasi/permohonan kebenaran untuk merancang (Planning Permission); dan
  - (c) untuk mempercepatkan proses pengeluaran dokumen hakmilik yang telah ditukar dan dokumen hakmilik subsidiari.

**Nota:** Penukaran di sini juga termasuk:

- (i) Penukaran syarat guna tanah [contoh: syarat guna tanah dari pertanian ke bukan pertanian, di bawah Seksyen 54 (Country Land) dan Seksyen 70(2) (Native Land) Ordinan Tanah (Cap 68)]; dan

- (ii) Penukaran jenis hakmilik (contoh: penukaran dari Hakmilik Anak Negeri(NT)/FR ke Pajakan (TL atau CL) di bawah Seksyen 75 Ordinan Tanah (Cap 68) dan kaedah 5(4) di bawah Kaedah- Kaedah Tanah G.N. 505, 1930).

## DEFINISI

2. Di dalam Pekeliling ini:-

“BP” bermaksud pelan bangunan;

“DBKK” bermaksud Mayor Majlis Perbandaran Kota Kinabalu;

“DP” bermaksud Pelan Pembangunan dan termasuk pelan susun atur/layout;

“**Interim Development Approval**” bermaksud kelulusan yang diberikan oleh oleh Lembaga Pusat di bawah Seksyen 15 TCP( pelan skim dalam bentuk deraf)

“JTU” bermaksud Jabatan Tanah dan Ukur;

“RSP” bermaksud Kertas Ukur Berdaftar yang dikeluarkan oleh Jurukur Daerah kepada Jurukur Berlesen untuk menjalankan sesuatu pengukuran;

“LA” bermaksud Pihak Berkuasa Tempatan yang tertubuh di bawah Ordinan Kerajaan Tempatan 1961;

“**Lembaga Pusat**” bermaksud Lembaga Pusat Perancang Bandar dan Desa yang merupakan salah satu unit dalam Jabatan Perancangan Bandar dan Wilayah Negeri Sabah tertubuh di bawah Ordinan Perancangan Bandar dan Desa (Caps 141);

“**Menteri**” bermaksud Menteri yang bertanggungjawab ke atas sumber asli di Negeri Sabah;

“NT” bermaksud hakmilik anak negeri atau field register (FR) yang dikeluarkan di bawah Bahagian IV Ordinan Tanah (Cap 68);

“OC” bermaksud Sijil Kelayakan Menduduki Bangunan termasuk mana-mana Sijil Kelayakan Menduduki Bangunan yang bersifat sementara atau separa yang dikeluarkan oleh LA dan DBKK di bawah Undang-Undang Kecil Bangunan;

“**Pajakan**” bermaksud Country Lease (CL) atau Provisional Lease (PL) atau Town Lease (TL) yang dikeluarkan di bawah Bahagian II dan Bahagian III Ordinan Tanah (Cap 68);

“**Pelan Rangkaian**” adalah bersamaan dengan “Outline Plan” yang bermaksud pelan konsep yang mengandungi maklumat seperti jenis pembangunan, ketinggian bangunan, road access, ketumpatan pembangunan dan status hakmilik tanah. Pelan tersebut akan disertakan di dalam aplikasi/permohonan untuk mendapatkan Interim

Development Approval dan Penukaran jenis hakmilik dan guna tanah sekiranya Tiada Zoning Conflict;

“**Pemilik**” bermaksud pemilik tanah yang berdaftar atau sesiapa sahaja yang diberi kuasa oleh Pemilik;

“**Penukaran**” atau “**ditukar**” atau “**menukar**” atau “**tukar**” adalah bersamaan dengan “**Conversion**”, yang bermaksud kebenaran yang telah diberikan oleh Menteri kepada pemohon untuk menukar kegunaan tanah dan jenis hakmilik dan surat tawaran yang dikeluarkan oleh PTU telah diterimasetuju oleh Pemilik serta semua premium telah dibayar penuh;

“**Planning Permission**” bermaksud kebenaran untuk merancang yang diberikan oleh LA kepada pemohon mengikut section 15(2) Ordinan Perancangan Bandar dan Desa (Cap 141) atau kebenaran DP;

“**Brif Perancangan**” adalah bersamaan dengan “**Planning Brief**” dan mengandungi Pelan Rangkaian yang mengandungi maklumat seperti jenis pembangunan, ketinggian bangunan, road access, ketumpatan pembangunan status hakmilik tanah ndan cadangan perubahan zon. Pelan tersebut akan disertakan di dalam aplikasi/permohonan untuk mendapatkan Interim Development Approval sekiranya terdapat Zoning Conflict;

“**PTU**” bermaksud Pengarah Tanah dan Ukur;

“**Surat Tawaran**” bermaksud Surat Tawaran untuk tujuan Penukaran yang dikeluarkan oleh PTU;

“**TCP**” bermaksud Ordinan Perancangan Bandar dan Desa (Cap 141);

“**TP**” bermaksud Perancang Bandar dan Desa yang juga merupakan Pengarah/Direktor Jabatan Perancangan Bandar dan Desa Negeri; dan

“**Zoning Conflict**” bermaksud situasi di mana kegunaan yang dicadangkan oleh Pemilik adalah berbeza daripada kegunaan yang ditetapkan dalam pelan skim deraf atau pelan tempatan.

## **LATAR BELAKANG**

3. Pekeliling ini bertujuan untuk menangani isu-isu seperti berikut:-

- (a) Kegagalan Pemilik dalam menukar syarat guna tanah dan hakmilik yang terdapat pada dokumen hakmilik agar ianya bersesuaian dengan guna tanah dalam pelan pembangunan yang telah diluluskan. Kegagalan ini bertentangan dengan peruntukan-peruntukan yang terdapat di dalam Ordinan Tanah (Cap 68) seperti Seksyen 31(1)(e), Seksyen 54 (Country Land) dan Seksyen 70(2) (Native Land) dan penukaran jenis hakmilik [contoh: penukaran dari Hakmilik Anak



Negeri/NT ke Pajakan di bawah Seksyen 75 Ordinan Tanah (Cap 68) dan kaedah 5(4) di bawah Kaedah - Kaedah Tanah G.N. 505, 1930)];

- (b) Kelewatan dalam proses penukaran syarat-syarat yang terdapat pada hakmilik tanah dan menyebabkan/mengakibatkan ketirisan pungutan hasil tanah oleh Kerajaan Negeri;
  - (c) Projek pembangunan yang dibina dan/atau yang telah siap dibina tanpa menukar syarat-syarat hakmilik dan menyebabkan/mengakibatkan kelewatan dalam pengeluaran geran kepada para pembeli;
  - (d) Proses yang panjang dalam mendapatkan kelulusan daripada LA untuk pelan pembangunan (kebenaran untuk merancang); dan
  - (e) Kelewatan Pemaju/Pemilik tanah dalam memohon RSP untuk menjalankan kerja ukur untuk tujuan penyediaan hakmilik.
4. Setiap Pemilik yang ingin/berhasrat untuk membangunkan/memajukan tanahnya mestilah/haruslah mematuhi undang-undang seperti berikut: -
- (a) Undang-undang tanah [(Ordinan Tanah (Cap 68)] yang berkaitan dengan Penukaran syarat-syarat pada hakmilik tanah; dan
  - (b) Undang-undang perancangan (Ordinan Perancangan Bandar dan Desa (Cap 141) dan Ordinan Kerajaan Tempatan 1961).
5. Kesemua Hakmilik Anak Negeri (NT/FR) dan CL hanya boleh dibangunkan untuk tujuan pertanian sahaja kecuali terdapatnya terma-terma pada dokumen hakmilik yang menunjukkan bahawa kegunaan tanah tersebut adalah untuk kegunaan selain daripada tujuan pertanian.
6. LA merupakan pihak berkuasa perancang bagi setiap daerah manakala DBKK pula merupakan pihak berkuasa perancang bagi Bandar Kota Kinabalu.

Ordinan Perancangan Bandar dan Desa (Cap141)

*Local Planning Authorities.*

4A. *Every Local Authority shall be the local planning authority for the area of the Local Authority.*

*Functions of Local Authorities.*

4B. (1) *The functions of the Local Authority as a local planning authority shall be –*

(a) *to regulate, control, and plan the development of all lands and buildings within its area;*

(b) *.....*



7. Keperluan untuk merujuk kepada Lembaga Pusat adalah kerana kebanyakan Pihak Berkuasa Tempatan tidak mendapat "Kelulusan Skim" di bawah TCP, oleh itu pembangunan sedemikian jatuh di bawah Seksyen 15 iaitu "Pembangunan Interim".

Ordinan Perancangan Bandar dan Desa (Cap141)

**Interim Development**

15. (1) *Subject to the succeeding provisions of this section, as from the material date no person shall, within the jurisdiction of any Local Authority, carry out any development of land or any construction, demolition, alteration, extension, repair or renewal of any building until six months after an approved scheme takes effect for the area containing such land or building.*
- (2) *A Local Authority may with the approval of the Central Board during any period of prohibition under the provisions of subsection (1), do all or any of the following things, that is to say –*
- (a) *grant to any person applying therefore permission in writing to develop land, construct, demolish, alter, extend, repair, or renew a particular building in the area to which such scheme is proposed to relate;*
- (b) *prohibit the further proceeding with the development of land or construction, demolition, alteration, extension, repair, or renewal of any particular building situate in the said area, stating in writing their reasons for such prohibition.*
- (3) *The Central Board may authorise or instruct a Local Authority to attach to a permission granted under this section such conditions as it thinks property.*
8. Keperluan untuk menukar syarat-syarat yang terdapat pada hakmilik tanah sebelum tanah tersebut boleh dibangunkan/dimajukan ditetapkan di bawah Seksyen 31(1)(e), Seksyen 54 (Country Land) dan Seksyen 70(2) (Native Land) yang tertakluk dalam Ordinan Tanah (Cap 68) dan penukaran jenis hakmilik [contoh: penukaran dari Hakmilik Anak Negeri (NT/FR) ke Pajakan (CL atau TL) di bawah Seksyen 75 Ordinan Tanah (Cap 68) dan Kaedah 5(4) di bawah Kaedah- Kaedah Tanah G.N. 505, 1930)].

Land Ordinance (Cap 68)

**Implied conditions in titles**

31. (1) *Every title shall, by virtue of this Ordinance, be subject, in the absence of an express provision to the contrary, to the following implied conditions in respect of the land contained therein –*
- (e) *any owner of alienated land shall not commence any development on the land which shall change the use of the land except with the permission of the Minister.*

### ***Land to be used for agricultural purposes only***

54. *Land which has been alienated under this Part or under similar part of any previous Land Ordinance shall not be used for other than agricultural purposes except with permission of the Minister who may impose additional premium or rent or add or substitute such terms and conditions as he may think fit.*

### ***Use of land for agricultural purposes***

- 70 (2). *Land (native titles) which is to be or has been alienated under this Part or under similar part of any previous Land Ordinance shall not be used for other than agricultural purposes except with the permission of the Minister who may impose additional premium or rent or add or substitute such terms and conditions as he may think fit.*

### ***Exchange of title***

75. *The owner of a native title may with the consent of the Director exchange his title for a lease under Part II or Part III on payment of the fees prescribed for leases under such Part, and of such premium and rent as may be imposed in each case.*

### **Land Rules (Section 46) G.N. 505 of 1930**

- 5(4). *The consent of the Director to an exchange of title under section 75 shall be subject to such conditions as the Minister may generally or in special cases direct.*

9. Tanpa "Approved Scheme" yang telah diwartakan di bawah TCP, LA dan DBKK haruslah mendapat Interim Development Approval daripada Lembaga Pusat atau TP berkaitan dengan kelulusan sesuatu DP (antaranya adalah di bawah Seksyen 15 TCP).
10. Pekeliling ini tidak terpakai dalam situasi di mana pembangunan yang dicadangkan/dirancang melibatkan tanah yang terletak/termasuk di dalam "Approved Scheme" yang telah diwartakan di bawah TCP.
11. Peranan Lembaga Pusat/TP adalah untuk mempertimbangkan Pelan Rangkaian atau Brif Perancangan dari segi polisi, kepadatan dan pengezonan maka dengan itu ianya tidak terlibat secara langsung dalam mempertimbangkan DP atau BP yang terperinci.

### **TARIKH BERKUATKUASA**

12. Pekeliling ini akan mula berkuatkuasa pada **1 Jun 2017**.

### **PEMBATASAN/SEKATAN**

13. LA dan DBKK tidak dibenarkan untuk meluluskan mana-mana DP atau BP yang melibatkan NT/FR sama ada secara keseluruhan atau sebahagian sahaja sehingga NT/FR tersebut telah ditukar kepada Pajakan [CL atau TL]. Walau bagaimanapun, LA dan DBKK boleh menerima dan mengedarkan DP berkenaan untuk mendapatkan

ulasan teknikal sahaja dengan syarat bahawa kelulusan DP hanya boleh diberi setelah NT (dan Pajakan, sekiranya ada) tersebut telah ditukar.

14. Permohonan untuk Lesen Pemaju dan Permit Iklan dan Jualan Baru:-

- (a) tidak boleh dikeluarkan/diluluskan bagi projek pembangunan perumahan yang melibatkan NTs dan Pajakan kecuali hakmilik tersebut telah diserahkan balik untuk tujuan Penukaran bersama dengan pengeluaran nombor memo; atau
- (b) haruslah dikeluarkan/diluluskan bersama dengan syarat/larangan untuk memasuki mana-mana Perjanjian Jual dan Beli sehingga NTs dan Pajakan berkenaan telah diserahkan balik untuk tujuan Penukaran; dan
- (c) tidak boleh dikeluarkan/diluluskan dalam mana-mana situasi kecuali Surat Tawaran telah dikeluarkan oleh PTU yang menunjukkan mana-mana keperluan untuk pecah bahagi (subdivision), percantuman (amalgamation) atau Penukaran telah diterimasetuju dan dibayar penuh.

**PENUKARAN TIDAK DIPERLUKAN SEKIRANYA SYARAT-SYARAT YANG TERDAPAT PADA HAKMILIK SEPADAN DENGAN PEMBANGUNAN YANG DIRANCANG/DINIATKAN**

- 15. (a) Penukaran untuk sesuatu tanah tidak diperlukan sekiranya syarat guna tanah dalam dokumen hakmilik sepadan dengan kegunaan yang dicadangkan di dalam DP/Pelan Rangkaian/Brif Perancangan berkenaan.
- (b) Pemilik NT boleh menukar kegunaan tanah daripada pertanian kepada perumahan atau untuk lain lain kegunaan tanpa menukar dokumen hakmilik daripada NT ke Pajakan. Walaubagaimanapun, Penukaran kegunaan tanah mestilah diluluskan di bawah Section 70(2) Ordinan Tanah sebelum LA ataupun DBKK memproses pelan-pelan tersebut.

**PENUKARAN SEMASA DP TELAH DISAHKAN/DILULUSKAN**

- 16. Sekiranya Pemilik sudah mempunyai DP yang telah diluluskan dan sah, Pemilik tersebut boleh menggunakan DP tersebut untuk memohon kepada Jabatan Tanah dan Ukur untuk tujuan Penukaran dengan menggunakan borang permohonan LSF 100005A.

**PERMOHONAN UNTUK INTERIM DEVELOPMENT APPROVAL YANG MEMPUNYAI PERCANGGAHAN ZON (ZONING CONFLICT)**

- 17. Aplikasi/permohonan untuk mendapatkan Interim Development Approval di bawah Seksyen 15 TCP melalui LA/DBKK adalah dibenarkan walaupun terdapat Zoning Conflict. Walau bagaimanapun, pemohon perlu menyediakan Brif Perancangan dan dikemukakan kepada LA berkenaan atau DBKK.



18. Prosedur untuk membuat permohonan/aplikasi di atas adalah seperti berikut (Lihat **Lampiran 1**) -:

- (a) Pemilik perlu memohon/membuat aplikasi kepada LA atau DBKK untuk Interim Development Approval dengan menggunakan borang yang telah ditetapkan/disediakan oleh Lembaga Pusat. LA atau DBKK dengan serta merta merekod dan mengemukakan permohonan tersebut kepada Lembaga Pusat;
- (b) Brif Perancangan yang mengandungi maklumat seperti cadangan perubahan zon ke atas deraf plan skim, konsep reka bentuk (conceptual design) yang dicadangkan (termasuk bagaimana tanah tersebut akan dipecahbagi (subdivide) atau dicantum (amalgamate), jenis pembangunan, ketinggian bangunan, kepadatan pembangunan, status hakmilik dan jalan masuk (road access) hendaklah disertakan dalam aplikasi/permohonan untuk Interim Development Approval;
- (c) Sekiranya Lembaga Pusat meluluskan aplikasi/permohonan tersebut, TP (sebagai sekretariat Lembaga Pusat) akan mengeluarkan Interim Development Approval kepada LA atau DBKK dan disalinkan kepada Pemohon(Lihat **Lampiran 3**);
- (d) Pemohon akan memohon kepada JTU untuk tujuan penukaran dengan menggunakan borang LSF 100005B beserta dengan Brif Perancangan yang telah diluluskan. Pada masa yang sama juga, pemohon boleh mengemukakan DP/BP dan pelan-pelan yang berkenaan kepada LA/DBKK untuk diproses selanjutnya (yakni mendapatkan ulasan teknikal).
- (e) Sekiranya lengkap, JTU akan membuat pengiraan premium yang perlu dikenakan dan seterusnya menyediakan surat perakuan kepada Menteri melalui Pejabat Hasil Bumi untuk pertimbangan.
- (f) Sekiranya diluluskan, JTU akan mengeluarkan Surat Tawaran kepada pemohon. Setelah Surat Tawaran disetujuterima dan semua premium dibayar penuh, pemohon boleh melantik seorang Jurukur Berlesen untuk memohon RSP daripada Jurukur Daerah berkenaan dan seterusnya menjalankan pengukuran. Sekiranya relevan pemohon juga boleh memohon Lesen Pemaju daripada Pengawal Perumahan (Housing Controller).
- (g) LA/DBKK hanya boleh meluluskan (tanpa merujuk semula ke Lembaga Pusat) setelah semua permohonan penukaran (syarat guna tanah atau syarat hakmilik) diselesaikan. Dengan itu, LA/DBKK perlu mendapatkan bukti seperti Surat Tawaran yang telah disetujuterima dan dibayar penuh atau geran yang telah ditukarkan (converted title) dikeluarkan sebelum memberi sebarang kebenaran perancangan (Planning Permission).

- (h) Setelah mendapat kebenaran perancangan, pemohon perlu memohon untuk memecahbahagi geran yang telah ditukarkan (converted title) mengikut DP yang telah diluluskan.

**Nota:** Pengeluaran Interim Development Approval ini tidak memberi jaminan bahawa DP akan diluluskan pada masa hadapan dan Brif Perancangan bukanlah DP.

### **PERMOHONAN UNTUK INTERIM DEVELOPMENT APPROVAL YANG TIDAK MEMPUNYAI PERCANGGAHAN ZON (NO-ZONING CONFLICT)**

Prosedur ini hanya terpakai untuk situasi di mana pembangunan tanah yang dicadangkan oleh Pemilik adalah sepadan dengan zon yang terdapat pada deraf pelan skim atau pelan tempatan. Untuk tujuan ini, pemohon boleh mengemukakan permohonan kepada LA/DBKK (untuk mendapatkan Interim Development Approval) dan pada masa yang sama kepada JTU (untuk tujuan penukaran). Walau bagaimanapun, pemohon perlu menyediakan Pelan Rangkaian.

19. Prosedur untuk membuat permohonan/aplikasi di atas adalah seperti berikut (Lihat **Lampiran 2**):-
- (a) Pemilik perlu memohon/membuat aplikasi kepada LA atau DBKK untuk Interim Development Approval dengan menggunakan borang yang telah ditetapkan/disediakan oleh Lembaga Pusat. LA atau DBKK dengan serta merta merekod dan mengemukakan permohonan tersebut kepada Lembaga Pusat;
  - (b) Pelan Rangkaian yang mengandungi maklumat seperti konsep reka bentuk (conceptual design) yang dicadangkan (termasuk bagaimana tanah tersebut akan dipecahbahagi (subdivide) atau dicantum (amalgamate), jenis pembangunan, ketinggian bangunan, kepadatan pembangunan, status hakmilik dan jalan masuk (road access) hendaklah disertakan dalam aplikasi/permohonan untuk Interim Development Approval;
  - (c) Pemohon juga pada masa yang sama memohon kepada JTU untuk tujuan penukaran dengan menggunakan boring LSF 100005B beserta dengan Pelan Rangkaian, pelan/surat pengesahan zon dan maklumat geran.
  - (d) Sekiranya Lembaga Pusat meluluskan aplikasi/permohonan tersebut, TP (sebagai sekretariat Lembaga Pusat) akan mengeluarkan Interim Development Approval kepada LA atau DBKK dan disalinkan kepada Pemohon (Lihat **Lampiran 3**). Pada masa yang sama juga, pemohon boleh mengemukakan DP/BP dan pelan-pelan yang berkenaan kepada LA/DBKK untuk diproses selanjutnya (yakni mendapatkan ulasan teknikal).
  - (e) Sekiranya lengkap, JTU akan membuat pengiraan premium yang perlu dikenakan dan seterusnya menyediakan surat perakuan kepada Menteri melalui Pejabat Hasil Bumi untuk pertimbangan.

- (f) Sekiranya diluluskan, JTU akan mengeluarkan Surat Tawaran kepada pemohon. Setelah Surat Tawaran disetujuterima dan semua premium dibayar penuh, pemohon boleh melantik seorang Jurukur Berlesen untuk memohon RSP daripada Jurukur Daerah berkenaan dan seterusnya menjalankan pengukuran. Sekiranya relevan pemohon juga boleh memohon Lesen Pemaju daripada Pengawal Perumahan (Housing Controller).
- (g) LA/DBKK hanya boleh meluluskan (tanpa merujuk semula ke Lembaga Pusat) setelah semua permohonan penukaran (syarat guna tanah atau syarat hakmilik) diselesaikan. Dengan itu, LA/DBKK perlu mendapatkan bukti seperti Surat Tawaran yang telah disetujuterima dan dibayar penuh atau geran yang telah ditukarkan (converted title) dikeluarkan sebelum memberi sebarang kebenaran perancangan (Planning Permission).
- (h) Setelah mendapat kebenaran perancangan, pemohon perlu memohon untuk memecahbahagi geran yang telah ditukarkan (converted title) mengikut DP yang telah diluluskan.

**Nota:** Pengeluaran Interim Development Approval ini tidak memberi jaminan bahawa DP akan diluluskan pada masa hadapan dan Pelan Rangkaian bukanlah DP.

#### **APLIKASI PENUKARAN DI MANA TERDAPAT DP YANG TELAH DILULUSKAN/DISAHKAN PADA TARIKH BERKUATKUASA**

20. Prosedur untuk membuat permohonan/aplikasi di atas adalah seperti berikut:-

- (a) Pemilik perlu memohon/membuat aplikasi kepada PTU dengan mengemukakan DP yang telah diluluskan/disahkan;
- (b) Borang yang ditetapkan oleh PTU untuk tujuan permohonan/aplikasi ini adalah LSF 100005A;
- (c) Borang yang ditetapkan akan menyenaraikan kesemua dokumen/surat yang akan dilampirkan untuk/dalam menyokong aplikasi ini;
- (d) PTU akan membuat pengiraan premium dan mengemukakan permohonan dan cadangan kepada Menteri melalui Pejabat Hasil Bumi;
- (e) Sekiranya Menteri meluluskan aplikasi ini, PTU akan mengeluarkan Surat Tawaran kepada Pemilik/Pemohon bersama dengan terma dan syarat yang dikenakan;
- (f) Pemohon/pemaju akan melantik Jurukur Berlesen dengan menggunakan Surat Tawaran yang telah diterimasetuju dan dibayar penuh; dan
- (g) Jurukur Berlesen yang dilantik akan memohon RSP kepada Jurukur Daerah berkenaan dan seterusnya menjalankan pengukuran.



## **SIJIL KELAYAKAN MENDUDUKI BANGUNAN HANYA AKAN DIKELUARKAN SETELAH PROSES PENUKARAN DAN PENGUKURAN TELAH DISELESAIKAN**

21. Pemaju haruslah melengkapkan/menyelesaikan proses Penukaran dan pengukuran dan mengambil segala langkah yang perlu untuk tujuan pengeluaran dokumen-dokumen yang berkaitan sebelum OC dikeluarkan;
22. Kesemua DP yang telah diluluskan/disahkan selepas Tarikh Berkuatkuasa haruslah mengandungi terma dan syarat yang dinyatakan dalam **Lampiran 4**;
23. Dalam situasi di mana Lembaga Pusat telah pun memberi Interim Development Approval, DP berdasarkan kelulusan tersebut hanya perlu ditangani di peringkat LA/DBKK sahaja tanpa perlu merujuk semula ke Lembaga Pusat;
24. Dalam situasi di mana bangunan dipecah bahagi untuk mendapatkan Hakmilik subsidiari, perkara berikut perlu dilaksanakan: -
  - (a) Arkitek atau lain-lain konsultan akan mengesahkan kepada LA dan DBKK bahawa "superstructure" telah lengkap (boleh dilakukan sebelum penyiapan praktikal). Garis panduan untuk pengesahan kelengkapan "superstructure" adalah dinyatakan dalam **Lampiran 5**;
  - (b) LA atau DBKK akan memaklumkan PTU sebaik sahaja "superstructure" telah disahkan lengkap; dan
  - (c) PTU akan merekodkan pengesahan "superstructure" tersebut dan pemaju/pemilik melalui Jurukur Berlesen yang dilantik boleh memohon untuk memecah bahagi bangunan dengan menggunakan Borang A (borang yang ditetapkan dalam Enakmen Tanah (Hakmilik Subsidiari) 1972) dan meluluskan permohonan (termasuk arahan untuk mengeluarkan RSP) sekiranya lengkap dan teratur.
25. Untuk meningkatkan kecekapan dan mengurangkan kos pemprosesan, LA dan DBKK perlulah merancang dan melaksanakan penyerahan semua pelan berkenaan seperti DP, BP, Brif Perancangan, Pelan Rangkaian dan pelan-pelan yang lain dalam bentuk/secara digital atau secara atas talian (online) dalam masa terdekat.

## **PROSEDUR BAGI LEMBAGA PUSAT**

26. Lembaga Pusat perlulah mempertimbangkan permohonan untuk Interim Development Approval (Pelan Rangkaian atau Brif Perancangan) berdasarkan perspektif seperti berikut:-
  - (a) Polisi;
  - (b) Zon menurut/berdasarkan deraf pelan skim atau Pelan Struktur; dan
  - (c) Mana-mana arahan daripada Kabinet Negeri.

## KEY PERFORMANCE INDEX

27. Setiap jabatan perlulah melengkapkan/melaksanakan proses permohonan selaras dengan tempoh masa yang telah ditetapkan (Lihat Lampiran 1 dan 2).

## LAMPIRAN

28. Lampiran-lampiran yang terdapat dalam Pekeliling ini haruslah dilaksanakan dan dipatuhi sepenuhnya.

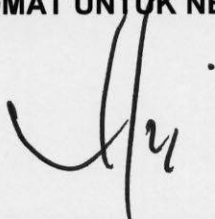
## 29. PENUTUP

29.1 Semua Setiausaha Tetap Kementerian, Ketua Jabatan Negeri, Pegawai Daerah/Penolong Pegawai Daerah, Ketua Badan Berkanun dan Ketua Agensi-agensi/ Pihak Berkuasa Tempatan adalah bertanggungjawab sepenuhnya terhadap pematuhan Pekeliling ini.

29.2 Pekeliling ini adalah berkuatkuasa mulai dari 1hb Jun 2017.

Sekian, terima kasih.

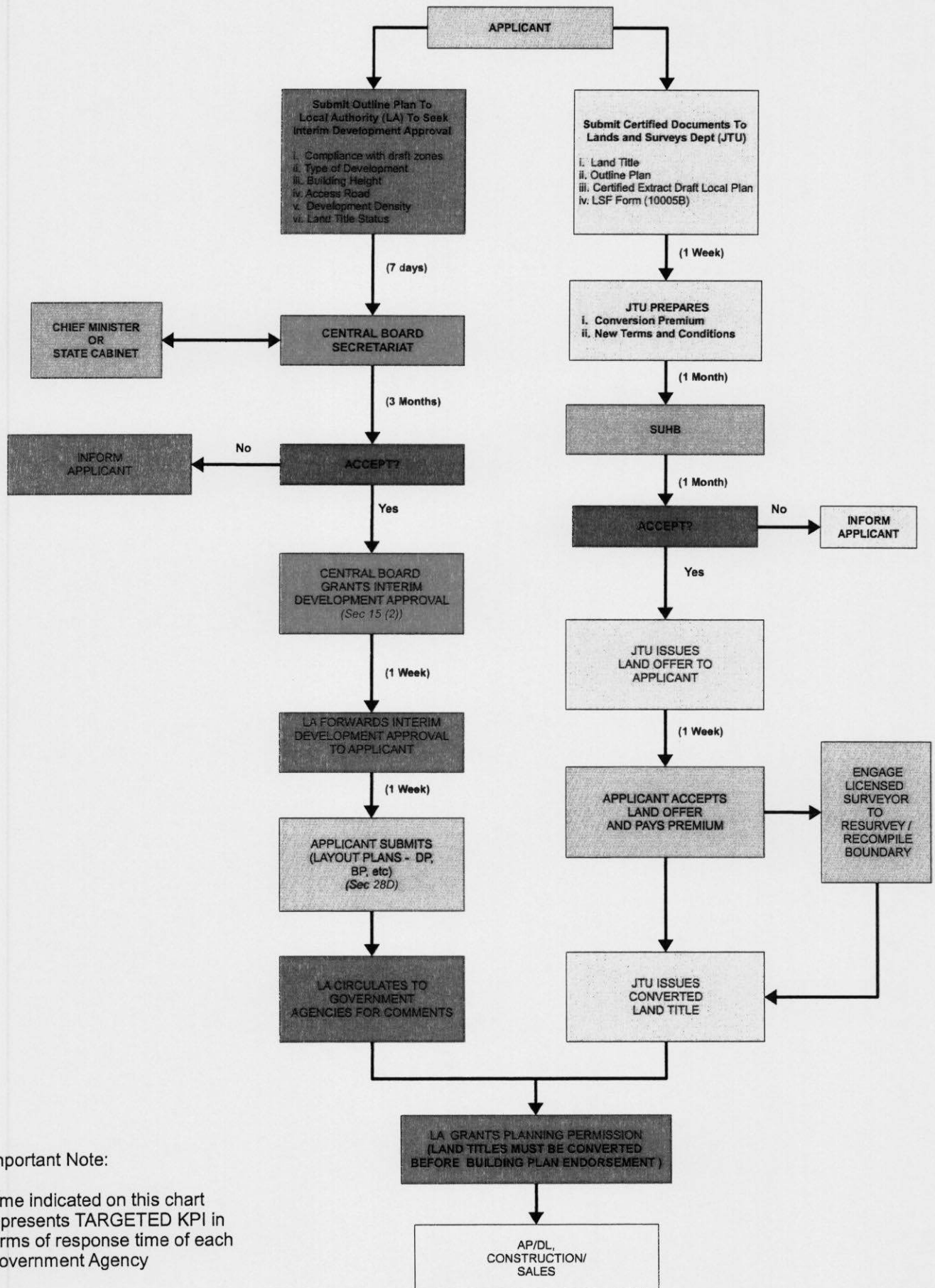
**“BERKHIDMAT UNTUK NEGARA”**



**( TAN SRI SUKARTI BIN WAKIMAN )**  
Setiausaha Kerajaan Negeri

Tarikh: 01 JUN 2017

## LAMPIRAN 2 (NO ZONING CONFLICT) Proposed Development Complies With Draft Local Plan Zoning



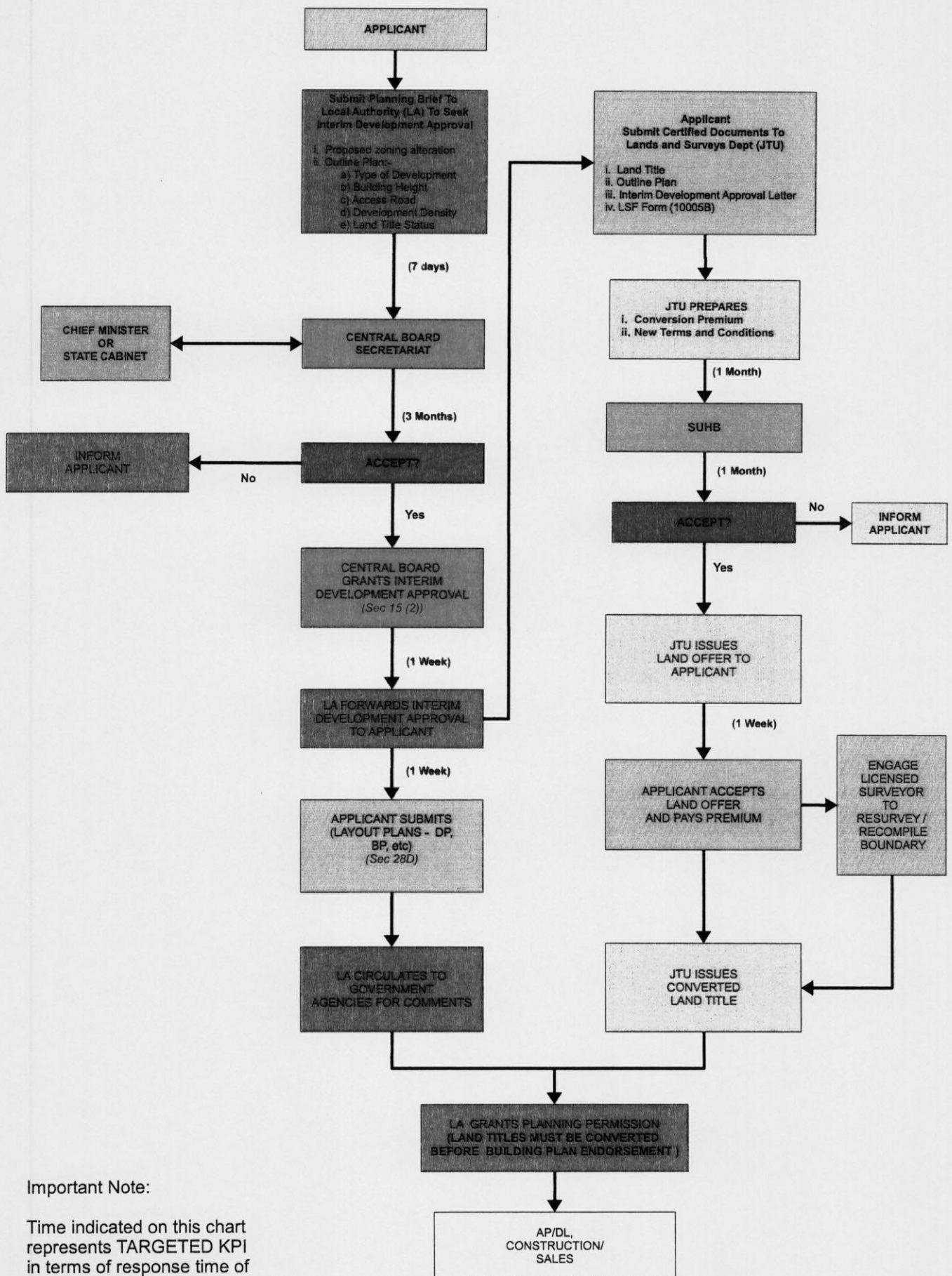
**Important Note:**

Time indicated on this chart represents TARGETED KPI in terms of response time of each Government Agency



# LAMPIRAN 1 (ZONING CONFLICT)

## Proposed Development Conflicts With Draft Local Plan Zoning



**Important Note:**

Time indicated on this chart represents TARGETED KPI in terms of response time of each Government Agency

### LAMPIRAN 3

#### SURAT INTERIM DEVELOPMENT APPROVAL

Kepala Surat LA/DBKK

Tarikh:

Kepada:

Pemilik Tanah

c/o Arkitek

Tuan/Puan,

Perkara : Permohonan Kelulusan Pembangunan Interim

Daripada : (contoh, pertanian kepada: (contoh perumahan pelbagai dan komersil)

Tanah : CL/NT \_\_\_\_\_

Nombor Rujukan permohonan dan tarikh :

=====

Merujuk kepada perkara di atas dan permohonan anda yang bernombor Rujukan \_\_\_\_\_ dan bertarikh \_\_\_\_\_ bersama dengan Brif Perancangan/Pelan Rangkaian.

Adalah sukacita dimaklumkan bahawa Permohonan anda untuk Kelulusan Pembangunan Interim telah diluluskan. Sila ambil maklum kelulusan ini adalah tertakluk dengan pematuhan sepenuhnya terma - terma dan syarat – syarat tersenarai di bawah :-

- (1) Kelulusan Pembangunan Interim ini bertujuan untuk memudahkan proses penukaran syarat kegunaan tanah ke atas hakmilik yang dirujuk di atas.
- (2) Kelulusan Pembangunan Interim ini hanya akan berkuatkuasa sepenuhnya setelah kebenaran merancang (Planning Permission) telah diperolehi dan Pemohon mematuhi semua undang-undang yang berkuatkuasa atau digubal daripada semasa ke semasa termasuk Ordinan Tanah (Cap 68), Ordinan Perancangan Bandar dan Desa (Cap 141) dan Ordinan Kerajaan Tempatan 1961.
- (3) Pembangunan pada masa hadapan haruslah mengikuti "conceptual design" dan ketumpatan (bagi setiap kegunaan yang berkaitan) yang telah ditetapkan dalam Taklimt Perancangan/Pelan Rangkaian di atas.

- (4) Maklumat di dalam surat ini tidak boleh digunakan sebagai ketetapan nilai tanah untuk apa jua tujuan termasuk pengiraan pampasan pengambilan tanah secara wajib di bawah Ordinan Pengambilan Tanah (Cap 69).
- (5) Kelulusan Pembangunan Interim ini adalah sah bagi tempoh yang tetap iaitu selama dua (2) tahun daripada tarikh surat ini. Sila ambil perhatian bahawa setelah tempoh yang ditetapkan telah tamat, kelulusan ini akan luput sama sekali.

Yang Benar,

s.k. Pemohon



## LAMPIRAN 4

### STANDARD TERMS IN ALL PLANNING PERMISSION

*The following are overriding conditions, all of which must be performed to the satisfaction of the Local Authority as a requirement for the issuance of the Occupation Certificate ("OC"):-*

- (a) where the development requires a change of use of the document of title as stated or implied in the document of title to the project land then the delivery to us of a certified true copy of each of the following (where applicable):-*
  - (i) converted document of title(s) of the project land;*
  - (ii) the letter of offer issued by the Director of Lands and Survey offering, among other things, the conversion of the project land's use to the use approved by this letter;*
  - (iii) receipt of payment of the premium and registration fees in full;*
  - (iv) whether or not there is any conversion of land use involved, receipt of payment of survey fees to the Board of Surveyors.*
- (b) the submission of the Building Plans in hardcopy and softcopy to us and to the Lands and Survey Department.*
- (c) the architect for the project is to issue the following certificate to (1) us; (2) Lands and Surveys Department; and (3) the appointed licensed surveyor certifying that where the building is intended to be sub-divided, certification that the superstructure of the building has been completed;*
- (d) as-built drawings to us and in the case of a subsidiary title project, (1) to include a plan identifying the common property and (2) parcel numbering consonant with the system stipulated by Lands and Surveys Department;*
- (e) notwithstanding the approval of the Development Plan, the building and other plans shall not be approved until the project land has/have been converted as evidenced by the payment of the premium in full pursuant to the Letter of*

*Offer issued by the Director of Lands and Survey and the issuance of the converted document of title;*

- (f) where the project involves sub-division of the project land then it is a requirement that in addition to evidence of payment of the fees due to the Board of Surveyors, that the letter of offer for the sub-division of the project land has been issued and accepted by the landowner concerned and that the premium and all other fees paid in full.*

*[the rest of this page is intentionally left blank]*

LAMPIRAN 5



**PAM** PERTUBUHAN AKITEK MALAYSIA  
MALAYSIAN INSTITUTE OF ARCHITECTS  
Northern • Sabah • Sarawak • Southern Chapter

Our Ref: Pra/17/9036  
Date: 23<sup>rd</sup> May 2017

Mr. Christopher Chin,  
Working Committee For  
The Review of Subsidiary Title and Management Corporation,  
Kota Kinabalu.

Dear Mr. Chin,

**GUIDELINES FOR THE CERTIFICATION OF COMPLETION OF SUPERSTRUCTURE BY THE ARCHITECT**

With reference to PAM Sabah Chapter's Special Chapter Committee meeting held on 22<sup>nd</sup> May 2017 at 12.30 pm.

After much deliberation, we are pleased to append herewith the below guidelines as follows:

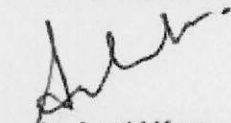
<b>GUIDELINES FOR THE CERTIFICATION OF COMPLETION OF SUPERSTRUCTURE BY THE ARCHITECT TO TRIGGER THE APPLICATION AND SUBMISSION OF <u>FORM A UNDER LAND (SUBSIDIARY TITLE ENACTMENT) 1972 FOR PTU APPROVAL AND THE ISSUANCE OF THE RSP FOR THE SURVEY OF THE SUB-DIVISION OF BUILDINGS.</u></b>	
<b>Building Components</b>	<b>Description of Construction Work <u>That Must be Completed For Certification</u></b>
<b>a) Structural frameworks and floor slabs</b>	<ul style="list-style-type: none"><li>• All primary structural elements above lowest floor level including:<ul style="list-style-type: none"><li>- Beams</li><li>- Columns</li><li>- Slabs and Suspended Slabs</li><li>- Structural walls (if any)</li></ul>where applicable of all the Parcels</li><li>• Retaining walls forming part of the structural element to the Parcels (if any)</li></ul>
<b>b) Walls</b>	<ul style="list-style-type: none"><li>• External walls of all the Parcels</li><li>• All party walls inclusive of wall stiffeners</li></ul>
<b>c) Roofing and ceiling</b>	<ul style="list-style-type: none"><li>• Roof coverings and flashing to all the Parcels (if any)</li><li>• Ceiling to all top floor parcels (if any)</li><li>• Bare soffits of the floor slab to all the Parcels above</li></ul>



Please note that the above certification to the stage of superstructure is solely for subsidiary titles survey.

Thank you.

Yours sincerely,  
For PAM Sabah Chapter



Ar. Arnold Kwan  
Chapter Chairman 2017/2018

Telegram: "CHIEFMIN KOTA KINABALU"

BIL. ~~0117~~. JKM.100-4/62

Tolong sebutkan rujukan fail kami  
dalam jawapan surat ini  
(Please quote our file reference  
in your reply to this letter)



**JABATAN KETUA MENTERI**  
**(CHIEF MINISTER'S DEPARTMENT)**  
**Kota Kinabalu**  
**Sabah, Malaysia**

**Tel: 088-369900/369901**  
**Faks: 088-211016**

---

Semua Setiausaha Tetap

Semua Ketua Jabatan Negeri

Semua Pegawai Daerah / Penolong Pegawai Daerah

Semua Ketua Badan-Badan Berkanun dan Agensi Kerajaan Negeri/  
Pihak Berkuasa Tempatan

**LAND DEVELOPMENT PROCEDURES 2017**  
**LOCAL GOVERNMENT ORDINANCE 1961**  
**TOWN AND COUNTRY PLANNING ORDINANCE (CAP 141)**  
**LAND ORDINANCE (CAP 68)**

## **OBJECTIVE**

1. The objective of this Circular is to implement the decision of the State in relation to:-
  - (a) the requirement for conversion of land title conditions stipulated in documents of title before development;
  - (b) to accelerate the planning permission process; and
  - (c) accelerate the issuance of subsidiary documents of title.

**Note:** Conversion here involves:

- (i) the change of land use (i.e. agriculture to non-agriculture, under Section 54 (Country Land) and Section 70 (2)(Native Land) of Land Ordinance; and
- (ii) the exchange of title (i.e. from NT/FR to leases (TL or CL) under Section 75 of the Land Ordinance and Rule 5(4) of the Land Rules G.N. 505 of 1930,

## DEFINITIONS

2. In this Circular:-

“**BP**” means building plan;

“**CB**” means the Central Planning Board created under the Town and Country Planning Ordinance (Cap 141);

“**Conversion**” or “**Converted**” or “**Convert**” means that permission for the change land use and the exchange of title has been granted by the Minister of Natural Resources as evidenced by endorsement of the document of title or by the Letter of Offer issued by the PTU accepted by the Owner with the premium stated therein as fully paid;

“**DBKK**” means the Mayor of the City of Kota Kinabalu;

“**DP**” means Development Plan and includes the layout plan;

“**Interim Development Approval**” means the zoning or use of land as approved by the Central Board under section 15 of the TCP in the absence of an Approved Scheme;

“**JTU**” means Jabatan Tanah dan Ukur;

“**LA**” means any Local Authority created under the Local Government Ordinance 1961;

“**Letter of Offer**” means the Letter of Offer for Conversion issued by the PTU;



**"Leases"** mean the Country Leases (CLs) or Provisional Leases (PLs) or Town Leases (TLs) issued under Part II and Part III respectively under the Land Ordinance Cap. 68;

**"Outline Plan"** means the conceptual design which includes the type of development, building height, road access, development density, proposed land use and land title status. This Outline Plan forms part of the Planning Brief to be included in an application for Interim Development of Land and Conversion in the case where there is no zoning conflict;

**"Owner"** means the registered landowner by himself or through his architect, other consultant or any other person authorised by the Owner;

**"Planning Brief"** the content of an application for Interim Development of Land in the case where there is a zoning conflict and include the Outline Plan;

**"MNR"** means the Minister of Natural Resources;

**"NT"** means native title or field register (FR) issued under Part IV of the Land Ordinance;

**"OC"** means the certificate of fitness for occupation issued under the respective Building By-laws of the LA and DBKK and include any temporary or partial OC;

**"Planning Permission"** means development permission given by a Local Authority to an applicant under Section 15(2)(a) Town and Country Ordinance (Cap. 141) or the approval given for the development plan;

**"PTU"** means Pengarah Tanah dan Ukur;

**"RSP"** means Registered Survey Paper;

**"TP"** means the Town and Country Planner being the Director of the State Town and Regional Planning Department;

**"TCP"** means the Town and Country Planning Ordinance Cap 141;

**“Zoning Conflict”** means any situation where the use proposed by the Owner is different from the use in the draft scheme or local plan.

## **BACKGROUND**

3. This Circular seeks to deal with the following issues:-
  - (a) failure on the part of the landowner to convert the land title conditions of his/her document of title to correspond with the use described in the approved development plans contrary to the provisions of the Land Ordinance (Cap 68) (Section 31(1)(e), Section 54 (country land) and Section 70 (2)(Native Land) of Land Ordinance and the exchange of title (i.e. from NTs to Leases under Section 75 and Rule 5(4) of the Land Rules G.N. 505 of 1930,) of the Land Ordinance Cap.68;
  - (b) the delay in the conversion of land title conditions and the resulting loss of revenue to the State;
  - (c) construction and/or completion of development projects without conversion of land use resulting in delay in the issuance of titles for purchasers;
  - (d) the lengthy process for obtaining approval of development plans from the LA (planning permission); and
  - (e) delay in the procurement of RSP by the developer/landowner for the purpose of title preparation.
4. The Owner who wants to develop his land must comply with two sets of laws:-
  - (a) land law (Land Ordinance (Cap 68)) in relation to Conversion of the land title conditions ; and
  - (b) planning law (Town and Country Planning Ordinance (Cap141) and the Local Government Ordinance 1961).
5. Note that all NTs and CLs are alienated for agriculture use unless the terms in the document of title specify a different use.

6. The planning authority in any district is the LA and DBKK in the case of the City of Kota Kinabalu.

Town and Country Planning Ordinance (Cap 141)

4A. Every Local Authority shall be the local planning authority for the area of the Local Authority.

4B. (1) The functions of the Local Authority as a local planning authority shall be –

(a) to regulate, control, and plan the development of all lands and buildings within its area;

(b) .....

7. The reason why there is a reference to the Central Board is because most Local Authorities do not have an “Approved Scheme” under TCP and therefore any development now falls under section 15 for “Interim Development”.

Town and Country Planning Ordinance (Cap 141)

**Interim development**

15. (1) Subject to the succeeding provisions of this section, as from the material date no person shall, within the jurisdiction of any Local Authority, carry out any development of land or any construction, demolition, alteration, extension, repair or renewal of any building until six months after an approved scheme takes effect for the area containing such land or building.

(2) A Local Authority may with the approval of the Central Board during any period of prohibition under the provisions of subsection (1), do all or any of the following things, that is to say –

(a) grant to any person applying therefor permission in writing to develop land, construct, demolish, alter, extend, repair, or renew a particular building in the area to which such scheme is proposed to relate;



(b) *prohibit the further proceeding with the development of land or construction, demolition, alteration, extension, repair, or renewal of any particular building situate in the said area, stating in writing their reasons for such prohibition.*

(3) *The Central Board may authorise or instruct a Local Authority to attach to a permission granted under this section such conditions as it thinks proper.*

8. The requirement to convert land title conditions before development is provided in Section 31(1)(e) Section 54 (Country Land) and Section 70 (2)(Native Land) of Land Ordinance and the exchange of title (i.e. from NTs to Leases under Section 75 of the Land Ordinance and Rule 5(4) of the Land Rules G.N. 505 of 1930, of the Land Ordinance Cap 68

*Land Ordinance (Cap 68)*

***Implied conditions in titles***

31(1)(e) *any owner of alienated land shall not commence any development on the land which shall change the use of the land except with the permission of the Minister.*

***Land to be used for agricultural purposes only***

54. *Land which has been alienated under this Part or under similar part of any previous Land Ordinance shall not be used for other than agricultural purposes except with permission of the Minister who may impose additional premium or rent or add or substitute such terms and conditions as he may think fit.*

***Use of land for agricultural purposes***

70 (2) *Land (native titles) which is to be or has been alienated under this Part or under similar part of any previous Land Ordinance shall not be used for other than agricultural purposes except with the permission of the Minister who may impose additional premium or rent or add or substitute such terms and conditions as he may think fit.*

**Exchange of title**

75. *The owner of a native title may with the consent of the Director exchange his title for a lease under Part II or Part III on payment of the fees prescribed for leases under such Part, and of such premium and rent as may be imposed in each case.*

**Land Rules (Section 46) G.N. 505 of 1930**

5(4) *The consent of the Director to an exchange of title under section 75 shall be subject to such conditions as the Minister may generally or in special cases direct.*

9. In the absence of an "Approved Scheme" gazetted under the TCP, the LA and DBKK are required to obtain the Interim Development Approval from the CB or TP in relation to the approval of a DP (Section 15 among others of TCP).
10. This Circular does not apply where the proposed development is on land within an "Approved Scheme" gazetted under the TCP.
11. The CB/TP's role is to consider the Outline Plan or the Planning Brief in determining the land use or zoning as a matter of policy. The CB/TP's role does not involve approval of detailed DP or BP.

**EFFECTIVE DATE**

12. This Circular shall take effect on the **1<sup>st</sup> June 2017**.

**RESTRICTIONS**

13. LA and DBKK cannot issue Planning Permission for any DP or BP over lands that are held under NT or partly under NT until the NT has been converted to Leases (Country Lease (CL) or Town Lease (TL)). However, the LA and DBKK can receive and circulate for technical comments any DP over lands held under NT or partly under NT provided that **no** Planning Permission shall be issued until the NT (and other lands if within same development) are converted.

14. Notwithstanding the Conversion of the NT, the Developer's Licence and Advertising and Sales Permit:-

- (a) shall not be issued for residential development on NTs and Leases unless the document of titles have been surrendered for Conversion with memorial numbers issued; or
- (b) shall be issued with a prohibition on entering into any Sale and Purchase Agreement until after the NT and Lease has been surrendered for Conversion.
- (c) shall not be issued in any event unless a Letter of offer has been issued by PTU for subdivision, amalgamation or conversion has been duly accepted and fully paid.

**NO CONVERSION IF TITLE CONDITION CORRESPONDS WITH INTENDED DEVELOPMENT**

15. (a) If the land use described in the document of title corresponds with the proposed use applied for in the DP/Outline Plan/Planning Brief, then Conversion is not required for such land.
- (b) A native title owner may change the use of his land from agriculture to residential or other use without changing his document of title from native title to country lease. However, such change of use must be approved under Section 70(2) of the LO before the LA/DBKK can process his plans.

**CONVERSION WITH EXISTING APPROVED AND VALID DP**

16. If the Owner already has an approved and valid DP, then such Owner may use such approved DP to apply to PTU to Convert his lands, where necessary, using the application form LSF100005A.

**APPLICATION FOR INTERIM DEVELOPMENT APPROVAL WHERE THERE IS ZONING CONFLICT**



17. Application for Interim Development Approval under section 15 TCP through LA/DBKK is now permitted where there is a zoning conflict. The applicant is required to prepare a Planning Brief to be submitted to the LA or the DBKK.
18. The application procedure is as follows (See **LAMPIRAN 1**):
  - (a) The Owner applies to the LA or DBKK for Interim Development Approval using a prescribed form prepared by the CB. LA or DBKK immediately records and forwards an application to CB;
  - (b) The Interim Development application shall include the Planning Brief containing the proposed changes to the zone on the draft scheme plan, proposed conceptual design (including how the land is to be subdivided where such subdivision is planned or amalgamation), type of development, building height, development density (dwellings per hectare for residential developments and plot ratio for all developments), land title status and road access;
  - (c) If the CB approves the proposed land use applied for then the TP (as the secretariat of the CB) shall issue the Interim Development Approval to the LA or DBKK and a copy to the Owner in the form of **LAMPIRAN 3**;
  - (d) The Applicant shall apply for Conversion from JTU using the application form LSF 100005B together with the approved Planning Brief. At the same time, the applicant shall submit DP, BP and all other related plans to the LA or DBKK for onwards processing and technical comments;
  - (e) When all documents are complete, JTU will compute the premium and submit the application and recommendation to the MNR;
  - (f) Once the application is approved, JTU will issue the Letter of Offer to the Owner. Upon the acceptance and all premium paid for, the applicant/developer engages a Licensed Surveyor using the accepted and paid Letter of Offer, whom henceforth applies for the RSP and carries out the survey. The applicant may also apply, if relevant, for the Developer's Licence and Advertising and Sales Permit from the Housing Controller;

- (g) The LA or DBKK can only grant the Planning Permission, without referring to the CB, if Conversion (change of land use or exchange of title) is completed. Before granting the Planning Permission, the LA or DBKK has to obtain evidence such as the Letter of Offer which has been accepted and premium fully paid or the document of title which has been successfully converted; and
- (h) Upon obtaining the Planning Permission, the application has to apply to subdivide the converted title according to the approved DP.

**Note:** The issuance of Interim Development Approval does not mean the future DP or Planning Brief must be approved.

**APPLICATION FOR INTERIM DEVELOPMENT APPROVAL WHERE THERE IS NO ZONING CONFLICT**

- 19. This procedure is only applicable where the land development proposed by the Owner corresponds with the use in the draft scheme or the local plan. In such event, the applicant may make such application to the LA or DBKK to obtain the Interim Development Approval and at the same time to JTU for Conversion. The applicant shall prepare the Outline Plan.
- 20. The application procedure is as follows (See **LAMPIRAN 2**):
  - (a) The Owner applies to the LA or DBKK for Interim Development Approval using a prescribed form prepared by the CB. LA or DBKK immediately records and forwards an application to the CB.
  - (b) The Interim Development application shall include the Outline Plan containing the proposed conceptual design (including how the land is to be subdivided where such subdivision is planned or amalgamation), type of development, building height, development density (dwellings per hectare for residential developments and plot ratio for all developments), land title status and road access.
  - (c) At the same time, the Applicant shall apply for Conversion from JTU using the application form LSF 100005B together with the Outline Plan, and supported by a letter/plan from the TP confirming the zoned land use and the information of title.

- (d) If CB approves the application, TP as the secretariat of the CB shall issue the Interim Development Approval to the LA or DBKK and forward a copy to the applicant in the form of **LAMPIRAN 3**. At the same time, the applicant may submit the DP, BP or other relevant plans to the LA or DBKK for onwards processing and technical comments.
- (e) When all documents are complete, JTU will compute the premium and submit the application and recommendation to the MNR;
- (f) Once the application is approved JTU will issue the Letter of Offer to the Owner. Upon the acceptance and all premium paid for, the applicant/developer engages a Licensed Surveyor using the accepted and paid Letter of Offer, whom henceforth applies for the RSP and carries out the survey. The applicant may also apply, if relevant, for the Developer's Licence and Advertising and Sales Permit from the Housing Controller.
- (g) The LA or DBKK can only grant the Planning Permission, without referring to the CB, if the Conversion (change of land use or exchange of title) is completed. Before granting the approval of any Planning Permission, the LA or DBKK has to obtain evidence such as the Letter of Offer which has been accepted and premium fully paid or the document of title which has been successfully converted.
- (h) Upon obtaining the Planning Permission, the application has to apply to subdivide the converted title according to the approved DP.

**Note:** The issuance of Interim Development Approval does not mean the future DP or Planning Brief must be approved.

**APPLICATION FOR CONVERSION WHERE THERE IS AN EXISTING APPROVED AND VALID DP AS AT THE EFFECTIVE DATE**

21. In the case of application for Conversion where there is an existing approved valid DP as at the Effective Date:-



- (a) the Owner applies direct to the PTU for Conversion on the strength of the approved DP;
- (b) the PTU will have a prescribed form for such application (LSF 100005A);
- (c) The prescribed form will list the enclosures to support the application;
- (d) The PTU will compute the premium and submit the application and recommendation to the MNR and will also issue a directive to issue RSP;
- (e) If MNR approves the application, the PTU will issue the Letter of Offer to the Owner and will include the terms and conditions imposed by the MNR.
- (f) The applicant/developer engages a Licensed Surveyor, whom henceforth applies for the RSP and carries out the survey; and

**OCCUPATION CERTIFICATE ISSUED ONLY AFTER CONVERSION AND ALL SURVEY WORK FOR SUB-DIVISION COMPLETED**

- 22. It is the intention of the State that Developers must complete the Conversion process as well as all survey work and any other action required for the issuance of sub-divided and/or subsidiary documents of title before the OC is issued.
- 23. For this purpose all Planning Permissions issued after the Effective Date shall include the terms and conditions stated in **LAMPIRAN 4**.
- 24. In cases where the CB has given the Interim Development Approval, DPs based on such approval are to be dealt with at LA/DBKK level without need for further reference to the CB.
- 25. In the case of building subdivisions for the purpose of obtaining subsidiary titles, the following procedure has to be complied:
  - (a) The Architect or other consultant has to issue a letter or certificate to the LA or DBKK confirming that the "superstructure" has been completed (can be done before the practical completion). Standard guidelines for the certification of the completion of "superstructure" are stated in **LAMPIRAN 5**.

- (b) LA or DBKK shall immediately inform PTU once the “superstructure” is certified complete.
- (c) PTU will record the certification of completion of the said “superstructure” and the developer or owner through an appointed Licensed Surveyor may apply for the subdivision of the building using Form A (as required under the Land (Subsidiary Title) Enactment 1972) and approve such application (including instruction issued by the RSP) if the documents are complete and in order.
- (d) To increase efficiency, reduction of cost and use of paper LA and DBKK are required to produce standard guidelines to allow submission of digital plans. In the meantime building and other plans are to be additionally submitted digitally;

#### **PROCEDURES FOR THE CENTRAL BOARD**

26. The Central Board will consider applications for Interim Development Approval from the perspective of:-
- (a) policy;
  - (b) zoning by virtue of any draft scheme or Structure Plan; and
  - (c) any directives from the State Cabinet.

#### **KEY PERFORMANCE INDEX**

27. The respective departments are to complete the various stages of the application for the planning and conversion process in accordance with the timeline stipulated in **LAMPIRAN 1** and **LAMPIRAN 2**.

#### **LAMPIRAN**

28. All LAMPIRAN annexed herewith form the essential part of this Circular and shall be wholly complied.

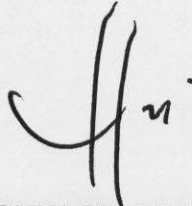
**29. CLOSURE**

29.1 All Permanent Secretaries of the Ministry, Head of State Department, District Officers / Assistant District Officers, Head of Statutory Bodies and Head of Local Agencies / Authorities are responsible for the compliance of this Circular.

29.2 This circular is effective from 1st June 2017.

Sekian, terima kasih.

**“BERKHIDMAT UNTUK NEGARA”**

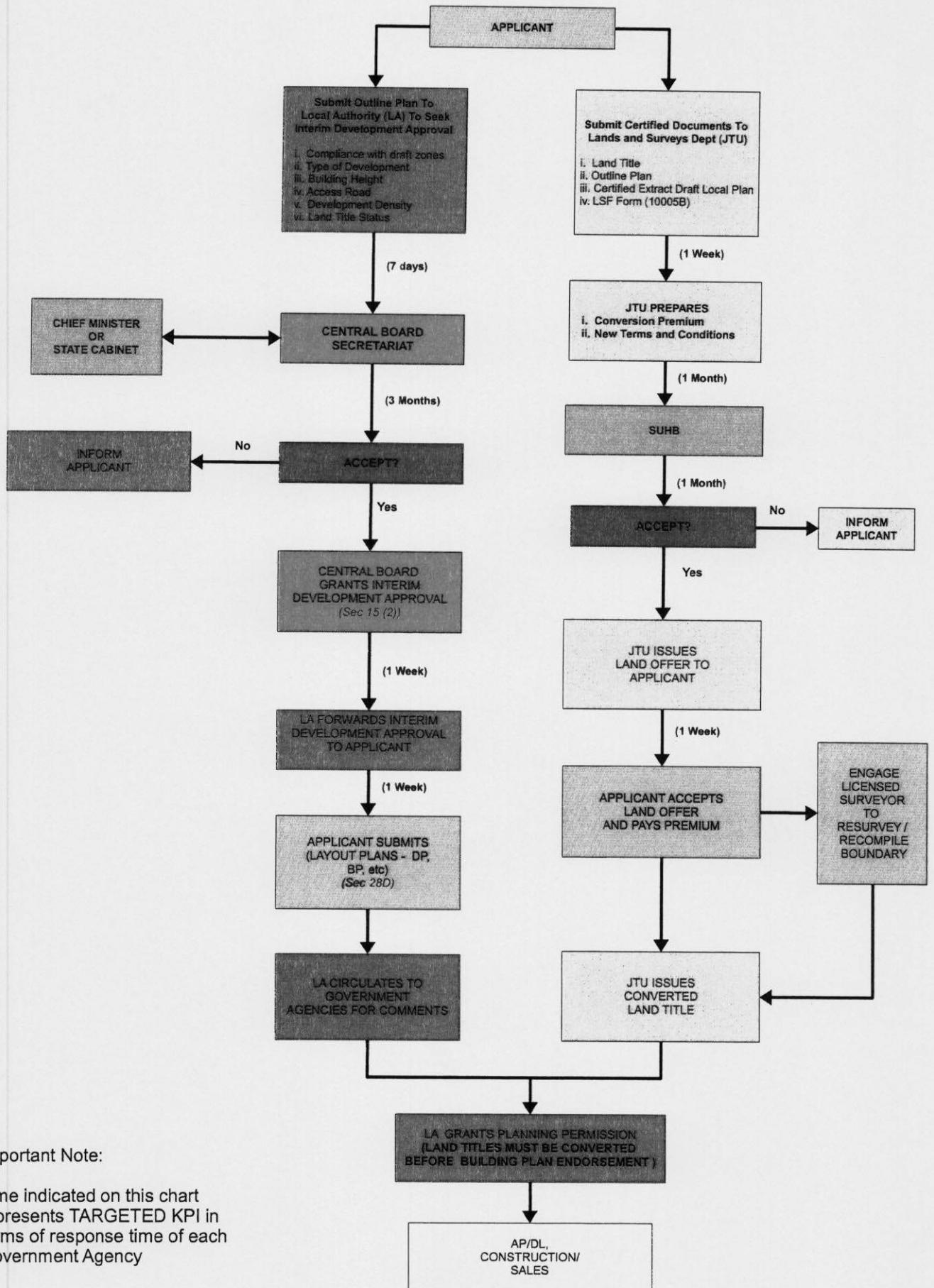


**( TAN SRI SUKARTI BIN WAKIMAN )**  
Setiausaha Kerajaan Negeri

Date: **01 JUN 2017**



## LAMPIRAN 2 (NO ZONING CONFLICT) Proposed Development Complies With Draft Local Plan Zoning

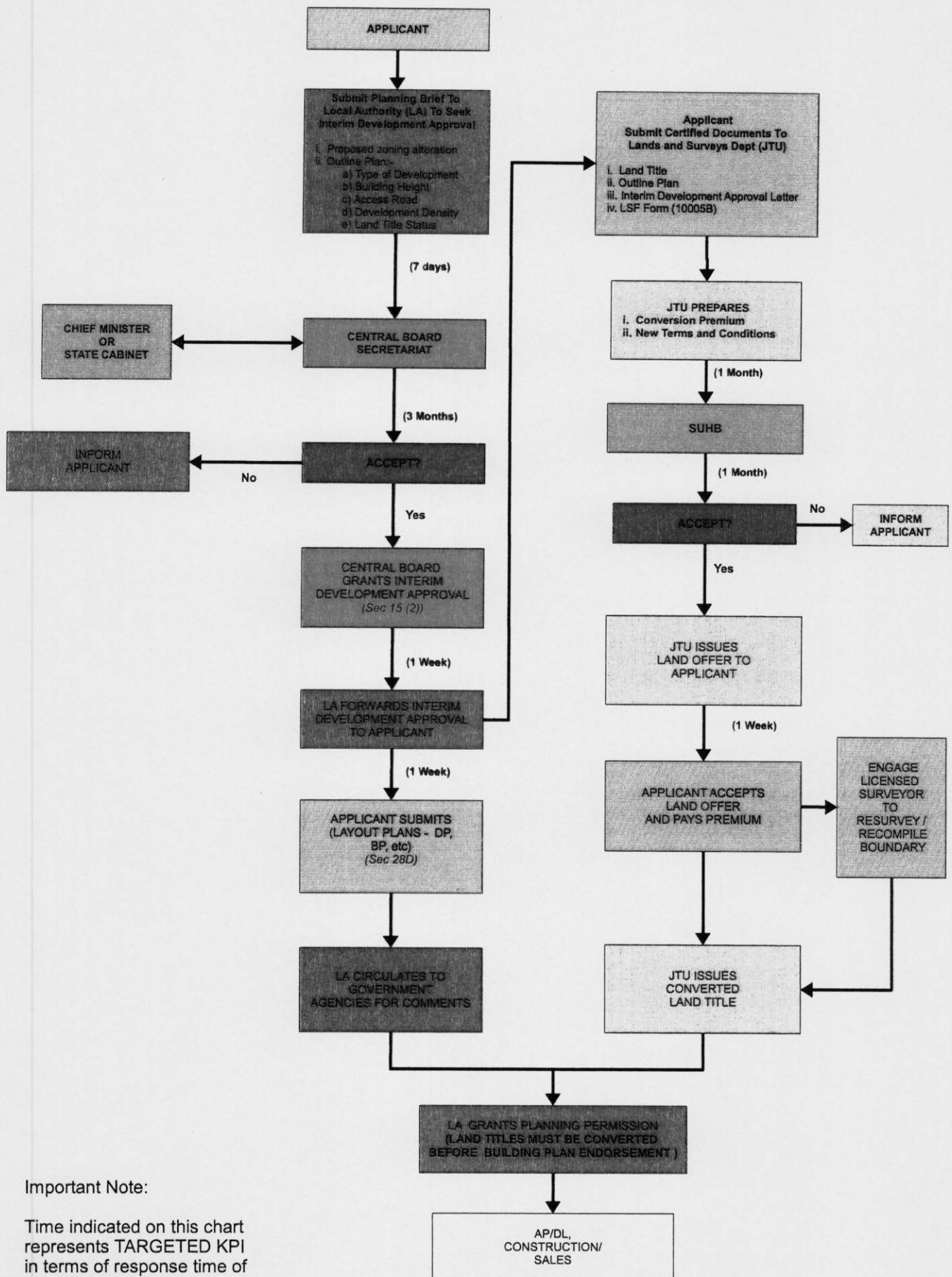


**Important Note:**

Time indicated on this chart represents TARGETED KPI in terms of response time of each Government Agency

# LAMPIRAN 1 (ZONING CONFLICT)

## Proposed Development Conflicts With Draft Local Plan Zoning



**Important Note:**

Time indicated on this chart represents TARGETED KPI in terms of response time of each Government Agency

### LAMPIRAN 3

#### SURAT INTERIM DEVELOPMENT APPROVAL

Kepala Surat LA/DBKK

Tarikh:

Kepada:

Pemilik Tanah

c/o Arkitek

Tuan/Puan,

Perkara : Permohonan Kelulusan Pembangunan Interim

Daripada : (contoh, pertanian kepada: (contoh perumahan pelbagai dan komersil)

Tanah : CL/NT \_\_\_\_\_

Nombor Rujukan permohonan dan tarikh :

=====

Merujuk kepada perkara di atas dan permohonan anda yang bernombor Rujukan \_\_\_\_\_ dan bertarikh \_\_\_\_\_ bersama dengan Brif Perancangan/Pelan Rangkaian.

Adalah sukacita dimaklumkan bahawa Permohonan anda untuk Kelulusan Pembangunan Interim telah diluluskan. Sila ambil maklum kelulusan ini adalah tertakluk dengan pematuhan sepenuhnya terma - terma dan syarat – syarat tersenarai di bawah :-

- (1) Kelulusan Pembangunan Interim ini bertujuan untuk memudahkan proses penukaran syarat kegunaan tanah ke atas hakmilik yang dirujuk di atas.
- (2) Kelulusan Pembangunan Interim ini hanya akan berkuatkuasa sepenuhnya setelah kebenaran merancang (Planning Permission) telah diperolehi dan Pemohon mematuhi semua undang-undang yang berkuatkuasa atau digubal daripada semasa ke semasa termasuk Ordinan Tanah (Cap 68), Ordinan Perancangan Bandar dan Desa (Cap 141) dan Ordinan Kerajaan Tempatan 1961.
- (3) Pembangunan pada masa hadapan haruslah mengikuti "conceptual design" dan ketumpatan (bagi setiap kegunaan yang berkaitan) yang telah ditetapkan dalam Taklimt Perancangan/Pelan Rangkaian di atas.



(4) Maklumat di dalam surat ini tidak boleh digunakan sebagai ketetapan nilai tanah untuk apa jua tujuan termasuk pengiraan pampasan pengambilan tanah secara wajib di bawah Ordinan Pengambilan Tanah (Cap 69).

(5) Kelulusan Pembangunan Interim ini adalah sah bagi tempoh yang tetap iaitu selama dua (2) tahun daripada tarikh surat ini. Sila ambil perhatian bahawa setelah tempoh yang ditetapkan telah tamat, kelulusan ini akan luput sama sekali.

Yang Benar,

s.k. Pemohon

#### **LAMPIRAN 4**

#### **STANDARD TERMS IN ALL PLANNING PERMISSION**

*The following are overriding conditions, all of which must be performed to the satisfaction of the Local Authority as a requirement for the issuance of the Occupation Certificate ("OC"):-*

- (a) where the development requires a change of use of the document of title as stated or implied in the document of title to the project land then the delivery to us of a certified true copy of each of the following (where applicable):-*
  - (i) converted document of title(s) of the project land;*
  - (ii) the letter of offer issued by the Director of Lands and Survey offering, among other things, the conversion of the project land's use to the use approved by this letter;*
  - (iii) receipt of payment of the premium and registration fees in full;*
  - (iv) whether or not there is any conversion of land use involved, receipt of payment of survey fees to the Board of Surveyors.*
- (b) the submission of the Building Plans in hardcopy and softcopy to us and to the Lands and Survey Department.*
- (c) the architect for the project is to issue the following certificate to (1) us; (2) Lands and Surveys Department; and (3) the appointed licensed surveyor certifying that where the building is intended to be sub-divided, certification that the superstructure of the building has been completed;*
- (d) as-built drawings to us and in the case of a subsidiary title project, (1) to include a plan identifying the common property and (2) parcel numbering consonant with the system stipulated by Lands and Surveys Department;*
- (e) notwithstanding the approval of the Development Plan, the building and other plans shall not be approved until the project land has/have been converted as evidenced by the payment of the premium in full pursuant to the Letter of*

*Offer issued by the Director of Lands and Survey and the issuance of the converted document of title;*

- (f) where the project involves sub-division of the project land then it is a requirement that in addition to evidence of payment of the fees due to the Board of Surveyors, that the letter of offer for the sub-division of the project land has been issued and accepted by the landowner concerned and that the premium and all other fees paid in full.*

*[the rest of this page is intentionally left blank]*



LAMPIRAN 5



**PAM** PERTUBUHAN AKITEK MALAYSIA  
MALAYSIAN INSTITUTE OF ARCHITECTS  
Northern • Sabah • Sarawak • Southern Chapter

Our Ref: Pra/17/9036  
Date: 23<sup>rd</sup> May 2017

Mr. Christopher Chin,  
Working Committee For  
The Review of Subsidiary Title and Management Corporation,  
Kota Kinabalu.

Dear Mr. Chin,

**GUIDELINES FOR THE CERTIFICATION OF COMPLETION OF SUPERSTRUCTURE BY THE ARCHITECT**

With reference to PAM Sabah Chapter's Special Chapter Committee meeting held on 22<sup>nd</sup> May 2017 at 12.30 pm.

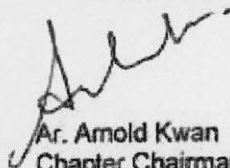
After much deliberation, we are pleased to append herewith the below guidelines as follows:

<b>GUIDELINES FOR THE CERTIFICATION OF COMPLETION OF SUPERSTRUCTURE BY THE ARCHITECT TO TRIGGER THE APPLICATION AND SUBMISSION OF <u>FORM A</u> UNDER LAND (SUBSIDIARY TITLE ENACTMENT) 1972 FOR PTU APPROVAL AND THE ISSUANCE OF THE RSP FOR THE SURVEY OF THE SUB-DIVISION OF BUILDINGS.</b>	
<b>Building Components</b>	<b>Description of Construction Work <u>That Must be Completed For Certification</u></b>
<b>a) Structural frameworks and floor slabs</b>	<ul style="list-style-type: none"><li>• All primary structural elements above lowest floor level including:<ul style="list-style-type: none"><li>- Beams</li><li>- Columns</li><li>- Slabs and Suspended Slabs</li><li>- Structural walls (if any)</li></ul>where applicable of all the Parcels</li><li>• Retaining walls forming part of the structural element to the Parcels (if any)</li></ul>
<b>b) Walls</b>	<ul style="list-style-type: none"><li>• External walls of all the Parcels</li><li>• All party walls inclusive of wall stiffeners</li></ul>
<b>c) Roofing and ceiling</b>	<ul style="list-style-type: none"><li>• Roof coverings and flashing to all the Parcels (if any)</li><li>• Ceiling to all top floor parcels (if any)</li><li>• Bare soffits of the floor slab to all the Parcels above</li></ul>

Please note that the above certification to the stage of superstructure is solely for subsidiary titles survey.

Thank you.

Yours sincerely,  
For PAM Sabah Chapter



Ar. Arnold Kwan  
Chapter Chairman 2017/2018