

Consensus on Land Use Change in Bangka Tengah Regency

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ABSTRACT Differences in perception or interest in land use can potentially lead to conflict. One of the efforts to minimize the possibility of conflicts in land use is to build consensus among stakeholders. This process is not only able to minimize conflict but is expected to be the most appropriate solution to facilitate the implementation of the plan. This paper will present an example of the dynamics of consensus building in the process of land conversion in Bangka Tengah Regency which had previously been designated as a mining zone and then planned to be converted into a Tourism Special Economic Zone (Tourism SEZ). In this proposal, an agreement has been successfully built between the first permit holder and the TSEZ proposer, however, the plan to establish TSEZ has not materialized. What exactly is a factor in this so that the agreement that has taken place has not become the capital for the successful implementation of the plan? This research aims to explain the constraints on not implementing the plan after an agreement has been reached. The research was conducted with a stakeholder mapping analysis framework. Data were obtained by conducting interviews, observations, and collecting documents related to the TSEZ proposal. Selection of informants was carried out purposively to obtain detailed information so that it could be used to answer research questions. The results showed that there were factors that become obstacles in planning implementation, related to the consensus that was successfully built. Imperfect consensus that has been successfully built can be seen in the incomplete pouring of commitments in contracts between stakeholders, thus making the consensus reached a pseudo-consensus.

KEYWORDS *Bangka Tengah Regency; Consensus Planning; Indonesia; Spatial Planning; Stakeholder Mapping.*

INTRODUCTION

Land is increasingly limited, while the variety and quantity of needs for it are getting bigger. Utilization of land for a purpose for certain groups has the potential to threaten the interests of other parties. Many parties often experience contestation and conflict in the process of allocating land use (Aminah, 2016). Conflicts in spatial planning are due to the diversity of goals and perspectives (Innes, 1996) need for a consensus which reflect the interests of all parties. While Healey (1998) said that there

are several conditions that must be achieved to realize collaboration between parties. So how does the consensus process between stakeholders and the results of the consensus affect program implementation, especially in terms of collaboration in spatial planning, Innes and Healey did not explain this. On the other hand, Woltjer (2000) said that there are may be difficulties in implementing consensus so that sometimes consensus does not guarantee program success. Research that focuses on stakeholder perspectives in undergoing consensus

process will contribute to a planning-based and collaboration-oriented literature.

Consensus is a planning approach that is considered flexible (Maclean et al., 2015), can be a better solution (Innes & Booher, 1999; Leksono et al., 2019; Jay et al., 2016; Legacy & Stone, 2019; Larsen et al., 2019), reduce competition (Recatalá Boix & Zinck, 2008), and solve complex problems (Fauzi, 2017). Several things that can support the successful implementation of programs that involve various stakeholders are advocacy (Leksono et al., 2019), communication (Leksono et al., 2019; Wijaya, 2015; Margerum, 2011), participation (Masik, 2005; Leksono et al., 2019; Innes, 1996; Legacy & Stone, 2019), collaboration (Innes, 2004; Leksono et al., 2019), negotiation (Monteserin & Amandi, 2011; Leksono et al., 2019), and commitment (Margerum, 2002; Innes, 2004; Potapchuk & Crocker, 2017). However, although it is stated that consensus is the most appropriate solution by involving participation and communication from the various parties concerned, it is not explained how consensus can guarantee the implementation of the plan. What kind of communication and involvement of stakeholders can be the key to the successful implementation of consensus result?

One interesting case to study the consensus process in the allocation of land use is in Pangkalan Baru District, Bangka Tengah Regency, Kepulauan Bangka Belitung Province that was originally allocated as mining zone in the previous spatial plan, now it is proposed to become a tourism zone. Since 2019, the designation of Tourism Special Economic Zone (TSEZ) proposal area has been accordance with the regional

plans (RTRW) such as the requirements on TSEZ proposal. However, currently, the implementation of the TSEZ development plan in this area has not yet started.

The use of a consensus approach in planning can be considered a solution in planning but sometimes it is also considered ineffective. In the planning approach, consensus should be continued into collaboration in implementation of the plan. Collaboration will be created if each party feels confident, trusts each other, mutually benefit each other, and realistic, namely considering each other's capacities (Healey, 1998).

Collaboration will only happen in such a good program, as stated by Innes (1996) that a good program definitely doesn't have free riders and victims. Free riders are people or groups who receive benefits but do not take part in bearing the costs/contributing resources to the program (Albanese & Van Fleet, 1985) and victims are people or group sacrifice something for program to run without get any benefit.

In this study, the theoretical definition of a stakeholder is a group or individual who can influence or will even receive an impact on a program (Freeman, 1984). Stakeholder involvement in the program can be identified based on the interests, resources, and influence they have on program implementation. Stakeholder mapping based on their level of interest and influence can indicate the involvement of each stakeholder in the program so that it can be used to understand potential conflicts that will arise (Mathur et al., 2007). They can be divided into four groups, namely stakeholder groups with a high level of interest and

influence, stakeholder groups who have a high level of interest but have low impact on the program, stakeholders who have a low level of interest but have a high impact on the program, and stakeholders who have a low level of of interest and influence on the program.

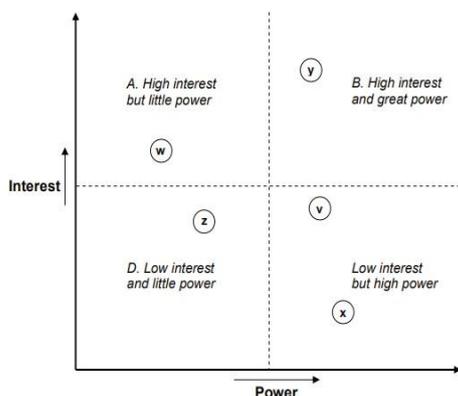


Figure 1 Identify Stakeholders Based on Their Level of Interest and Influence

Source: DFID, 2002 in Mathur et al., 2007.

Scoring the level of interest and influence of stakeholder on program implementation is divided into four level. The level of interest in program implementation is measured based on the impact that will be received on program implementation and interest in other uses at that location of program implementation. While the criteria for assessing the influence of stakeholders on the program are measured based on their authority in providing recommendation on program implementations, as well as their role in providing support for the requirements of program proposals. The roles and support provided by the parties according to their respective duties and functions.

Table 1 Scoring Level of Interest and Influence in Program Implementation

Scoring	Interest Criteria	Influence Criteria
Very large (VL)	Will receive benefits from the determination of TSEZ and play an active role in the TSEZ proposal	Has the authority to provide recommendations fr determination of TSEZ
Large (L)	Will received benefits from the establishment of TSEZ but play an inactive role in the TSEZ proposal	Does not have the authority to provide recommendation on the establishment of TSEZs but can influence the decision making to provide recommendations for the establishment of TSEZs
Small (S)	Will not receive or loss profit on the determination of TSEZ, and play an active or inactive role in the TSEZ proposal	Does not have the authority or influence in making decisions on giving recommendations, but can provide support for the requirements of the proposal
Very Small (VS)	Will receive losses for the determination of TSEZ and play an inactive role in the TSEZ proposal	Does not have any authority, influence, or support in the requirements of the TSEZ proposal

Source: Analysis, 2022.

Stakeholder identifications into four quadrants based on high or low of interest and influence, which is based on the scoring results in Table 1. Stakeholders with high level of interest and influence are stakeholders who have very large (VL) and large (L) interest and influence, while stakeholders with low levels of interest and influence are stakeholders who have a small (S) and very small (VS) interest and influence.

To be success of achieving consensus depend on how much stakeholders can commit to achieving agreed goals that stated in the written legal contract (Bright et al., 2005). Consensus building is a process of reaching an agreement between stakeholders on a plan, contains commitment from each stakeholder to do or not to do certain activities. Stakeholders will support or agree to such land use decision only if they get benefits, but they will oppose if the project bother their existing or future interest (Pramono et al., 2022). Reffering to stakeholder theory by Freeman (1984) and collaborative planning by Healey (1998), it can be interpret that consensus can be implemented if stakeholders can transform into shareholders.

The research is aimed at gaining lessons on how a good consensus can be achieved and can be used as an asset for implementing collaborative plans. Research is directed to answer the question of how consensus can be achieved and why the plan is still difficult to implement after the consensus. The research was carried out with a stakeholder mapping approach where most of these stakeholders became informants to provide information that could be used to identify differences in resources,

interests, strengths, and actions that have been, are being and will be taken starting from the consensus process, current action, and what they will do in the future.

Techniques of analysis and conclusion using a qualitative approach with inductive reasoning. Primary data consists of perceptions of the parties involved and those who will receive the impact of the implementation of the plan. The informants was select purposively, in which the appointed informants were those who were directly involved in the proposal process and those who would receive the impact on the implementation of the plan.

The research was conducted in part of Tanjung Gunung Village and part of Batu Belubang Village, Pangkalan Baru District, Bangka Tengah Regency, namely at the proposed zone of the Tanjung Gunung TSEZ. The proposed zone is a cultivation area where almost all of the proposed zone is a mining business permit zone whose management permit has been granted to PT Timah. The selection of these informants is related to the objectives to be sought in this study where the researchers believe that those who are directly related to the SEZ proposal process will better understand the problems and obstacles encountered in planning implementation. While the data analysis is done by coding, which is giving a certain code to the statements of the parties/stakeholders which are considered to have the same meaning. Coding is done to facilitate the identification of phenomena in the data and the preparation of categorization of similar data so that it can show the trend of findings (Alwasilah, 2002).

DISCUSSION

Proposed Change of Spatial Allocation to become Tanjung Gunung TSEZ

Tanjung Gunung area is an area that has potential for tourism development as well as tin mining. The designation of the proposed zone according to the attachment of “Peraturan Daerah Kabupaten Bangka Tengah Nomor 48 Tahun 2011 Tentang Rencana Tata Ruang Wilayah Kabupaten Bangka Tengah 2011-2031 (RTRW 2011-2031)” is as a local cultivation and protection area. Meanwhile, potential tin reserves are spread over almost all land and sea areas, and in some areas of mining business permits (WIUP) have been granted a management permit (Mining Business Permit/IUP). Likewise, for the proposed location as a TSEZ, a mining business permit has been granted on behalf of PT Timah. The designation of the area in the proposed Tanjung Gunung TSEZ according to RTRW 2011-2031 is shown in Figure 2.



Figure 2 Distribution of Area Designations at the Proposed Zone of the Tanjung Gunung TSEZ
Source: Attachment of SEZ Proposed Document by PT. Pan Semujur Makmur, 2018.

Based on Figure 2, it can be seen that the designation of the area by RTRW 2011-2031 is as a tourism area, plantations, rural areas, mineral mining, and coastal borders. The area of the area according to its designation is shown in Table 2.

Table 2 Distribution of Area according to Regional Designation in the Proposed SEZ for Tanjung Gunung Tourism

NO	REGION	PATTERN	SUB-DISTRICT	AREA (Ha)	DESCRIPTION
1	Tourism Designation	Cultivation Area	Artificial Tourism	155.74	Batu Belubang – Tanjung Gunung Corridor and Golf
2	Local Protection	Protected area	Beach Border	59.26	
3	Plantation Designation	Cultivation Area	Plantation Designation	46.85	
4	Settlement Designation	Cultivation Area	Rural Settlement	61.22	
5	Mining Designation	Cultivation Area	Mineral	239.49	Lead

Source: Attachment of SEZ Proposal Document By PT. Pan Semujur Makmur, 2018.

Based on the attachment to “Peraturan Daerah Provinsi Kepulauan Bangka Belitung No. 2 Tahun 2014 Tentang RTRW 2014 - 2034”, the proposed TSEZ area is not a provincial strategic area. However, the tourism area development plan in Tanjung Gunung appears in the document “Rencana Pembangunan Jangka Menengah Daerah (RPJMD) Provinsi Kepulauan Bangka Belitung Tahun 2017-2022”. Following the vision and mission of the Regional Head at that time, Tanjung Gunung was the target of developing tourism allotment.

Tanjung Gunung TSEZ was proposed by the Business Entity, it is PT Pan Semujur Makmur (PT PSM). The TSEZ proposal was made for land and sea locations in 2018, so the provisions of the proposal at that time still referred to “Undang-Undang No. 39 Tahun 2009 Tentang Kawasan Ekonomi Khusus” in which TSEZ proposal can be made by Business Entity to the SEZ National Council through the Province Government after receiving a recommendation from the Regency Government. Based on this provision, PT PSM requested a recommendation for land use in the area that already has a permit on behalf of PT. Timah. Responding to this, the Regent of Bangka Tengah recommended PT. PSM against the use of land in mining business permit zone (WIUP) as a TSEZ. Against the permit for the use of marine space, PT. PSM applied to the Governor, then the Governor of Kepulauan Bangka Belitung responded by applying release of WIUP for TSEZ to PT Timah. Based on these recommendation, PT Timah overlaid the proposal with their WIUP and the result is the proposed zone was included in the PT Timah minning zone.

So that PT Timah provides recommendations on the proposal, however, development related to TSEZ activities can only do in some locations, while the rest cannot be developed for TSEZs because there are still mining activities there.

Consensus Building Process on the Tanjung Gunung TSEZ Proposal

The Regent of Bangka Tengah gave recommendations on the use of the PT Timah’s WIUP to be developed as a TSEZ in accordance with the proposal from PT PSM, as well as the Governor of Kepulauan Bangka Belitung by submitting a request to PT Timah to release the marine WIUP. These proposals and recommendations lead to differences of opinion indicating differences in interests between stakeholders, which is then followed by a dialogue process to find compromises and consensus.

Consensus building in the proposed Tanjung Gunung TSEZ has been pursued since 2017, especially in terms of coordinating the use of space at the proposed TSEZ location. Consensus building was done by PT PSM as the proposer of TSEZ and PT Timah as the first permit holder for land use. Consensus- building process in the proposed Tanjung Gunung TSEZ is supported and facilitated by the Regional Government. The meeting between the PT PSM and PT Timah was conducted three times.

In technical process, initially, the Regional Government through the Department of Energy and Mineral Resources (DinasESDM) overlaid the proposed TSEZ map with the existing IUP at the proposed location. The results show that almost all of the proposed locations are WIUP that

already have permits and are owned by PT Timah, as shown by the Figure 3 and Figure 4.

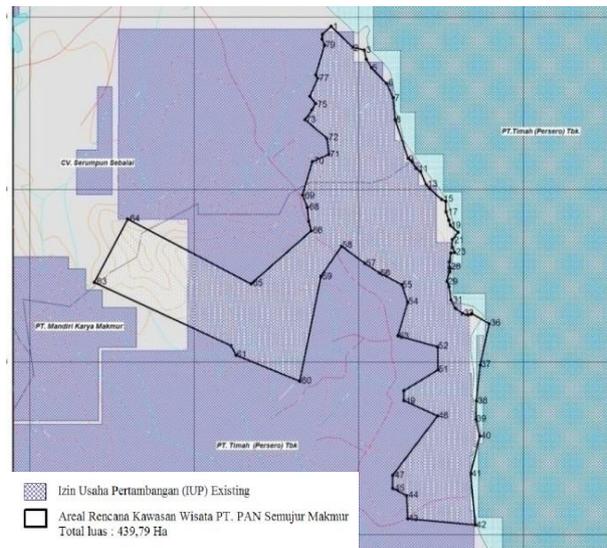


Figure 3 Overlay Results of Land Proposed Zone with Existing IUP

Source: Dinas ESDM, 2022.

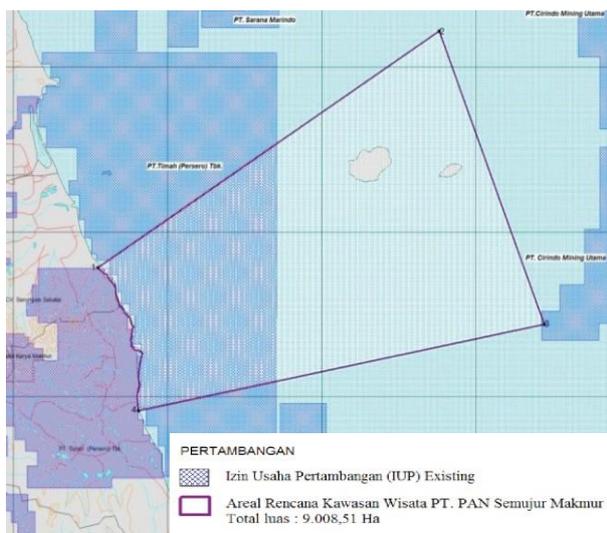


Figure 4 Overlay Result of Sea Proposal with Existing IUP

Source: Dinas ESDM, 2022.

Figure 3 and Figure 4 show that some locations that are proposed to TSEZ have been issued other business permits (IUP) on behalf of PT Timah, which based on the provisions of the permit is valid until 2025. The existence of a location permit in the proposed zone

requires the TSEZ proposer to obtain approval from the first permit holder (PT Timah), as contained in “Peraturan Menteri Agraria Dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 17 Tahun 2019 Tentang Izin Lokasi”.

Meanwhile, based on RTRW 2011-2031, the area designation at the proposed location of the Tanjung Gunung TSEZ is an area with local cultivation and protection designations. However, in that area, a business permit has been issued for mining activities that are still active until the TSEZ is proposed, so that the Regional Government through the Dinas ESDM provides recommendations to the proposer (PT PSM) to coordinate with PT Timah and obtain recommendations on the utilization plan based on this. The proposed TSEZ area must be following the area designation in the Regional Spatial Plans (RTRW), so that PT PSM has applied for land use in part of WIUP as SEZ to the Regent of Bangka Tengah, and a request for a recommendation to change the status of marine land into a tourism area to the Governor of Kepulauan Bangka Belitung.

The Regent of Bangka Tengah supported the request by sending a letter to PT Timah regarding recommendations for land use in a portion of WIUP became a tourism area. Meanwhile, the Governor delivered a letter to the President Director of PT Timah regarding the request for release of WIUP for TSEZ. Based on these letters, PT Timah sees the suitability of the proposed location with their WIUP. The result is that some of the proposed TSEZ locations are included in his WIUP. Then PT Timah and PT

PSM held meetings to discuss the proposal, and the result is both PT Timah and PT PSM agreed to sign a land use agreement at the PT Timah's WIUP by signing the Letter of Agreement on November 24, 2017.

The contents of the agreement are an agreement between the parties to carry out mining business activities and activities related to SEZ in some PT Timah's WIUP covers an area of approximately 383 Ha (Hecto Are). There are several requirements proposed by PT Timah in the agreement, including that PT Timah will do mining activities in advance for the three locations that are priority mining zone. Meanwhile, for the proposed zone outside the priority zone that have been given recommendations can be developed for TSEZ. Priority zone can only be developed for SEZs after PT Timah stated that the mining activities have been completed and have provided development recommendations to PT PSM. Recommendations for development and construction sites for SEZs are shown in Figure 5.

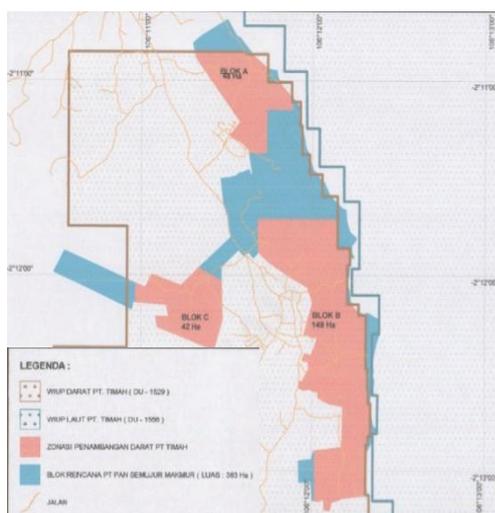


Figure 5 Map of Land Mining Zone of Tanjung Gunung
 Source: Attachment of Agreement Letter Between PT Timah and PT PSM, 2017.

Figure 5 showed that there are three areas/blocks (as shown as the red zone) which are included in the TSEZ proposed area but PT Timah has not yet provided recommendations for the development and construction on these three blocks because PT Timah will do mining activities first.

Based on the agreement, adjustment was made to the area designation in the RTRW of Bangka Tengah Regency, where at the time the TSEZ was proposed, the RTRW of Bangka Tengah Regency was being revised. The RTRW revision was then ratified through the stipulation of “Peraturan Daerah Kabupaten Bangka Tengah No. 2 Tahun 2019 Tentang Perubahan Atas Peraturan Daerah Nomor 48 Tahun 2011 Tentang Rencana Tata Ruang Wilayah Kabupaten Bangka Tengah 2011-2031 (Perda Bangka Tengah No. 2/2019)”. Adjustments were made to the area of the allotment of tourism areas in Pangkalan Baru District, as shown in Figure 7. However, information regarding the participants involved in the discussion during the revision process was not explained.

It can be seen from Figure 6 that there is a change in the area of the designation of the tourism area, where the total area of the designation of the tourism area in Pangkalan Baru District according to the “Perda Bangka Tengah No. 2/2019” is approximately 505.88 Ha, including the location of the proposed TSEZ.

Meanwhile, for the sea proposed location, at that time the Regional Government through the Department of Marine Affairs and Fisheries (Dinas KP) provided facilitation related to the achievement of an agreement on the management of marine space but has not yet reached an agreement. Because

the TSEZ proposal does not yet have a legal basis, while the IUP already has, the mining designation zone that already has an IUP cannot be changed according to the TSEZ proposal. So that the adjustment of the zone as a tourism zone is only given to proposed locations that do not yet have an IUP.

It can be seen that the ocean space zone in some of the proposed locations is a mining zone. The tourism zone is given to locations around the Tanjung Gunung beach and locations around Panjang Island and Semujur Island, but the area on the coast towards the tourism zone around Panjang Island and Semujur Island is still a mining zone. This is because there is no legal basis for the

determination of TSEZ so the zoning plan in some proposed locations adjusts the existing legal basis (IUP), namely as a mining zone.

The inclusion of the proposed TSEZ marine location to be adjusted to the designation of the marine space zone is carried out during the discussion of the marine space zoning plan. To adjust the location of the proposed TSEZ into a tourism zone, delineation is needed as the basis for the division of marine space. But PT PSM did not submit the intended sea space delineation so that the proposed TSEZ marine space adjustment could not be carried out and in several locations the proposed TSEZ has been issued an IUP. Finally, the location that already has an IUP is designated as a mining zone.

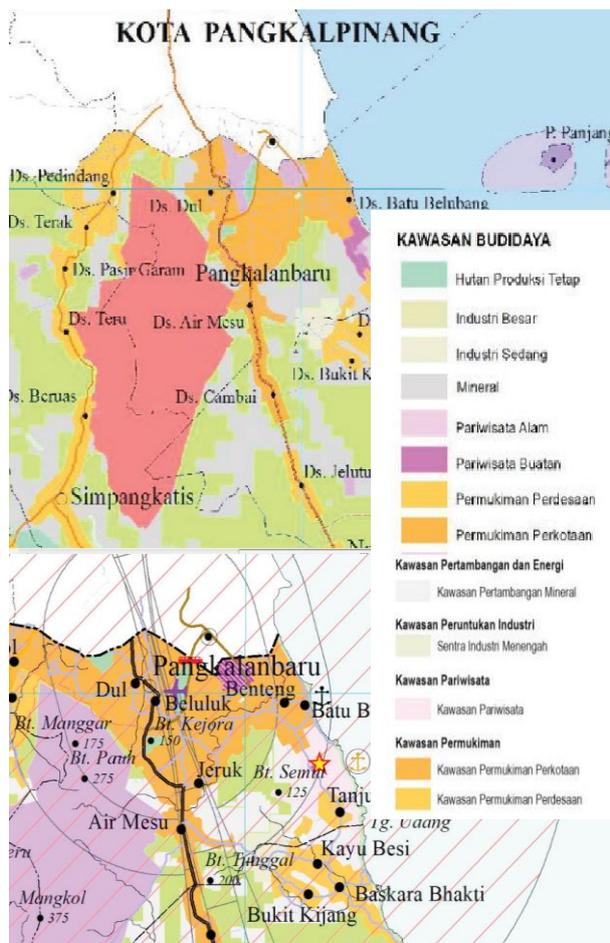


Figure 6 Changes in the Tourism Area Designation in Tanjung Gunung District

Source: Attachment of "Perda Bangka Tengah No. 48/2011" and "Perda Bangka Tengah No. 2/ 2019".

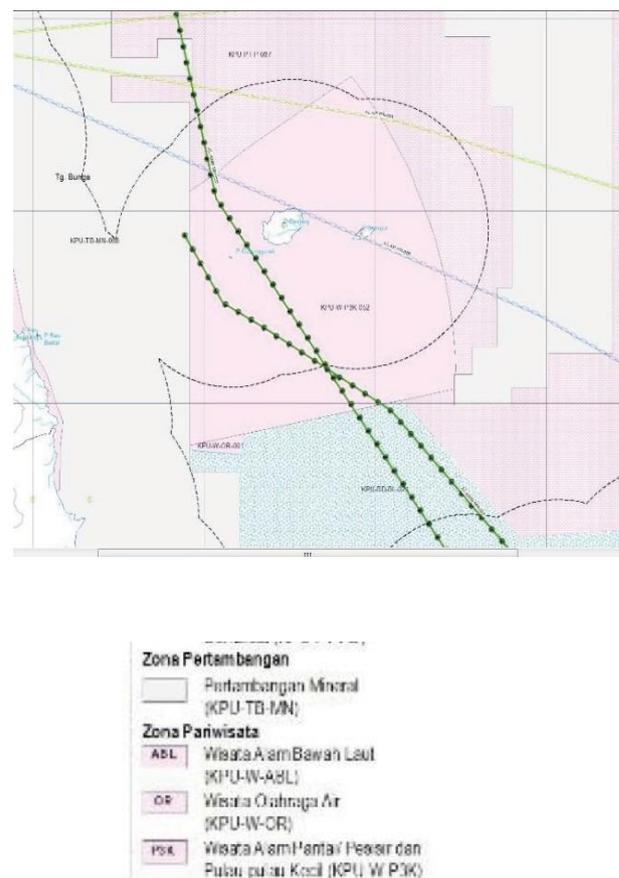


Figure 7 Division of Marine Spatial Zone in Locations Around the Proposed SEZ

Source: Attachment of "Peraturan Daerah Provinsi Kepulauan Bangka Belitung Nomor 3 Tahun 2020".

Review of the Variety and Constellation of Stakeholders in the Proposed Tanjung Gunung TSEZ

A review of the variety and constellation of stakeholders in this study was conducted to obtain and find factors that influence the consensus process, results, and consequences of the consensus reached on implementation. The review is carried out using stakeholder mapping techniques. The mapping regarding the proposed development of Tanjung Gunung TSEZ is based on the level of their interests, resources, strengths, and actions/decisions that affect the content of the agreement and its consequences for implementation. In this case, there were no stakeholder groups that had a high and dominant interest and influence on the implementation of the program. Distribution of power and influence is relatively equal and spread due to the resources they have, especially those related to authority based on laws and regulations. A high influence on the implementation of the program in question is the power to ensure the realization of Tanjung Gunung TSEZ even though other stakeholders do not agree.

The SEZ National Council has the highest authority, but its interest in the program is not high enough. This is related to the council is not too sure about the prospects for the success of the TSEZ. This perception is influenced by another case, namely the insignificant development of the TSEZ that

has been determined beforehand. It is Tanjung Kelayang TSEZ on Belitung Island. The SEZ National Council is a council established through “Keputusan Presiden No. 8 Tahun 2010 Dewan Nasional Kawasan Ekonomi Khusus” (Keppres No. 8/2020), one of which is to provide recommendations on the establishment of SEZs to the President. So based on his duties and functions, the council has the highest influence on program implementation. But the determination of TSEZ is not a priority so the council is a stakeholder group with a low level of interest in program implementation.

Table 3 shows that no stakeholder group has a high level of interest and influence so no stakeholder group can take significant action related to program implementation. As described previously, a significant new action occurred in the amendment of the RTRW document which was finally stipulated through the “Perda Bangka Tengah No. 2/2019”. This is because the Regent and his staff have the most influence in the process, but it can be seen as manipulative. As a potential losing party, there is no information that PT Timah is intensively involve in the process. But even so, in reality the plan to change the spatial pattern has been ratified and finally set into Regional Regulation in 2019.

Table 3 Stakeholder Mapping Based on Their Level of Influence and Interest in Program

	LOW INFLUENCE	HIGH INFLUENCE
HIGH INTEREST	<ol style="list-style-type: none"> 1. Ministry of Tourism and Creative Economy (Kemen PAREKRAF) 2. Governor 3. Regent 4. Regional Development Planning, Research and Development Agency (BAPPEDA) 5. Departement of Planning and Spatial Planning (Dinas PUPR) 6. Government tourism office (Dinas Pariwisata) 7. Department of Marine Affairs and Fisheries (Dinas Kelautan dan Perikanan) 8. Department of Environmental and Forestry (Dinas LHK) 9. Investment and Licencing Office (Dinas PMPTSP) 10. Department of Transportation (Dinas Perhubungan) 11. Department of Social Service and Village Community Empowerment (Dinas Sosial dan PMD) 12. Labor Department (DISNAKER) 13. Economics and Development Berau (Biro Ekonomi dan Pembangunan) 14. PT. Pan Semujur Makmur 15. Regional and Drinking Water Company (PDAM) 16. Indonesian Telecommunications Company (PT. Telkom Indonesia) 17. Indonesia’s National Electricity Company for Bangka Belitung Region (PT. PLN) 18. Indonesian Air Traffic Service Company (Angkasa Pura II) 19. Fishermans 20. Tourism Awareness Group of Batu Belubang Village (POKDARWIS) 21. Youth Organization of Batu Belubang Village (Karangtaruna) 	
LOW INTEREST	<ol style="list-style-type: none"> 1. Ministry Agrarian and Spatial Planning (Kementerian ATR/BPN) 2. Department of Energy and Mineral Resources (Dinas ESDM) 3. Regional Law Firm (Biro Hukum) 4. Fishermans 	<ol style="list-style-type: none"> 1. SEZ National Council 2. Ministry of Energy and Mineral Resources (Kementerian ESDM) 3. PT Timah’s Board of Commisioner 4. PT Timah (Persero) Tbk 5. Minners

Source: Analysis, 2022.

Achievement of Planning Implementation After Consensus is Built

If described, there are several stages that must be passed in the business process of developing Tanjung Gunung TSEZ, including: (1) Initiation, preparation and planning; (2) Institutional consensus and contractual, (3) Legalization of operation, (4) Input procurement, (5) Setting up production system (construction), (6) Commodity production, (7) Commodity delivery-consumption, and (8) Revenue gathering and distribution/sharing.

Based on the process in Figure 8, the stages in the proposed Tanjung Gunung TSEZ have only reached stage 4, namely the input procurement stage. Procurement includes land acquisition and permits. Based on the provisions on the location of the proposed TSEZ by “Peraturan Pemerintah

No. 40 Tahun 2021 Tentang Penyelenggaraan Kawasan Ekonomi Khusus” (PP No. 11/2021), the TSEZ proposer must control the land at the proposed location of at least 50% of the total proposed area, this has been fulfilled

by PT PSM. Meanwhile, the permit related to the development of the TSEZ at the proposed location was obtained by PT PSM through the submission of the letter from the Bangka Tengah Regent regarding the approval of the Bangka Tengah Regency Government on the proposed TSEZ establishment in Bangka Tengah Regency, Kepulauan Bangka Belitung Province.

However, although the stages carried out have reached the procurement stage, the process in stage 2 (institutional agreements and contracts) is not perfect. The imperfections are visible in the contract and the agreement. The parties involved in building the consensus are only the party holding the first permit for the proposed location with the permit applicant, while the community, which is likely to receive the impact of the TSEZ determination, is not involved. The absence of community involvement in consensus-building process made many people not understand the direction of the TSEZ plan. So that the community continues to carry out mining

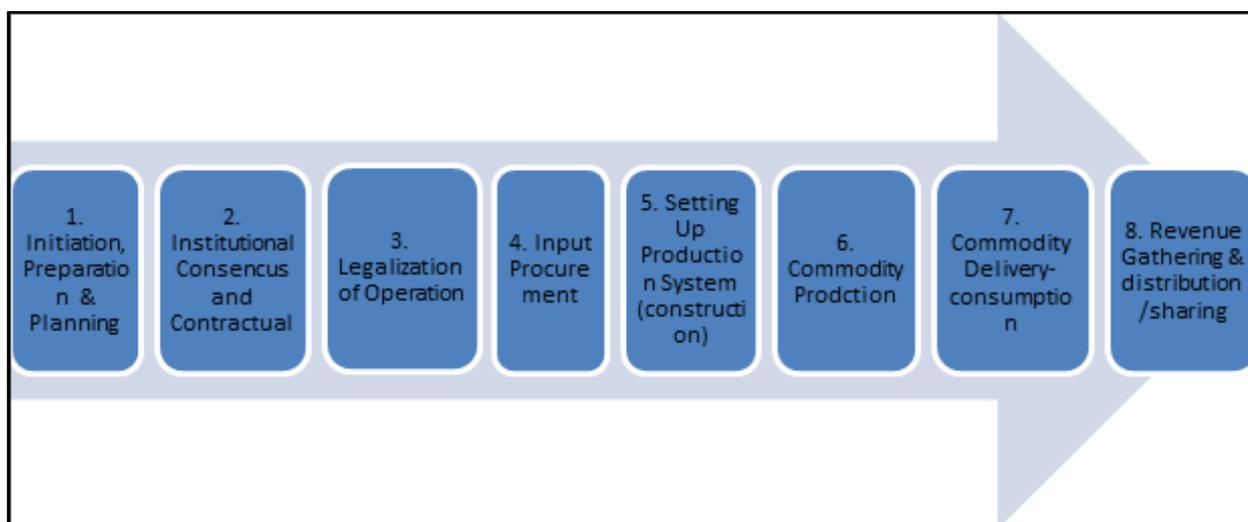


Figure 8 Business Process in Program/Project
Source: Analysis, 2022.

activities that can affect the provision of recommendations for the determination of TSEZ.

In addition, the existence of PT. Timah, which is a state-owned company, makes all decisions concerning the transfer of a portion of WIUP requiring consideration from the Board of Commissioners or the Minister. So consensus building in the proposed Tanjung Gunung TSEZ should also involve the Board of Commissioners or the Minister of SOEs (Kementerian BUMN). The limited ability of the Board of Directors to make decisions causes uncertainty about the release of IUP so the agreement reached is not perfect.

The imperfection of the agreement is suspected to be due to the inaccurate selection of stakeholders and the incomplete involvement of stakeholders in consensus building. In addition, the honesty of stakeholders in the dialogue can also be questioned. It can be seen from several agreed points that are still not concrete in the sense that they have not explained who does what and will get what. This causes the consensus to be fictitious and cannot be fully implemented (Puspitasari, 2022). As stated by Woltjer (2000) that consensus must be fully accepted by all parties and become a contractual commitment for them (Bright et al. 2005), consensus on the proposed Tanjung Gunung Tourism SEZ still does not reflect these principles. So that the results of the consensus cannot be a solution to achieving common interests.

Constraints in Implementing Planning After Consensus is Built

In the case of the proposed land use change to become the Tanjung Gunung

TSEZ, the agreement that had been stated in the document had not been able to make the plan workable. Against the constraints of implementing the planning, the authors found two obstacles that caused the planning not to be implemented, that are related the attitude of the one of the parties that has not been total in the agreement and incompatibility of the contests of the agreement with the applicable institutional context.

As it is known in the agreement letter that has been signed by the TSEZ proposer and the holder of the first permit for land management, there are requirements proposed by PT Timah. That are PT Timah will carry out mining business activities at several predetermined locations and appeal to PT PSM not to take any actions that could hinder these activities. In this case PT Timah did provide recommendations on land use in part of his WIUP but there was no statement that PT Timah will not hand over the IUP owned. Some of requirements in the agreement that was built indicated that the actual agreement could not be accepted in its entirety. Meanwhile, according to Woltjer (2000), the goal of consensus is to get an agreement that can be accepted by all parties and according to Bright et al. (2005), all must be stated in a contractual form that explains who does what and receives what. The signed agreement letter does not contain this enough so that there are indications that each party still agrees on normative matters and has not agreed on concrete matters.

PT Timah in maintaining its license is related to the rights that have been owned by PT Timah, namely the rights to conduct mining business in the WIUP owned.

Changes in land use from mining businesses to tourism areas will certainly affect PT Timah's income, this is relates to the tin reserve assets contained in its WIUP. So when PT Timah no longer has a permit for the mining business at that location, it will result in losses because it cannot manage tin reserve. Therefore, it would be reasonable when the relinquishment of the rights to the IUP is balanced with the provision of appropriate compensation. However, compensation for the change in rights is still unclear so PT Timah will continue to maintain its rights by conducting mining activities until the expiration of the IUP, which is in 2025.

The complexity in making decisions regarding the release of IUP by PT Timah is also related to the existence of PT Timah is a state-owned corporation whose management is under the Ministry of State-Owned Enterprises. As one of the SOEs, decisions regarding changes in asset ownership cannot be taken unilaterally by the directors who are currently serving but require consideration from the Ministry of SOEs. In addition, changes to law governing mining activities from UU No.4/2009 to UU No.3/2020 provides limits on the authority of regional governments in granting or revoking mining business permits (IUP). With the enactment of UU No. 3/2020 the Ministry of Energy and Mineral Resources is involved in the revocation of mining business permits.

Another obstacle to planning implementation is incompatibility of the agreement contents with the applicable

institutional context. The first is related to the existence of an IUP at the proposed location, which is following the provisions that must be met for the proposed TSEZ that the proposed location must be following the area designation in the RTRW of Bangka Tengah Regency, and has a clear delineation. The delineation related to land proposals has indeed been adjusted in line with the stipulation of Perda Bangka Tengah No. 2/2019 which increases the designation area of tourism in Pangkalan Baru District, includes the tourism area expansion according to the proposed location of the TSEZ. For the sea area, tourism designation zone is only given to the proposed location that does not have an existing permit. Meanwhile, the allotment space at a location that already has a permit follows a permit that already has a legal basis, namely as a mining zone. The revocation of mining permits can only be carried out by the Ministry of Energy and Mineral Resources based on UU No. 3/2020 that is if the IUP holder is declared not to have fulfilled his obligations by the provisions, commits a crime, and is declared bankrupt. However, if the revocation is not carried out and the IUP holder intends to release the IUP, the IUP holder must submit the return of IUP to Minister with a written statement accompanied by clear reasons. In this case, it can be concluded that there is a power that is used by the parties based on different laws and regulations. This should be resolved with a concrete commitment in the memorandum of understanding. However, this was not

done. So it can be said that as consensus planning, the process is incomplete.

The next obstacle is related to the complexity of regulations, where since the TSEZ proposal process until now (the TSEZ has not been recommended its stipulation), there have been changes to several regulations. This can be said to be an external factor in consensus planning. Among them are regulations related to the implementation of SEZ in “Undang-Undang Cipta Kerja” (UU No. 11/2020) and PP No. 40/2021 as well as regulations related to mineral and coal mining (UU No. 3/2020). Changes to regulations related to SEZs are in the form of adding requirements to the SEZ proposal, that

the proposer must have mastered the proposed land of 50% of the total proposed area. Meanwhile, changes to regulations related to mineral and coal mining are in the form of a shift in authority over the granting and revocation of mining business permits, where the granting and revocation of mining permits are under the authority of the Central Government.

Regulatory complexity is also in the form of interrelationships between regulations that are hostage to each other. In order to comply with the provisions of the proposed sea area boundaries, existing permit must be revoked first so that changes to the marine space utilization zone can be made. However, PT Timah stated



Figure 9 Unconventional Mining Activities by the Community

Source: Observation, 2022.

that in deciding to return part of its WIUP area to be proposed as a TSEZ, it must have a clear basis. The area to be returned must have already has a legal basis that it will indeed be developed as a TSEZ. Regulatory provisions that make the problem of changing spatial zones become interdependent cause the implementation of zoning changes to be constrained.

The next obstacle to the program provisions is the presence of stakeholders who do not participate in the contract but have the potential to influence the implementation process. The party is the local community that depends on the old sector activities. As it is known that the location of the proposed TSEZ must be by the spatial designation in the RTRW document. However, although the document has stated that the designation of the area at the proposed location is a tourism designation, in reality, there are activities that are not following the RTRW. These activities are unconventional tin mining by the community.

Figure 9 shows that these unconventional mining activities cause conditions that are contrary to the conditions expected with tourism development, where mining activities tend to change the landscape which can affect the aesthetic value of nature while tourism activities tend to maintain the natural physical condition. The existence of community activities in mining sector can influence decision-making in determination of TSEZ. However, in consensus-building process, the community is not involved so that they are likely to stop mining activities once the TSEZ has been established.

The last obstacle in establishing TSEZs as planning implementation is the lack of confidence in the success and benefits of the program. The TSEZ proposal is submitted to the SEZ National Council through the recommendation of the Regional Government. The National Council was formed based on Keppres No. 8/2010 whose members consist of nine Ministers/Heads of Agencies. The proposal submitted must meet the requirements by the provisions contained in UU No. 11/2020 and PP No. 4/2021. The SEZ National Council will conduct a study on the proposal, if the proposal has met the requirements and criteria, the SEZ National Council will provide recommendations on the SEZ determination to the President. The proposed of Tanjung Gunung TSEZ has met the requirements set out in UU No. 11/2020, including an economic feasibility study on the proposal. However, even though the requirements have been met, the SEZ National Council has not yet provided a recommendation for its establishment.

The Tanjung Gunung TSEZ proposed was assessed by the National Council as not being able to deliver results by the proposed plan because according to the information obtained, there are still several factors to consider. Another thing that is taken into consideration in the assessment of the TSEZ proposal is that the development of the TSEZ (Tanjung Kelayang TSEZ) that has been determined has not been significant so that it has affected the SEZ National Council's assessment of the proposed new TSEZ proposal. Then, the existence of mining activities around the TSEZ proposed

location is considered to be an obstacle to TSES development because tourism activities and mining activities are contradictory. Tourism activities are considered as activities that can maintain environmental conditions, while mining activities are considered activities that damage or change the landscape, so that the two activities cannot be carried out simultaneously.

Based on the attitudes and actions of stakeholders towards the proposed Tanjung Gunung TSEZ, it can be concluded that the plan is not a “good project”, where one of the requirements of a “good project” is that there are no victims for the implementation of the plan/program. However in reality, the proposed TSEZ plan is considered to be detrimental to one of the parties, it is PT Timah. PT Timah will receive the loss of assets for tin management in the proposed area which was originally its right.

As a party that will receive losses for the implementation of the program, PT Timah conveyed the terms of the agreement that had been reached. In this case it is clear that the implementation of the agreement that has been reached is influenced by the attitude of the stakeholders involved, namely commitment, as one of the success factors of the implementation of consensus planning (Margerum, 2002; Innes, 2004; Potapchuk & Crocker, 2017). However, the attitude shown by PT Timah cannot be separated from its position as a party that does not have sufficient authority in making decisions. So it can be said that communication and participation efforts with stakeholders that are not quite right will affect the success in implementing consensus planning results.

CONCLUSION

Facilitated by top local leaders, consensus for changing land use allocation at Tanjung Gunung area has been reached between PT PSM as TSEZ proposer and PT Timah as the current mining land use right holder. The consensus process on the proposal for a land TSEZ occurred through two stages in approximately two months October to November 2017 which has in legalized agreement, while the sea proposal occurred through one stage on December 2018. The main contents agreement is the parties agreed to sign a land use agreement in part of PT Timah’s WIUP for the development of TSEZs with some terms and conditions. This consensus result was then adopted in the RTRW revision in 2018. However, until the time the research was conducted, after almost five years the process of developing the Tanjung Gunung TSEZ project had only reached the procurement input stage and is still difficult to proceed to the next stage of setting up the production system (construction), especially on operational phase. Based on this research, it can be said that consensus does not continue to collaboration or compensation. This occurs because the consensus that happened could be suspected as an imperfect consensus process. The contents of the agreement, in reality, do not yet represent the whole prerequisite that is accepted by all parties. The contents of the agreement in this case which is poured into an agreement between parties have not been a solution to achieving common interests. This happens because the content of the consensus is still normative, that is agreeing to convert the mining zone

to TSEZ but without conditions and limited time fulfillment. Even though there has been an agreement on a land use change plan, however, there is no clear time limit. In reality, PT Timah keeps going operate and maintaining its IUP. This action is based on higher-level legal rules which are still valid.

The consensus in this case could be considered as an imperfect consensus process or Pseudo-consensus. This kind of consensus occurs when the selection of stakeholders in the agreement process is carried out incorrectly, namely the involvement of stakeholders who do not have the authority and courage to make decisions, for example, unclear between “agree” and “disagree” to one thing. In a cultural context of shyness, inappropriate stakeholder shows an attitude only to please all parties in the consensus process forum. There is an Agree to attitude on the normative part but hides other things that will have more concrete consequences, for example, related to financial losses or related to business or position risks. The ambiguity of attitude is also found in the agreement that asks for some requirements that are stated indirectly but implicitly. These requirements are based on a secret calculation of profit and loss, and because of a closed culture, especially concerning political/power leadership structures, they do not convey the results of their calculations in the consensus process. The opposing party is sometimes less sensitive so that it does not understand the meaning of the terms, or understands but does not respond and then also expresses its response in the agreement. The parties who do not respond to this are those who feel that the political situation/power is more advantageous so

they hope that they do not have to fulfill the requirements and will continue to get support from the power while at the same time hoping that the opposing party will get pressure from the power. To avoid the above incident, there needs to be a mechanism so that negotiations are carried out in a more measured and transparent manner. For example, it is necessary to require the consensus process to have a transparent calculation phase regarding the profit and loss for all parties from the agreement to be taken. Therefore, in joint decision-making, such as in this land use change plan or other development projects, supporting analytical tools such as multi-stakeholder CBA should be used as simulated by Pramono et al. (2022) in making residential land use decisions in Yogyakarta.

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