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RISKS OF THE POSITION OF LAND DEED MAKING OFFICIALS IN LAYERED AREAS: COMPARISON OF LAND LAW CONSTRUCTION OF KPBPB BATAM AND THE ISKANDAR REGION OF MALAYSIA

Wahyu Taufiq Abdul Aziz*, Erniyanti, Fadlan
Master of Notary Studies Program, Faculty of Law, Universitas Batam, Batam, Indonesia
E-mail: revelation@diyacademy.org*, erniyanti@univbatam.ac.id, fadlan@univbatam.ac.id

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Abstract
The designation of a territory as a special economic zone is commonly understood as a facility for investment. This study tests that assumption from a rarely examined angle, namely its consequences for the position of land deed officials. This normative legal research compares the construction of land law in the Batam Free Trade Zone and Free Port with the Iskandar Malaysia region, employing comparative, statutory , and conceptual approaches. The comparison measures each zonal regime's deviation from its parent land law across nine equivalent aspects. The findings show that Iskandar deviates from Johor State law in only two of nine aspects, none of which touches the legal relationship over land. On the other hand, the Batam Free Trade Zone deviates in five of nine aspects, all of which touch the legal relationship over land and its governing institutions. The consequence for the office of Land Deed Official is distinctive: the validity of the deed depends on a management right utilization approval whose issuing standards lie beyond the profession's control. This risk is aggravated by a negative publication system that grants no indefeasibility after registration, unlike the Torrens system which closes that risk. The study concludes that reforming institutional coordination is not merely an ease-of-doing-business agenda but a professional protection agenda, and formulates four mitigation measures achievable without altering the nationality principle in Indonesian land law.

Keywords: Land Deed Official; management rights; special economic zone; comparative law; legal certainty.

INTRODUCTION

Land law is one of the legal fields that demonstrates the most direct relationship between economic development policies and the principle of state sovereignty. In the Indonesian legal system, this relationship is evident in the limitations on the subject of property rights. Law Number 5 of 1960 stipulates that property rights can only be held by Indonesian citizens and that any act intended to transfer property rights to foreigners is void by law. This construction does not stand as a mere administrative prohibition, but rather serves as a manifestation of the principle of nationality, which is placed as one of the foundations of national agrarian law (Harsono, 2007; Law Number 5 of 1960).

At the same time, the need to attract investment has driven the establishment of zones with special legal treatment. Batam serves as a significant example, having achieved status as a Free Trade Zone and Free Port. This zone's regime is regulated by Government Regulation No. 41 of 2021 and its amendments, ensuring that zone management involves not only the national land regime but also regional institutions with special authority. Geographically and functionally, Batam faces the economic growth areas of Johor, including the Iskandar Malaysia Region, making both relevant within the comparative framework of special zone land law.

Batam's special features extend beyond fiscal facilities or streamlined business operations. Most of the land in the area is covered by Management Rights (Hak Pengelolaan) titles controlled by the Batam Business Entity Agency. Government Regulation Number 18 of 2021 defines Management Rights as a partial transfer of State Control Rights (Hak Pengelolaan) authority to the holder to plan land use, utilize land, and transfer portions of land to third parties. Consequently, legal relations over land in Batam involve not only the state and the ultimate rights holder, but also the Management Rights holder. This additional layer of authority distinguishes Batam from many other regions in Indonesia. From the perspective of the legal profession, this construction raises more specific questions. A Land Deed Official is a public official with attributive authority to create authentic deeds concerning certain legal acts regarding land rights and ownership rights to condominium units. The Land Deed Official (PPAT) is one of the main instruments in the process of registering the transfer of rights. Therefore, the quality of legal certainty in the land system not only affects investors or rights holders, but also influences the position of the official who creates the transfer instrument (Government Regulation Number 37 of 1998; Government Regulation Number 24 of 2016).

In areas without a dedicated institutional framework, Land Deed Officials (PPAT) examinations focus on the parties' competency, title status, document compliance, and other requirements stipulated by land regulations. In Batam, these examinations are further enhanced by the inclusion of documents relating to the use of Management Rights and obligations within the administrative jurisdiction of the Batam Business Entity Agency. Thus, a deed may be formally drafted by a PPAT based on seemingly complete documents, but its administrative foundations may still be determined by another institution. This creates a unique occupational risk: the profession is required to guarantee the accuracy of an authentic product, while some of the prerequisites for that product are beyond the profession's control.

These issues become more apparent when comparing systems with different structures. In Malaysia, land authority remains with the State Authority, and the National Land Code 1965 serves as the primary legal framework. Kawasan Iskandar has a regional development agency, but according to the construction analyzed in this study, this agency operates primarily with planning and promotion functions without taking over land authority. Therefore, the comparison of Batam and Iskandar is not intended to declare one system absolutely superior, but rather to examine the extent to which the regional regime alters the legal relations of the parent land and how these changes affect the profession of transfer instrument makers.

The literature that underpins this research indicates that studies on foreign land ownership generally focus on the boundaries of the subject of rights or investment attractiveness, while cross-country comparative studies often focus on differences in types of rights and acquisition procedures. Studies that systematically measure deviations in a region's regime from its parent land law and then translate these measurements into an analysis of the job risks of land deed officials are still limited. Previous research on Batam's authority issues has demonstrated institutional complexity, but has not specifically linked it to the job risk structure of Land Deed Officials (PPAT) (Respationo, 2024).

The novelty of this research therefore lies in two analytical steps. First, both regions are assessed using nine identical aspects, so the comparison goes beyond general descriptions to provide a measure of the depth of deviation from the parent law. Second, these institutional differences are analyzed as factors shaping occupational risk, particularly through the relationship between approval for the use of Management Rights and the nature of the land registration system. In this way, legal certainty is interpreted not only from the perspective of the rights holder but also from the perspective of the profession that serves as the formal node for the transfer of rights.

Based on this background, this study poses two questions. First, how does the construction of land law in the Batam KPBPB and the Iskandar Malaysia Region deviate from their respective parent land laws? Second, how does this deviation affect the job risks of deed-making officials in both regions, and what mitigation steps can be taken without changing the principle of nationality in Indonesian land law? The objectives of the study are to explain the depth of the differences between the two regimes, demonstrate the relationship between institutional design and professional risk, and formulate mitigation measures that work at the level of procedures and institutional coordination.

LITERATURE REVIEW

1. The Principle of Nationality and the Basic Structure of Indonesian Land Law

The principle of nationality occupies a central position in the structure of Indonesian agrarian law. Restrictions on property rights for foreign nationals demonstrate that land law is not merely treated as a tool for economic transactions, but also as an instrument for maintaining the link between land ownership and citizenship. Harsono (2007) explains the formation of the UUPA in the context of correcting the colonial agrarian structure. Within the framework of this research, the principle of nationality is not positioned as a variable to be changed, but rather as a normative boundary that must remain intact when developing mitigation recommendations.

The methodological consequences of this position are significant. The comparison with Malaysia is not intended to conclude that openness to foreign ownership should be adopted by Indonesia. Instead, the research separates two levels of analysis: the first level concerns who may be the subject of rights, and the second level concerns how state institutions manage the process of granting, utilizing, transferring, extending, and registering rights. This separation allows procedural reforms to be discussed without shifting the principle of nationality that characterizes national law.

In the Batam context, this distinction is even more important because the deviations identified do not lie in the opening of Property Rights to foreigners. The types of rights for foreign citizens remain subject to national land law, specifically Right of Use (Hak Pakai), rights to condominium units, and the use of Building Use Rights (Hak Guna Bangunan) through qualified Indonesian legal entities. What has changed is the configuration of authority surrounding these rights. Therefore, the source of the research problem is not the liberalization of the subject of rights, but rather the institutional layers that shape the administrative requirements and time dimensions of rights utilization.

2. Management Rights as a Layer of Land Authority

Management Rights in Government Regulation Number 18 of 2021 are understood as the delegation of some of the State's authority to control rights to their holders. Conceptually, Management Rights differ from land rights, which are enjoyed as individual rights. Management Rights holders have the authority to plan land use, use land, and transfer portions of the land to third parties. In areas dominated by Management Rights, the relationship between the ultimate rights holder and the state is therefore mediated by the Management Rights holder.

From a legal certainty perspective, this layer has two sides. On the one hand, Management Rights allow for coordinated area planning based on development functions. On the other hand, each additional authority creates a new decision point. If a decision at that point becomes a requirement for the granting, transfer, or extension of rights, then the rights holder and the official issuing the deed must consider the standards, timing, and consistency of the Management Rights holding institution's actions. This study does not consider the existence of Management Rights to be a legal flaw, but rather assesses the consequences of its design when combined with the registration system and professional responsibilities.

The situation in Batam most clearly illustrates this issue. The Batam Business Agency (Batam) is not only an institution that manages regional interests but also directly deals with the administration of land use under Management Rights (Hak Pengelolaan). This means that a land transaction cannot simply be interpreted through general transfer of rights laws. It must also be situated within the relationship between the rights holder, the Management Rights holder, the Land Office, and the Land Deed Official (PPAT). The greater the number of overlapping authority points, the greater the need for transparent procedures, uniform document standards, and predictable coordination.

3. The Theory of Authority and Risk of Institutional Quasi-Dualism

Hadjon (2011) differentiates sources of authority into attribution, delegation, and mandate. This distinction is used to determine whether an institution derives its authority directly from legislation or exercises authority derived from another institution. This framework is relevant because the existence of a regional institution does not necessarily imply a change in land authority. An institution can have a regional development mandate without obtaining authority over legal land relations.

Within the Iskandar Region structure, the Iskandar Regional Development Authority (ISDA) is granted authority directed towards regional development, planning, coordination, and promotion. Land authority remains vested in the Johor State Authority, and registration mechanisms remain within the state land administration. Thus, the region's institutional framework exists alongside the parent land regime, rather than introducing new legal relationships into the rights-holding structure.

In contrast, in Batam, area management authority interacts with land ownership through Management Rights. Respationo (2024) highlights the cross-jurisdictional problems and complexities of authority in Batam's governance. This study's findings expand on this issue by focusing on the risks of the PPAT position. The term quasi-dualism is used to describe a situation where two institutional centers are equally relevant to a single transaction, even though neither formally holds identical authority. The risk arises not because one institution is illegitimate, but because applicants and the profession must navigate multiple interdependent decision-making regimes.

4. Comparative Functional Law as a Method

Zweigert and Kotz (1998) place function as an important basis in comparative law. Two institutions with different names can be compared if they perform equivalent functions, while two seemingly similar terms cannot always be equated if their legal functions differ. This principle is particularly important when comparing Indonesian and Malaysian law because the terminology for rights, institutions, and professions is not identical.

This study therefore does not equate Management Rights with land ownership in Malaysia in terminology. What is being compared are functions: who holds authority over the land, who grants consent, who registers the rights, what types of interests foreigners can have, how long the rights last, and who makes the transfer instrument . The nine aspects used are designed to compare each side of the question. This approach prevents the comparison from degenerating into a list of disparate terms.

The advantage of the functional approach is its ability to reveal the depth of regional deviations. Iskandar Malaysia does not need to be identical to Batam to be a useful comparison. Instead, their design differences allow research to isolate institutional variables: does the existence of a special zone always require changes in legal relations over land? The results suggest the answer is no. A zone can have special institutions without transferring or adding layers of authority over land.

5. Legal Certainty: Fuller and Otto

Fuller (1969) views legality through a set of principles that require, among other things, generality of rules, promulgation, clarity, consistency, and consistency between promulgated rules and official actions. This framework helps distinguish between the existence of written rules and their operation in administrative practice. A system can have comprehensive rules, but still create uncertainty if implementation across agencies is inconsistent or decision-making standards are insufficiently predictable.

Otto (2002) expands on this understanding through the concept of real legal certainty. Certainty depends not only on the availability of existing norms but also on their consistent application by government agencies and the ability of legal entities to predict the consequences of their actions. In this study, both frameworks are used to assess the risks that arise when PPATs rely on administrative approvals whose internal standards are not within the profession's control.

Legal certainty for Land Deed Officials (PPAT) has a different dimension than legal certainty for investors. Investors primarily require certainty regarding whether a right can be obtained, how much it will cost, and how long the process will take. Land Deed Officials (PPAT) require additional certainty regarding what documents are sufficient to prove the validity of the transaction and when professional responsibility for the deed can be considered reasonably complete. If the documents used as the basis for the deed can be challenged years later due to internal procedural flaws at the issuing institution, the professional risk remains open even if the PPAT has examined all matters within their scope.

6. Economic Property Rights and the Time Dimension

Demsetz (1967) defined property rights within an economic framework as a set of authorities that grant the ability to use, benefit from, transfer, and maintain the value of an asset. This study applies this concept to a limited extent to examine the temporal dimension of Building Use Rights (Hak Guna Bangunan) and Usage Rights (Hak Pakai) over Management Rights (Hak Pengelolaan Hak). Normatively, the maximum term can be a lengthy series of grants, extensions, and renewals. However, their economic value is determined not only by the number of years, but also by the predictability of those extensions.

For Right of Management land, extensions and renewals require the involvement of the Right of Management holder. Therefore, the eighty-year horizon that may be achieved is not identical to the eighty-year rights that are automatically available from the outset. Uncertainty at the extension stage affects the transfer component and asset value, particularly when the terms of the agreement are not entirely predictable from the initial transaction. This analysis does not imply that extensions should be automatic, but rather emphasizes the importance of objective and measurable conditions.

A comparison with Malaysia reveals a different time structure. Foreign interests that obtain approval from the State Authority can own property rights according to permitted categories, including freehold or leasehold. However, research also confirms that this openness is not unlimited, as there are protected object categories, including Malay rizab land and certain housing categories. Therefore, the differences in systems should be interpreted as design differences, not as a justification for outright imitation of foreign models.

7. Land Registration and Risk Coverage System

Another fundamental difference lies in the land registration system. The National Land Code 1965 places Malaysia in the Torrens tradition, where registration has strong implications for the enforceability of rights. Section 340 establishes the principle of indefeasibility, with certain exceptions. The Tan Ying Hong v. Tan Sian San & Ors decision affirmed the deferred indefeasibility approach, where full protection does not necessarily extend to the immediate recipient of a defective instrument but can accrue to subsequent purchasers in good faith for value.

In the construction analyzed by the source text, Indonesia uses a system of negative publication with a positive tendency. Certificates serve as strong, but not absolute, evidence. This characteristic means that registration does not always eliminate all potential future disputes. For Land Deed Officials (PPAT), this implication is important because a deed that has been created and used for registration can still be subject to dispute if the basis for its acquisition is later questioned.

The relationship between the registration system and the regional administrative layers creates different levels of risk. If a profession relies on documents from other institutions, but registration provides a relatively strong point of risk mitigation, then uncertainty may subside after a certain stage. Conversely, if documents from other institutions remain a source of disputes and the registration system does not provide equivalent immunity, the professional risk becomes more prolonged. This is the theoretical basis for comparing PPATs in Batam and solicitors in Johor.

8. Research Gaps and Analytical Framework

Based on this literature synthesis, this study identifies three gaps. First, discussions of special economic zones often prioritize ease of investment, even though the design of the zones can also have consequences for the legal profession preparing transaction instruments. Second, cross-border comparisons of land laws often compare types of rights without assessing how far a special zone deviates from its parent law. Third, studies of Batam's institutional framework have not yet linked the intersection of authority with the duration of responsibility and risks of PPATs.

To fill this gap, the study utilized nine aspects: sources of authority over land, basic laws, registration institutions, pre-acquisition approval, types of rights available to foreign interests, the duration of rights, periodic encumbrances, the existence of additional institutions, and deed-making officials. This framework combines institutional analysis, land rights, and the legal profession into a single matrix. The comparative results are then assessed through theories of authority, legal certainty, and the nature of the registration system.

METHOD

This research is a normative legal study that treats law as a system of norms. Therefore, the research materials consist of relevant laws and regulations, court decisions, books, scientific articles, and policy documents, rather than data on respondent behavior. The research is both descriptive-analytical and prescriptive: it first describes the legal construction in each jurisdiction, then analyzes the differences, and finally formulates steps to mitigate occupational risks.

Three approaches were used in an integrated manner. The comparative approach served as the primary framework and was implemented through functional comparisons as developed by Zweigert and Kotz (1998). The statutory approach was used to examine the hierarchy, scope, and relationships between the UUPA, regulations on Management Rights, regulations on the implementation of the Batam Land Deed (KPPBPB), regulations on the position of Land Deed Officials (PPAT), the 1965 National Land Code, and the 2007 Iskandar Regional Development Authority Act. The conceptual approach was used when terms in the two systems lacked direct equivalents, particularly when comparing Management Rights, state authority over land, and the positions of Land Deed Officials (PPAT) and advocates and solicitors (Marzuki, 2021).

Primary legal materials include Law Number 5 of 1960, Government Regulation Number 18 of 2021, Government Regulation Number 41 of 2021 and its amendments included in the source text, Government Regulation Number 37 of 1998 as amended by Government Regulation Number 24 of 2016, National Land Code 1965, Iskandar Regional Development Authority Act 2007, and the decision of Tan Ying Hong v. Tan Sian San & Ors. Secondary legal materials include the works of Harsono, Hadjon, Marzuki, Zweigert and Kotz, Fuller, Otto, Demsetz, Teo Keang Sood and Khaw Lake Tee, Respationo's articles, and the World Bank Group reports that have been used in the source text.

The analysis was conducted in five stages. The first stage described each system independently to avoid imposing concepts from one jurisdiction on another. The second stage identified similarities and differences based on nine common aspects. The third stage evaluated these differences through the theory of authority and legal certainty. The fourth stage applied functional comparison to determine whether institutions with different names perform equivalent functions. The fifth stage developed a synthesis-prescription in the form of mitigation measures that can be implemented at the procedural and coordination levels without expanding the scope of Property Rights to foreign nationals.

These nine aspects were chosen because they collectively represent the chain of legal relations over land: origin of authority, basic norms, registration administration, approval requirements, form of rights, duration, periodic burdens, additional institutions, and the profession of the instrument maker. The use of identical aspects in both jurisdictions maintains a balanced analysis. The results are not read as a legal quality score , but rather as an indicator of the depth of change in a regional regime relative to its parent law.

This research has deliberate limitations. It does not measure the frequency of PPAT disputes, the actual duration of document issuance, or the actual costs of each transaction. Such measurements would require empirical research, access to case files, service documents, and statements from the parties. The claims of this normative research are limited to identifying potential risks posed by the legal structure and comparing whether similar risks exist in comparable jurisdictions.

Unit of Analysis, Comparative Validity, and Prescriptive Reasoning

The research's unit of analysis is not the entire Indonesian and Malaysian legal systems, but rather the relationship between the regional regimes and their parent land laws. This limitation is important to prevent overly broad conclusions. When the study states that Batam deviates in five of nine aspects, it refers to the deviation of the Batam KPBPB from the Indonesian land configuration outside the region in the aspect being examined. Similarly, Iskandar's two deviations are read against the laws of Johor State, not against the entire variety of land laws in Malaysia. This limitation maintains the proportionality of claims and prevents cross-regional generalizations unsupported by legal material.

The validity of the comparison is maintained in two ways. First, each jurisdiction is described independently before being compared. This step prevents Indonesian concepts from being directly used to describe Malaysian institutions. Second, each aspect is assessed based on its function. For example, the term "Hak Pengelolaan" (Management Rights) is not searched for a literal equivalent in the National Land Code, but rather analyzed based on its function, authority, approval, and relationship with the ultimate rights holder. In this way, differences in terminology are not automatically interpreted as differences in substance, and similarities in terminology are not automatically interpreted as similarities in function.

The nine-aspect framework also serves as a bias control tool. Without a fixed framework, researchers might select only the most salient differences in one country. Using the same questions on both sides forces the analysis to examine the same aspects, including those that appear to be unchanged. Findings that the primary law, registration institutions, specific types of rights, and the profession of instrument-making remain consistent with the parent law are just as important as findings regarding aspects that change. Thus, conclusions are not built solely on differences, but on the overall pattern of similarities and differences.

Prescriptive reasoning is conducted after the problem structure is identified. Recommendations do not begin with the assumption that Batam's procedures should be the same as Malaysia's. Instead, the research asks what functions are needed to mitigate the identified risks. If the problem is unclear document verification, the required function is a formal confirmation mechanism. If the problem is uncertainty about extensions, the required function is objective criteria. If the problem is process fragmentation, the required function is service integration. The institutional form is chosen after the functions are clarified.

This approach also underpins the research's recommendation against changing the nationality principle. The analysis demonstrates no causal relationship between the restrictions on property rights for foreigners and the risks of PPATs, the focus of the research. Risks arise from the layers of authority, approvals, and the nature of the registration system. Recommendations targeting the nationality principle are therefore disproportionate to the identified problems. The methodological principle employed is that prescriptions should be directed at the source of the problem, as evidenced by the analysis.

RESULTS AND DISCUSSION

1. Deviation of the Regional Regime from its Parent Land Law

The first research question requires equal measures on both sides. Therefore, the Batam KPBPB is compared with Indonesian land law outside the region, while the Iskandar Region is compared with Johor State land law outside the region. A direct comparison was not made between Batam and Iskandar at this initial stage, as the primary objective was to determine how far each region has moved from its parent law. The results of the nine aspects are presented in Table 1.

Table 1. Deviations of regional regimes from their parent land laws

Aspect	KPBPB Batam against its parent law	Iskandar area to its parent law
Source of authority over land	DIFFERENT. Some of the State's Rights to Control are delegated through Management Rights.	SAME. Remain with the Johor State Authorities.
Basic law	SAME. UUPA.	SAME. National Land Code 1965.
Rights registration agency	SAME. Land Office.	SAME. State Land and Excavations Officer.
Approval prior to acquisition	DIFFERENT. Approval for HPL utilization from BP Batam is required.	SAME. Passage of Section 433B applies to foreign interests.
Types of rights for foreigners	SAME. Right of Use, condominium unit, and HGB through PT PMA.	SAME to Johor's main law. Ownership rights can be obtained by state graduation.
Term of rights	DIFFERENT. Extension depends on the approval of the HPL holder.	SAME. Free grip or taxation follows the tempo.
Periodic charges of rights holders	DIFFERENT. There is an additional annual mandatory fee.	SAME as to the parent law.
Additional institutions	DIFFERENT. Regional Council and BP Batam.	DIFFERENT. IRDA, but without authority over land.
Deed making official	SAME. PPAT.	SAME. Advocate and solicitor.
Number of different aspects	5 of 9.	2 of 9.

Table 1 shows a stark contrast. The Iskandar area deviates from Johor State law in only two of nine aspects, while the Batam KPBPB deviates from Indonesian land law in five aspects. However, these figures should not be read as a simple quantitative assessment. What is more crucial is the location of the differences. The five deviations in Batam all relate to the structure of land ownership or management, while the two deviations in Iskandar do not alter the legal relationship to the land.

On the Batam side, Management Rights (Hak Pengelolaan) alter the practical sources of authority, as land use requires not only a relationship with land administration but also the involvement of the HAK holder. The existence of a utilization agreement creates a pre-emptive phase prior to acquisition or transfer. Extension of rights is also related to the approval of the HAK holder, while the holder faces additional periodic burdens in the form of annual mandatory fees. Furthermore, the regional structure introduces the Batam Regional Council and the Batam Business Entity as institutional actors that must be positioned within the authority map.

On Iskandar's side, the IRDA is indeed an additional institution, but its existence does not change who holds land authority. The Johor State Authority remains the center of land authority, and registration is still handled by the state land administration. Therefore, the regional institution operates within land law, not as a layer intervening in the relationship between the state and rights holders. The second difference considered in the study is the existence of the regional institution itself, not changes to the rights structure.

This distinction can be formulated through the metaphor of layers. In Malaysia, special zones operate as a layer alongside land law: they supplement planning and promotion functions without introducing new legal relationships between the state and rights holders. In Batam, special zones operate as a layer above land law because their functions are linked to Management Rights, which must be taken into account in the use, transfer, and extension of rights. This metaphor is not a formal classification within regulations, but rather an analytical tool to explain the depth of institutional interactions.

When interpreted in light of Hadjon's (2011) theory of authority, Iskandar's structure demonstrates a relatively separate division of functions. The IRDA holds attributive authority for regional development tasks, while land authority remains with state institutions. In Batam, the authority for regional management and the authority operating through Management Rights converge in a single transaction space. This confluence creates a quasi-dualistic situation: not two entirely separate legal systems, but two decision centers that are equally relevant to the validity and smoothness of land transactions. This quasi-dualism explains why coordination issues should not be viewed solely as a service issue. For applicants, poor coordination means unpredictable time and costs. For Land Deed Officials (PPAT), unclear coordination means uncertainty about whether the available administrative documents are sufficient to form the basis for a deed. Thus, the institutional design of the region directly influences the profession's risk structure.

2. The Status of Rights for Foreign Citizens and Their Time Dimension

The deviation in Batam does not change the basic principles regarding the types of rights available to foreign nationals. Property rights remain restricted due to restrictions stemming from the Basic Agrarian Law and constituting part of the principle of nationality. Foreigners may exercise the forms of rights permitted by national law, including Right of Use and the right to own a condominium unit, subject to requirements. Building use rights are exercised through Indonesian legal entities that meet investment requirements. Therefore, Batam's uniqueness cannot be interpreted as an exception to the principle of nationality.

The difference is more pronounced in the time dimension. Based on Government Regulation Number 18 of 2021, as referenced in the source text, Building Use Rights (Hak Guna Bangunan) can be granted for a maximum of thirty years, extended for twenty years, and renewed for another thirty years. Term-term Right of Use (Hak Pakai) on State Land and Land with Management Rights (Hak Pengelolaan Hak) have comparable time structures. Mathematically, the maximum possible horizon is eighty years. However, this figure should be read as a normative possibility consisting of several stages, not as a single package of rights automatically granted from the outset.

In the case of Right of Management land, the extension and renewal stages require a relationship with the Right of Management holder. This is where Demsetz's (1967) theory of economic property rights provides additional reading. The value of a right is determined not only by the ability to use the object currently, but also by the ability to retain and transfer value in the future. If the continuation of the right depends on an agreement whose criteria are not entirely predictable from the outset, then the economic value component and transaction certainty are affected.

The study does not propose that the consent of Management Rights holders be removed. Management Rights holders legally have a management function and must ensure that the land is used according to its intended purpose. The problem lies in the measurability of the reasons for approval or rejection. If the conditions for extension are formulated objectively—for example, compliance with the designation, absence of neglect, and fulfillment of financial obligations—then authority remains but the room for uncertainty is reduced.

In Malaysia, foreign interests that meet the requirements of Sections 433A to 433E of the National Land Code can obtain title after approval by the State Authority. The rights structure can be in the form of freehold or taxation according to the land category. However, this openness has firm limits. Malay reserve land is protected by the constitutional framework and state provisions, while certain categories such as low-cost boarding houses, simple boarding houses, and Bumiputera quota units are also outside the normal access of foreign interests. Therefore, Malaysia cannot be described as a completely open system.

The comparison reveals two models of restrictions. Indonesia completely closes one of the most powerful types of rights—property rights—to foreign nationals, while Malaysia completely closes certain categories of objects and continues to use the country's passing mechanism for foreign interests. These differences are fundamental, but not the focus of the study's recommended changes. Recommendations focus on procedures, coordination, transparency, and document standards to ensure that differences in principles do not hinder the certainty of the process.

3. Registration System and Depth of Position Risk

The comparison becomes more meaningful when the regional structure is linked to the nature of the land registration system. Malaysia uses the Torrens system. Within the framework of the National Land Code 1965, registration has a strong constitutive function, and Section 340 provides the principle of indefeasibility, with exceptions for fraud, forgery, a defective instrument, or unlawful acquisition. The Tan Ying Hong v. Tan Sian San & Ors decision affirmed deferred indefeasibility, so that the direct recipient of a defective instrument is not necessarily protected, while a subsequent purchaser in good faith with value may enjoy stronger protection.

In the Indonesian system, as analyzed in the source text, publication has a negative and positive tendency. A certificate is a strong means of proof, but it does not always preclude the possibility of a lawsuit from a party claiming a better right. Consequently, registration is not as strong a final point as the Torrens system in covering all risks. For PPATs, this characteristic extends the horizon of liability because the deed that forms the basis for registration can still be drawn into disputes regarding the basis of acquisition.

These differences do not mean that solicitors in Malaysia are risk-free. Solicitors must still verify the identity of the parties, the status of the foreign interest, the land category, the restrictions on interests, and the required clearances. However, once the instrument is registered and there are no defects that fall within the Section 340 exceptions, the system structure provides a clearer point of closure. In Batam, PPATs face a different combination:

there are documents approving the use of Management Rights issued by other institutions, while the registration system does not provide the same risk closure.

A comparison of risk dimensions is presented in Table 2. This table does not intend to equate PPATs with solicitors institutionally. Both professions have different legal bases and professional traditions. What is being compared is their function in the land transfer process and the relationship between the documents they prepare and registration.

Table 2. Comparison of the risks of deed-making officials' positions in the two regions

Risk dimensions	PPAT at KPBPB Batam	Solicitor in Iskandar Area
Basis of authority	Attributive based on PP No. 37 of 1998 in conjunction with PP No. 24 of 2016.	A licensed profession under the Legal Profession Act 1976.
Instrument properties	Authentic deed as a requirement for registration of transfer of rights.	Instrument of transfer of Form 14A registered by the Registrar of Ownership Rights.
Subject examination	Citizenship, residence permit, legal entity form, and ownership structure.	Foreign citizen or interest status under Section 433A.
Soil inspection	Rights status, existence of HPL, utilization agreements, and related obligations.	Land categories, interest restrictions, and state price thresholds.
Documents beyond the control of the profession	Approval for the use of HPL from BP Batam.	Approval of the State Authorities.
Due to document defects	Acts are potentially contested; the negative publication system does not provide complete immunity.	Registration may be denied; Section 340 protections operate once the registration requirements are met.
Risk period	More open because the certificate is not absolute evidence.	More closed after registration, except for disabilities under Section 340(2).

Table 2 shows that the risks for Land Deed Officials (PPAT) in Batam increase by one layer. In addition to conducting standard checks on the subject and object, PPATs must ensure the existence and validity of documents related to the use of Management Rights. The issuing institution determines the issuance standards, internal processes, and processing times for these documents. Professionals can verify the existence of documents, but they cannot always verify the entire internal process that led to their creation.

The hypothetical scenario in the source text illustrates this issue. A Land Deed Official (PPAT) issues a deed of sale and purchase of a Building Use Rights (Hak Guna Bangunan) over a Management Right (Hak Pengelolaan Hak). The certificate has been verified, the parties are competent, the utilization agreement is in place, and the deed has been registered. Several years later, a dispute arises regarding the validity of the agreement due to questionable internal procedures for its issuance. The PPAT has no access or obligation to audit the internal procedures of the issuing institution. However, because the deed is based on this document, the professional product is also caught in the crossfire of the dispute.

This type of risk differs from professional negligence, which stems from the failure of a PPAT to examine documents that are required to be examined. What is at issue is residual risk: the risk that remains after the profession has conducted an examination within its authority because one of the prerequisites stems from an administrative system beyond its control. Residual risk becomes more severe if the registration system does not provide a clear closure point.

Fuller (1969) helps explain that the problem is not simply a matter of the existence or absence of norms. Basic regulations regarding Management Rights, Land Deed Officials (PPAT), and land administration have been promulgated. Problems can arise in the consistency and congruence between the promulgated regulations and the actions of officials. Otto (2002) places consistent government implementation as one of the conditions for true legal certainty. Therefore, the most appropriate solution is not to add new prohibitions for Land Deed Officials (PPAT), but rather to clarify the coordination, document lists, verification authority, and legal effect of land administration documents.

From a professional protection perspective, the crucial point is proportionality of responsibility. Land Deed Officials (PPAT) should be responsible for inspections that fall within their professional scope. If an official approval is issued by an authorized institution and meets the requirements, the profession requires assurance that the use of that document as the basis for the deed does not place the PPAT at risk for internal procedural errors that cannot be verified. This assurance can be established through technical guidelines and inter-institutional verification mechanisms.

4. Risk Mitigation without Changing the Principle of Nationality

The research findings confirm that the identified sources of risk lie in the construction of Management Rights, the division of authority, document standards, and the relationship to the registration system. These sources differ from the principle of nationality. Therefore, mitigation does not require amendments to Article 21 or Article 26 of the UUPA and does not require the opening of Property Rights to foreign nationals. The four steps formulated all operate at the procedural and institutional levels.

The first step is a truly integrated one-stop shop between the Batam Development Authority and the Land Office. Integration does not mean a fusion of authority. Both institutions retain their respective basic authorities, but applicants face a single process, a single list of requirements, and linked status information. The primary goal is to reduce the uncertainty that arises when applicants must independently interpret the sequence of processes between two institutions. The World Bank Group (2025) places integration of title transfer services as a critical aspect of land administration efficiency.

In the context of Land Deed Officials (PPAT), one-stop services offer benefits beyond time efficiency. An integrated system can provide electronic verification or official confirmation that the Management Rights utilization agreement is still valid at the time the deed is drawn up. This way, the PPAT not only holds a copy of the document but can also rely on the status confirmed by the inter-agency system. This reduces the risk of using documents that have been changed, revoked, or are out of sync with land records.

The second step is a Management Rights utilization agreement that includes measurable extension requirements. The Management Rights holder retains the authority to ensure proper use. However, the conditions for rejecting or accepting an extension must be linked to objective indicators such as compliance with the designation, absence of neglect, and fulfillment of obligations. This model transforms uncertainty into bound authority: the decision remains with the authorized institution, but the rationale for its use is known from the outset.

The third step is specific technical guidance for Notaries and Land Deed Officials (PPAT) in the Management Rights area. At a minimum, the technical guidance should outline the list of documents that must be reviewed, how to confirm the validity of the utilization agreement, the actions to be taken if data between BP Batam and the Land Office does not match, and the scope of the audit within the profession's reasonable responsibility. Clarity about audit boundaries is crucial to prevent professional risk from extending to matters that cannot be verified.

The fourth step is transparency of costs and service times in a single official document. Applicants need to be able to view all components of obligations related to land transactions in the area, including obligations to Management Rights holders and land service fees. Cost transparency not only supports investment but also helps Land Deed Officials (PPAT) provide accurate explanations to the parties before the transaction takes place. Transparency of service times also allows for realistic deed scheduling.

These four steps complement each other. A one-stop shop reduces process fragmentation; standardized contracts clarify the time dimension of rights; technical guidelines protect the profession through clear inspection boundaries; and transparency of costs and timelines increases predictability. None of the steps transfer land ownership to investors or expand the scope of property rights. Therefore, reforms can be implemented to improve governance without altering the principle of nationality.

The comparison with Iskandar Malaysia provides functional lessons, not models to be copied. The key lesson is that regional institutions can function effectively without taking over land authority. In the Indonesian context, Management Rights can be maintained, but the relationship between Management Rights holders and land administration needs to be more integrated. The principle of functional comparison teaches us to adopt functions that solve problems, rather than copying the institutional forms of other countries (Teo Keang Sood & Khaw Lake Tee, 2012; Zweigert & Kotz, 1998).

Table 3. Synthesis of the relationship between deviations, risk mechanisms, and mitigation

Structural findings	Risk mechanism for PPAT	Mitigation that is derived
Approval for the use of HPL lies with another institution.	PPAT relies on documents whose internal issuance processes are outside the control of the profession.	Technical instructions, checklists, and inter-agency document status verification.
The process involves BP Batam and the Land Office.	Fragmentation of information and differences in the sequence of procedures can create uncertainty.	One-stop service and integrated data exchange.
Extension of rights above HPL requires approval.	The value and horizon of use of rights depend on future decisions.	Objective and measurable extension requirements in standard contracts.
There are burdens and services under more than one administrative regime.	Total transaction costs and time are difficult to predict if information is spread.	Integrated official documents regarding service fees, requirements and times.
The negative publication system does not provide Torrens-equivalent risk coverage.	Deeds can still be dragged into disputes after registration.	Clarify the limits of professional responsibility and the reliability of verified official documents.

5. Theoretical and Practical Implications

Theoretically, research shows that the level of specificity of a region is not solely measured by the number of specific regulations. More importantly, however, is whether these regulations alter the core legal relationships over land. The Iskandar region has specific institutions, but these institutions are not part of the chain of land authority. Batam has layers that directly impact land relations through Management Rights. Therefore, the concept of layered regions should be understood based on the depth of institutional intervention in legal relations, not simply the number of institutions.

The second finding is that professional risk is shaped by a combination of authority design and registration design. Approval from other institutions is not always problematic if the system provides clear verification procedures and risk closure points. Conversely, a registration system that does not fully close disputes becomes more burdensome for the profession if deeds rely on administrative documents whose internal processes cannot be audited by the profession. Therefore, an analysis of job risk must examine the entire chain, not just the formal obligations of PPATs.

Practically, the research findings are relevant for policymakers, the Batam Free Trade Zone Authority (BP Batam), the Ministry of Agrarian Affairs and Spatial Planning, professional organizations of Notaries/PPATs, and business actors. For policymakers, the issue of professional protection needs to be positioned as part of the ease of doing business reform. For administrative institutions, data integration and service standards can reduce the risk of disputes. For professions, technical guidelines can provide more definitive audit boundaries. For investors and rights holders, all these improvements increase predictability without changing substantive restrictions on foreign ownership.

Research also shows that a useful legal comparison need not end with recommendations for legal transplantation. A comparison of Batam and Iskandar actually demonstrates that different designs can serve the functions of special economic zones. The principles of separation of authorities, clarity of decision-making points, and certainty of registration effects can be taken from the comparative systems. Indonesia's institutional structure can be maintained as long as coordination and procedural certainty are strengthened.

6. Research Limitations and Further Research Agenda

The main limitation of this research is its normative nature. It did not measure how many Land Deed Officials (PPAT) deeds in Batam have been challenged due to issues with the approval of Management Rights, the average length of the approval process, or the significant variation in costs faced by rights holders. Therefore, the term "risk" is used to refer to the possibilities opened up by the legal structure, not the empirical frequency of occurrence.

Further research could test the normative findings through case file studies, interviews with Land Deed Officials (PPAT), Batam BP officials, the Land Office, and rights holders, and measuring process durations across a number of transactions. Empirical research could also assess whether differences in document standards actually exist and at what points coordination most frequently causes delays. This data will determine whether the proposed mitigation measures, such as technical guidance and service integration, are sufficient or require higher-level regulatory changes.

Another agenda item is monitoring the development of Johor's institutional environment following the establishment of the Johor-Singapore Special Economic Zone, as outlined in the source text under the January 7, 2025, agreement. Regional policy changes could impact the Iskandar region's role as a benchmark. However, any updates must still be evaluated using the same functional framework to prevent comparisons from shifting to assessments based on program titles or the intensity of investment promotion.

7. In-depth Reading of Nine Aspects of Comparison

The first aspect, the source of authority over land, is the most crucial point of distinction, as it is from this aspect that a series of other differences develop. In Indonesian land law generally, state authority over land is exercised through the framework of State Control Rights and national land administration. In Batam, some management authority operates through Management Rights held by the Batam Business Entity. Normatively, this is legitimate and part of the area's design. However, from a transactional perspective, there is an institutional entity whose approval can be relevant to land use. In Johor, land authority remains with the State Authority, so the IRDA does not create new land approval points.

The second aspect, the basic laws, actually demonstrates continuity across the two regions. The Batam KPBPB remains under the UUPA as the basis for national agrarian law, while Iskandar remains within the framework of the 1965 National Land Code. This finding is important because it demonstrates that the specificity of the regions does not create entirely separate land laws. The differences arise in how these basic laws are implemented through regional institutions and instruments. In other words, the research problem lies not in the duality of the basic laws, but in the implementation and management layers.

The third aspect, the registration institution, is also relatively stable. Registration in Batam remains handled by the Land Office, and in Johor by the state land administration. The stability of the registration institution provides a common ground in both systems. However, this stability does not automatically result in the same level of risk, as documents entering the registration system originate from different administrative chains. In Batam, registration may be preceded by the need to establish a relationship with the Right of Management holder; in Johor, the process revolves around state approval and National Land Code requirements, with no regional institution holding land authority.

The fourth aspect is pre-acquisition approval. In Batam, approval for the utilization of Management Rights serves as an additional layer not found in Indonesian land law outside areas with a similar structure. In Johor, approval for foreign interests is indeed required, but this requirement stems from the parent land law and applies as part of the state system, not as a result of Iskandar's presence. This distinction is important because the study measures the region's deviation from the parent law, not simply the number of permits investors must obtain.

The fifth aspect, regarding the types of rights for foreigners, shows that Batam does not provide any specific liberalization. The types of rights remain within national boundaries, while Iskandar also follows the Johor framework. Thus, the existence of a region does not substantively change who can hold certain types of rights. This finding strengthens the argument that improving Batam's governance can be achieved without touching on the principle of nationality. If the problem does not stem from the type of rights, then the solution need not be directed at expanding the types of rights.

The sixth aspect, the term of the rights, presents a more subtle difference. The term of the HGB (Hak Pakai) or Right of Use (HGB) follows national regulations, but when the right is based on a Management Right (Hak Pengelolaan), its continuation is further dependent on the approval of the Management Right holder. Therefore, the deviation is not the maximum number of years in the regulations, but rather the decision structure that must be followed to reach the next term of use. In Iskandar, the term of the rights follows the category of ownership or leasehold in Johor law without additional approval from the IRDA.

The seventh aspect is periodic charges. In Batam's construction sector, there are obligations related to area management and Management Rights, including annual fees, as explained in the source text. This charge serves as an indicator that the area is directly involved in land use relations. In Iskandar, the presence of the IRDA does not increase the periodic land charges imposed by area institutions. For transaction certainty, the issue of periodic charges concerns not only the amount of the fee but also the transparency of the formula, maturity dates, consequences of arrears, and its relationship to registration or transfer actions. The eighth aspect concerns additional institutions. Both regions have regional development institutions, so on the surface they appear similar. However, the functions of these institutions differ. The Regional Council and BP Batam are concerned with regional management, which includes land aspects through Management Rights, while IRDA does not hold land authority. This finding exemplifies why legal comparisons must be functional. Simply counting the number of institutions is insufficient; what must be assessed is their function and legal consequences for the subjects and objects of transactions.

The ninth aspect concerns the official who makes the deed or the profession that prepares the transfer instrument. In both regions, no new professions were created solely due to the region's status. Land Deed Officials (PPAT) continue to exercise their authority in Batam, and advocates and solicitors perform conveyancing functions in Johor. However , the burden of professional examination is shaped by the surrounding system. Therefore, a profession that remains formally unchanged may face changing risks when the region adds administrative requirements. This conclusion bridges the gap between institutional comparison and occupational risk analysis.

8. Normative Risk Chain from Documents to Post-Registration

To understand the risks more precisely, the process can be mapped as a five-stage chain: administrative document creation, inspection by the Land Deed Official (PPAT), deed creation, registration, and the post-registration phase. In the first stage, the authorized institution issues an approval or utilization document based on its internal procedures. The PPAT is not involved in the decision-making process. It receives administrative output that must be externally credible as an official document.

In the second stage, the Land Deed Official (PPAT) conducts an inspection within their professional authority. The inspection covers the identity and competence of the parties, the status of the rights, the suitability of the certificate, and the existence of the required documents. The critical point is the distinction between verifying existence and verifying internal procedural validity. A PPAT can ensure that documents exist, are signed or issued by the proper parties, and have not been visibly revoked. However, a PPAT does not have the tools to audit whether every internal step of the issuing institution has been carried out correctly.

The third stage is the creation of the deed. At this stage, the reviewed administrative documents become part of the legal basis for the transaction. The deed has the power of authenticity and is a crucial instrument for registration. Due to the deed's strong standing, any flaw in the transaction's basis has the potential to raise questions about the deed, even if the flaw does not originate from the PPAT's drafting of the deed. This is where professional protection requires a clear distinction between flaws in the deed and flaws in supporting documents from other institutions.

The fourth stage is registration. In systems that provide strong finality, registration can serve as a point of risk closure after certain conditions are met. In the Indonesian construction analyzed in this study, registration provides strong evidence but does not always eliminate the possibility of disputes. Therefore, any administrative issues can resurface after the registration process is complete. In the Torrens system, the principle of indefeasibility provides a stronger closure mechanism, with exceptions specified by law.

The fifth stage is post-registration. Risks at this stage are latent because they can emerge after a considerable period of time. For the profession, the greatest uncertainty arises when a deed drawn up based on an official document and re-registered is challenged due to alleged defects that could not have been verified at the time of deed preparation. This chain demonstrates that simply expanding the list of PPAT inspections is not a sufficient solution. Expanding the list without providing access to verification can disproportionate responsibility.

The risk chain model emphasizes the need for reasonable reliance on official documents. In the context of modern administration, the profession must be able to rely on the status of documents confirmed by the issuing institution through official channels. This confirmation can take the form of system integration, verification codes, or electronic confirmation mechanisms between agencies. This research does not specify a specific technical form, but rather normatively emphasizes the required function: Land Deed Officials (PPAT) must be able to prove that at the time the deed was created, the document was verified through available official mechanisms.

With such a function in place, the distribution of responsibilities becomes clearer. The issuing institution is responsible for the accuracy of internal processes and the status of documents; the Land Deed Official (PPAT) is responsible for the use of verified documents and the examination of professional aspects; and the Land Office is responsible for registration audits within its jurisdiction. This division of responsibilities does not eliminate disputes, but it does reduce the gray area regarding who should bear the consequences of errors at each stage.

9. Proportional Institutional Design for Layered Areas

A well-proportioned institutional design must meet two sometimes perceived conflicting objectives: maintaining authority over land management while simplifying the legal experience for rights holders and professionals. Simplification does not equate to eliminating authority. A system can have two authorized institutions but only one service flow visible to applicants. What must be avoided is a situation where differences in internal authority translate into a coordination burden borne entirely by the community and the Land Deed Officials (PPAT).

The first principle is a single source of procedural truth. For any given transaction, there must be a single official list of documents, processing sequence, fees, document validity periods, and service times. This list must be agreed upon by all involved institutions. If BP Batam and the Land Office have different lists, applicants will always be left guessing which documents are sufficient. This administrative uncertainty ultimately translates into legal risks when deeds are drawn up based on differing interpretations.

The second principle is status verification, not simply document possession. In manual systems, the presence of an approval form is often treated as proof that all requirements have been met. However, the document's status can change. The verification mechanism allows the Land Deed Official (PPAT) to ensure that the submitted documents are still valid and compliant with the object and subject of the transaction at a given time. This function is crucial for establishing an audit trail that protects the parties and the profession.

The third principle is objective renewal criteria. Management rights provide policy leeway to the holder, but policies affecting the rights' horizon should operate through pre-determined criteria. Objective criteria improve the position of all parties: Management rights holders can still reject uses that violate the designated use, rights holders can plan investments, and Land Deed Officials (PPAT) can more accurately explain the legal consequences of transactions.

The fourth principle is the professional safety boundary. Technical guidelines must distinguish between the obligation to inspect and the obligation to guarantee. Land Deed Officials (PPAT) are required to inspect required documents and use available verification mechanisms, but it would be unreasonable to require them to guarantee the absence of internal procedural flaws at an inaccessible issuing institution. The professional safety boundary is not immunity from liability, but rather the limitation of liability to matters that can be objectively verified.

The fifth principle is transparency of the total transaction burden. All cost components and obligations arising from the two administrative regimes must be viewed as a single transaction burden from the user's perspective. Total transparency will minimize misunderstandings and provide a basis for policy evaluation. For Land Deed Officials (PPAT), uniform information also reduces the risk of providing incomplete explanations to the parties.

These five principles can be implemented without changing the constitutional structure or the principle of nationality. They address governance, data integration, document standards, and the distribution of responsibilities. Therefore, the research recommendations are reformist but not transplantable. The functions studied in the comparison are clarity of authority and the point of closure of the process, while the institutional structure remains aligned with Indonesian law.

10. Real Legal Certainty from the Perspective of Users and Professionals

The concept of real legal certainty helps shift attention from the question of whether rules exist to the question of whether they can be used to predict legal consequences. In land transactions, certainty is not enough if the norms regarding Management Rights, approval, and registration are clearly written, but users still have to obtain different explanations from different institutions. Real certainty requires that normative information be translated into consistent procedures from start to finish.

From a rights holder's perspective, real certainty means knowing upfront what documents are required, how many steps must be taken, when approval is deemed effective, what the consequences of arrears are, and what conditions govern extensions are. When this information is shared, each transaction incurs additional interpretation costs. These costs aren't always monetary; they also involve time, the need for repeated consultations, and the risk that economic decisions are based on procedural assumptions that differ from institutional practice.

From a PPAT perspective, real certainty is more technical in nature. The profession needs a clear line that distinguishes documents that must be inspected, documents whose existence is sufficiently confirmed, and information that falls under the responsibility of the issuing institution. Without such a line, professional due diligence can become an unlimited obligation. The greater the administrative uncertainty, the greater the tendency for the profession to adopt a defensive stance, for example, delaying the issuance of deeds until additional confirmation is obtained, which is not explicitly stipulated.

This defensive attitude can be understood as a rational response to risk, but at the system level, it can slow down transactions. Therefore, professional protection and service efficiency are not mutually exclusive goals. The clearer the boundaries of responsibility and the stronger the verification mechanisms, the less need PPATs have to request additional documents beyond the standard list. In this sense, professional certainty is actually a prerequisite for streamlining services.

This interconnectedness explains why the research recommendations place technical guidance, integrated services, and transparency as a single package. Technical guidance without data integration will only add to the list of obligations. Data integration without limits on responsibility is also insufficient, as professionals remain unaware of the legal consequences of verification results. Cost transparency without document certainty also fails to address risks. All three elements must work together to ensure legal certainty is felt in the actual process.

11. Professional Protection as Part of Land Governance

Professional protection in this study is not interpreted as granting immunity to Land Deed Officials (PPAT). PPATs must still be held accountable if they neglect their inspection obligations, issue deeds without sufficient basis, or fail to comply with job requirements. What is needed is a division of responsibility based on the source of the error. If the flaw stems from the internal procedures of the issuing agency, responsibility should not automatically be shifted to the profession that properly uses the official document.

Proportional division of responsibilities has systemic benefits. First, it creates incentives for each institution to maintain the quality of processes within its jurisdiction. Second, it makes disputes easier to map because the source of errors can be identified by stage. Third, it reduces the need for the profession to conduct speculative examinations of matters not publicly available. Fourth, it increases the parties' trust in official government-issued documents.

Within a governance framework, Land Deed Officials (PPAT) can be viewed as the nexus between the parties' private decisions and the public land administration. The deed is born from the parties' agreement, but its functional power is closely linked to the registration process. This nodal position makes PPATs highly sensitive to data inconsistencies between agencies. If the Management Rights, approval status, and certificate data are not synchronized, the PPAT becomes the first party to decide whether the transaction can proceed. Therefore, the quality of administrative coordination directly impacts the professional decision-making burden.

Service reform should capitalize on this position. Professional organizations can be involved in developing checklists and technical guidelines, as Land Deed Officials (PPAT) know the most frequently questioned points in documents. However, the final standards must still be issued or recognized by an authorized institution to ensure normative certainty. Collaboration between regulators, land managers, land administration, and the profession will produce more operational regulations than unilaterally developed guidelines.

Thus, professional protection is not a sectoral agenda. It is part of the design of land legal certainty. A system that clarifies who is responsible at each stage will be more predictable for investors, rights holders, the public, and the judiciary. In the Batam context, these improvements have strategic value because the region operates in a competitive regional investment environment, but must still maintain the character of national land law, which places the principle of nationality as a substantive boundary.

12. Normative Evaluation of Four Mitigation Steps

The four mitigation measures can be tested against three criteria: authority, effectiveness, and proportionality. The authority criterion asks whether the measure can be implemented without taking over the competence of another agency. The effectiveness criterion asks whether the measure targets identified risk mechanisms. The proportionality criterion asks whether the new burden created is outweighed by the benefits of certainty gained. This testing is crucial to prevent recommendations from becoming a list of policies that sound ideal but are difficult to implement.

The one-stop shop meets the authority criteria when understood as an integration of processes, not a transfer of authority. BP Batam continues to assess matters within the Management Rights domain, and the Land Office retains its registration authority. What is unified is the service interface, process sequence, and status exchange. Effectively, this model directly addresses the fragmentation that positions applicants and Land Deed Officials (PPAT) as informal intermediaries between institutions. Proportionally, integration does not require changes to the principles or types of rights, but does require procedural agreements and information interoperability.

A standard agreement with objective extension conditions also does not remove the authority of the Management Rights holder. The Management Rights holder can still assess whether the land is being used in accordance with its management objectives. The change lies in how discretion is exercised. Announced conditions from the outset allow the rights holder to understand the conditions that must be met and provide a more transparent basis for decisions. From a Land Deed Official (PPAT) perspective, this clarity helps explain to the parties that an extension is not an automatic right but also not a completely unpredictable decision.

Technical guidelines for Notaries and Land Deed Officials (PPAT) are the recommendations most directly related to professional risks. Their effectiveness depends on their content. Guidelines that simply add to the list of documents without providing verification methods can actually increase the burden. Therefore, guidelines should contain at least three functional elements: a minimum checklist, a mechanism for confirming document validity, and provisions for action in the event of data discrepancies. A fourth, equally important element is an explanation of the limits of responsibility for the issuing institution's internal processes.

Transparency of costs and service times is often viewed as an administrative issue, but in multi-tiered environments, it has a legal dimension. When transactions involve obligations under more than one regime, scattered information can lead to miscalculations or delays in fulfilling obligations. If certain arrears affect approval or transfer, cost ambiguity can become a risk to the transaction. Therefore, a single official document outlining the total components of obligations and time standards is not simply an informational facility, but a key element of real legal certainty.

The four recommendations should also be viewed as a single ecosystem. A one-stop shop without transparency can centralize the process but remain unpredictable. Transparency without document status verification does not reduce the risk of deed fraud. Technical guidelines without objective renewal criteria merely regulate the profession without addressing the sources of uncertainty. Therefore, partial implementation may be beneficial, but the greatest benefits are achieved when these four functions are designed to be interconnected.

From an implementation perspective, the research does not stipulate a single regulatory form that must be used for all recommendations. Some functions can be outlined in inter-institutional collaboration or joint implementation guidelines, while functions that touch on more substantive rights and obligations need to be aligned with the appropriate regulatory level. The principle is to ensure the legal form matches the regulated material. This ensures that the goal of integration does not create new authority issues.

This normative assessment indicates that the most effective mitigation is not the most radical, but rather the one that most appropriately links the risk source to the corrective tool. Because the risk sources are found in fragmentation, document dependency, uncertainty about extensions, and risk exposure after registration, corrective tools must enhance integration, verification, objectivity, and the sharing of responsibilities. Changes to the subject of Property Rights do not directly relate to these four mechanisms.

13. The Relationship between Professional Certainty and Ease of Doing Business

Ease of doing business in the land sector is often reduced to speeding up permit issuance or reducing the number of stages. This research shows that speed is inseparable from certainty. A fast process that produces documents that are easily challenged does not guarantee transaction security. Conversely, a process that is too cautious, requiring repeated confirmation from each profession, also results in high costs. The goal of more balanced governance is to ensure that proper checks can be performed once, through a trusted source of information.

Land Deed Officials (PPATs) play a crucial role in this balance because they act before registration and are close to the parties. If the system provides PPATs with a clear list of documents and official verification channels, the profession can become an efficient risk-screening mechanism. If the system doesn't provide certainty, PPATs tend to add informal inspection steps to protect themselves. From a public policy perspective, the profession's defensive behavior signals that the burden of uncertainty has not been addressed by the administrative system.

Professional protection therefore does not conflict with investor interests. Investors require deeds that are not only quickly prepared but also resistant to preventable risks. A clear division of responsibilities serves both interests. Land Deed Officials (PPAT) can work according to known standards, while investors gain a more predictable process. Land administration also benefits because documents submitted to the register have been checked against uniform criteria.

Professional certainty is also crucial for consistent service delivery. Without official guidelines, practices across PPATs can potentially differ as each develops its own mitigation strategies. These differences may be perceived by applicants as inconsistent requirements, when in reality they stem from an unclear system. Technical guidelines developed in collaboration with relevant institutions can transform individual standards into institutional ones, ensuring that similar transactions are treated more consistently.

In a regionally competitive context, institutional superiority doesn't necessarily mean fewer rules. It can take the form of interconnected rules, predictable decisions, and a clear distribution of responsibilities. A comparison with Iskandar demonstrates that the existence of regional institutions doesn't necessarily increase authority over land. Indonesia can maintain the Management Rights (Hak Pengelolaan) character, but it needs to ensure that this uniqueness doesn't translate into unnecessary uncertainty for users and professionals.

Thus, PPAT protection, service integration, and ease of doing business fall into one policy framework. All three converge on the same needs: reliable information and consistent processes. Reforms that neglect the profession risk shifting the burden of uncertainty from the institution to PPAT; reforms that only protect the profession without improving services are also insufficient. Good design must improve the structure of inter-institutional relationships while establishing proportionate limits on responsibilities.

CONCLUSION

This study concludes that the Batam Special Land Use Area (KPPBPB) and the Iskandar Malaysia Area both have unique institutional designs, but differ in the depth of their deviations from the parent land law. The Iskandar Area deviates in two of nine aspects, and none of these changes affect the legal relationship to land. The Batam Special Land Use Area (KPPBPB) deviates in five of nine aspects, all of which relate to the legal relationship to land or the institutions that govern it. Analytically, the Malaysian Special Land Area operates as a layer alongside land law, while the Batam Special Land Area operates as a layer above it through Management Rights and the area's authority structure.

These differences create unique risks for the PPAT profession. PPATs in Batam must rely on approvals for the use of Management Rights issued by other institutions, while the internal standards for the issuance process are outside the profession's control. This risk is compounded because the negative publication system does not provide as strong a level of post-registration risk coverage as the Malaysian Torrens system. Thus, the primary problem is not simply the sheer volume of documentation, but rather the combination of reliance on the decisions of other institutions and the nature of the registration system.

Mitigation can be implemented without changing the principle of nationality. Four recommended steps are the integration of one-stop services between the Batam Free Trade Zone Authority (BP Batam) and the Land Office, standardized contracts with objective rights extension requirements, specific technical instructions for Notaries and Land Deed Officials (PPAT) in Management Rights areas, and a unified presentation of fees, requirements, and service times. These four steps maintain the authority of the state and Management Rights holders while increasing process measurability and professional protection.

For policymakers, PPAT protection should be viewed as part of land legal certainty and ease of doing business. For further research, these normative findings need to be empirically tested through case data, service duration, transaction costs, and practitioner experience. Thus, the reform agenda should not stop at simplifying procedures but should result in a more proportional division of responsibilities between administrative institutions and the legal profession.

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