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Policy Forum

Determinants of Land Technical Considerations in Land Control

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EXECUTIVE SUMMARY

The significance of Technical Land Considerations (PTP) has grown in importance following the implementation of the Government Regulation replacing the Job Creation Law, particularly as an essential input for issuing Suitability of Spatial Utilization Activities (KKPR). Meanwhile, there are still many gaps in land use status that require effective monitoring activities. In order to effectively carry out land control, data and information regarding land control, ownership, and land use and utilization are required. PTP can be used as an effective land control instrument because it is an input to the issuance of KKPR and subsequently becomes a reference in land ownership applications. The effectiveness of PTP in land control is based on three factors that need to be properly applied: the presentation of the substance of PTP, PTP decisions, and PTP monitoring. PTP substances must be arranged in an accurate, objective, and up-to-date manner. PTP decisions must be informed by a comprehensive and thorough review and the impact of decisions on the community. Monitoring the outcome of the TPP decision is becoming a reference point for the continuation of the land ownership process. To ensure the ongoing issuance of PTP for various land activities, it is essential to incorporate the substance material of PTP into the records of land inspections. This integration facilitates the acquisition of comprehensive information that is pertinent to land ownership applications. In addition, the Land Office can anticipate problems with land tenure and the use of a parcel of land that is to be the subject of a land ownership application.

A. Introduction

There is no doubt that there is an increasing need for land for development across all industries. For example, Indonesia's housing sector currently has a backlog of 7.63 million housing units, indicating an urgent need for additional housing. Indicators used to evaluate Indonesia's housing demands include home backlogs, according to the development planning document. The housing sector faces the challenge of an imbalance between the supply and demand of land for housing. The calculation results reveal housing needs that exceed the available land in various regions, as observed in studies conducted in Gresik Regency (Ardiansyah & Rahmawati, 2020), Kolaka Regency (Ramadhanti et al., 2023), and Semarang Regency (Surya & Manaf, 2021). The prevalence of shanty towns in large cities is due to the fact that low-income people need housing close to their workplaces (Perumahan dan Kawasan Permukiman, 2021).

In addition to housing, agriculture is another sector that demands land use on a large scale.

Mulyani and Agus (2017) mentioned the land needs in the agricultural sector, particularly to achieve food self-sufficiency and establish Indonesia as a global food reserve by 2045, amounting to 5.3 million hectares specifically for wetland agriculture (paddy fields) and approximately 10.3 million hectares for dryland agriculture (farms and plantations). The land requirements for the agricultural sector involve activities such as paddy fields cultivation (Ramadhani et al., 2019), the construction of food reserves (Lasminingrat & Efriza, 2020), and the opening of land for key commodities (Sari et al., 2022). A considerable amount of land is required for the plantation industry, particularly for strategic commodities. By 2030, the government wants to turn Indonesia from an agrarian to an industrialized nation (Kementerian Perindustrian Republik Indonesia, 2015). To facilitate this transition, the government plans to set aside 85,000 hectares of land for industrial use.

In order to meet these land requirements, local governments must evaluate land needs on a sectoral basis and assess land availability according to regional spatial planning. Not only the physical availability of land but also the availability of land from the land aspect. Aspects of spatial and land planning are taken into consideration in the implementation of every land ownership application. This applies to the acquisition of land required by the aforementioned sectors. The assessment of spatial and land aspects for land acquisition is carried out using technical land consideration instruments.

Technical land considerations were initially included as part of the Location Permit application. After the implementation of the Government Regulation in Lieu of Job Creation Law (Perpu Ciptaker), the position of Location Permit has been substituted with Suitability of Spatial Utilization Activities (KKPR). The Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation Number 12 of 2021 on Technical Land Considerations regulates the provisions regarding technical land considerations.

Technical land considerations are conducted for the issuance of KKPR, affirmation of land status, recommendations on land tenure, and the implementation of land use and utilization policies Technical land considerations are considerations that include the results of technical analysis of land utilization, encompassing provisions, and requirements regarding land control, ownership, use, and/or utilization while considering spatial planning, the nature and type of rights, land capacity, land availability, and land-related issues. The information provided in technical land considerations includes both textual and spatial information.

Mayasari (2019) highlights in her study that the process of issuing technical land considerations is simplified and expedited, providing legal certainty for business operators due to the utilization of the *Online Single Submission* (OSS) system. Looking ahead (*ex-ante*), this service process facilitates the acceleration of business licensing and ensures the synchronization of spatial planning and land utilization. This viewpoint is shared by Wahidin *et al*. (2019) and Habibah *et al*. (2019), who emphasize that Technical Land Considerations serve as a crucial instrument for regulating spatial utilization, as they are a prerequisite for obtaining both Land Conversion Permit and Location Permit.

The regulations governing technical land considerations before the implementation of the Job

Creation Law in Lieu of Job Creation were outlined in the Minister of Agrarian Affairs/Head of the National Land Agency Regulation Number 27 of 2019 concerning Technical Land Considerations. Essentially, there are no distinctions from the previous regulations as the OSS institution is employed as a method for addressing technical land considerations. The distinction lies solely in the reduced and simplified timeframe for resolution and the requirements. The fundamental change regarding the implementation of technical land considerations occurred after the enactment of Law Number 11 of 2020 on Job Creation, which was amended by Government Regulation in Lieu of Law (Perppu) Number 2 of 2022 on Job Creation. The provisions concerning technical land considerations have undergone a conversion, specifically by associating them with Suitability of Spatial Utilization Activities (KKPR) as a replacement for Location Permits. The role of technical land considerations in the issuance of Suitability of Spatial Utilization Activities (KKPR) is to provide input regarding land ownership and utilization aspects for both business and non-business land utilization activities. Business and non-business activities that will be considered from a land perspective exhibit a high degree of variation and complexity. Furthermore, there are issues concerning the assessment of spatial use activity plans with Spatial Planning (RTR), as many regions lack comprehensive spatial planning.

Land utilization, as defined by Government Regulation Number 16 of 2004 on Land Use, refers to activities aimed at obtaining values without altering the physical form of the land. Nonetheless, in numerous studies, the concept of land utilization tends to emphasize the practical utilization of land that brings tangible benefits to its owner. The definition of land utilization, as expressed by Sundari and Ma'arif (2013), regarding neglected land assets, highlights the physical utilization of a specific land area. Sugiarso *et al*. (2017) investigated the utilization of the backyard, with a focus on the understanding that land utilization entails the physical processing and use of land for a specific purpose.

The management of land utilization is closely tied to the regulation of spatial utilization, which includes zoning regulations, permits, incentives, disincentives, and the enforcement of penalties. According to Hutapea (2016), control activities or preventative measures are carried out before any divergence in spatial utilization (*ex-ante*) and include zoning regulations, licenses, incentives, and disincentives. When it comes to enforcing or controlling violations of space use that have already occurred (*post factum*), sanctions can be either restorative or repressive in nature. Meanwhile, Dani et al. (2017) stated that the objective of controlling space utilization is to align land use with the spatial pattern.

The control of land use in the study by Djakaria and Husein (2017) involves organizing land use to align with the spatial layout. The Land Use Appropriation Permit (IPPT) serves as both a benchmark for success and a control instrument for spatial utilization, aiming to achieve spatial compatibility with land use. Nugraha *et al*. (2021) stated that land use control is predominantly influenced by the implementation of land administration, particularly in terms of limitations related to the division of agricultural land. Ramadhani (2018) further added that land use control is

accomplished by establishing regional zones based on land-related factors.

Technical considerations related to land, which have been in place for a significant period, serve as one of the control instruments for land use, particularly within the context of the Location Permit regime. After the enactment of the Presidential Regulation in lieu of the Job Creation Law, technical land considerations were established as instruments to control land use through the KKPR. The key questions that arise are which factors of technical land considerations impact land control. Based on the aforementioned question, the aim of this study is to identify the factors of technical land considerations that influence land control. The benefit of this study is to offer valuable insights to the implementers of technical land considerations, enabling them to effectively achieve the objectives of land control.

B. Approaches and Results

The legal foundation for technical land considerations and the issuance of the KKPR is the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 12 of 2021 regarding Technical Land Considerations. With the enactment of the Presidential Regulation in lieu of the Job Creation Law, the purpose of the initial technical land considerations is amended from issuing Location Permits to issuing KKPR. The amendment aims to consolidate permits concerning land reserves with spatial utilization. The most recent regulation establishes that the approval or rejection of location designations relies on conformity with the spatial plan Thus, KKPR serves as a guiding mechanism for both business and non-business activities.

Tasikmalaya Regency has already established regulations pertaining to overall spatial planning, specifically Tasikmalaya Regency Regional Law Number 2 of 2012 concerning Tasikmalaya Regency Spatial Plans for the period of 2011-2031. The detailed spatial plan and urban zoning regulations of Tasikmalaya Regency are governed by the Regional Law of Tasikmalaya Regency Number 9 of 2017. Singaparna utilizes the Detailed Spatial Plan (RDTR) as the foundation for issuing technical land considerations in urban areas, whereas in other regions it relies on the Spatial Plan (RTRW).

The urban area of Singaparna encompasses the following areas:

1. The sub-district of Singaparna comprises several villages, namely Sukaasih, Cikunten, Sukaherang, Singasari, Singaparna, Sukamulya, Cipakat, Cintaraja, Cikunir, and Cikadongdong;
2. The district of Mangunreja encompasses Mangunreja Village and Margajaya Village;
3. Sariwangi Sub-district comprises of Selawangi Village;
4. Leuwisari District encompasses Arjasari Village;
5. The sub-district of Padakembang encompasses Cilampung Hilir Village; and
6. Sukarame District encompasses Sukarame Village.

The level of detail in the RDTR map is significantly higher, with a scale of 1:5,000, in comparison to the Regency RTRW map, which has a scale of 1:50,000. The variation in scale influences the assessment of compliance with spatial patterns. Consequently, the regulations regarding conformity

in the RDTR are more specific and detailed. However, not all spatial patterns from the RTRW are comprehensively detailed in a single RDTR, as it varies depending on the regional scope.

The level of detail between the RTRW of Tasikmalaya Regency and the RDTR of Singaparna can be observed in the table below.

Table 1. Comparison of spatial patterns between the RTRW of Tasikmalaya Regency and the Urban RDTR of Singaparna.

RTRW of Tasikmalaya Regency		Urban RDTR of Singaparna	
No.	Protected Area	No.	Protected Zones
1.	Protected forest area	1.	Local protection
2.	Conservation area	2.	Green open space
3.	Areas that protect their subordinate regions		
4.	The local protected areas		
5.	Sanctuary area and cultural heritage		
6.	Disaster-prone areas		
7.	Geological protected area		
8.	Other protected areas		
No.	Cultivation Area	No.	Cultivation Zone
1.	Production forest area	1.	Housing area
2.	area allocated for agriculture	2.	Trade and services
3.	area allocated for fishery	3.	Workspace area
4.	Area designated for mining purposes	4.	Facilities for public services
5.	area designated for industrial purposes	5.	Industry
6.	Tourism designated area	6.	Specific provisions
7.	residential designation area	7.	Agriculture
8.	Other designated areas	8.	Tourism
		9.	Non-green open spaces

Source: Compiled data from the 2011-2031 Tasikmalaya Regency Spatial Plan and the Singaparna Urban Zoning Detail Plan and Regulations

Technical land considerations are undertaken based on spatial plans, specifically general plans, and detailed plans. The Regional Spatial Plan is general in nature, resulting in a lower level of detail but including comprehensive provisions. The emphasis in the RTRW is primarily on the allocation for development purposes. In contrast, the Detailed Spatial Plan applies only to certain areas but provides a greater level of detail. The allocation in the RDTR is already focused on the zoning of space utilization. In urban areas of Singaparna that have an established Detailed Spatial Plan (RDTR), the analysis of technical land considerations is conducted according to the scale of the RDTR. On the other hand, the analysis of technical land considerations in other regions relies on the Regional Spatial Plan (RTRW) as the reference for spatial planning. In essence, technical land considerations based on either the RDTR or RTRW references hold equal legal significance. The disparity lies in the restrictive nature of the level of detail in terms of input provision.

The execution of technical land considerations at the Tasikmalaya Regency Land Office is entrusted to the Technical Land Considerations Team, established by the Head of the Land Office, comprising the following members:

1. Person in Charge: Head of Land Office
2. Chairman cum member: Head of the Planning and Empowerment Section
3. Secretary cum member: Coordinator of the substance group for the technical stewardship of land use
4. Members: Coming from 3 different technical groups namely,
    a. Functional Position Group of the Survey and Mapping Section
    b. The Functional Position Group within the Rights Determination and Registration Section
    c. The Functional Position Group within either the Dispute Control and Handling Section or the Land Acquisition and Development Section.

The field personnel consists of members, with the chairman and secretary also acting as members. When there are multiple locations to visit within a day, the allocation of areas is determined based on the number of members present. The field assignments are based on the official Assignment Letter issued by the Head of the Land Office.

The purpose of granting PTP in the context of the issuance of KKPR which is further as the basis for land acquisition is for land that has not been registered. In the case of registered lands, specific actions are undertaken in compliance with legal regulations, and the Land Acquisition Permit (PTP) is not required. The Land Acquisition Permit (PTP) is granted for newly acquired state land (*fresh land*) that will be utilized for land arrangement activities or ownership determination. Meanwhile, the issuance of a Land Acquisition Permit (PTP) in the context of implementing land use and utilization policies is applicable to both registered and unregistered lands. All applications for PTP at the Tasikmalaya District Land Office are solely for the purpose of issuing KKPR. Currently, there have been no applications for PTP for newly acquired lands or for the implementation of land use and utilization policies.

The implementation of Technical Land Considerations (PTP) in Tasikmalaya Regency for the issuance of Land Use Appropriation Permits (KKPR) started in 2021. KKPR is applied for business and non-business activities. The majority of KKPR applications for business activities in Tasikmalaya Regency are for residential purposes, shops, shophouses (ruko), office buildings (rukan), industrial use, and agriculture In contrast, KKPR for non-business activities involves private residences and houses dedicated to foundations.

In general, the application for PTP to obtain KKPR, whether for business or non-business purposes, follows a common process and fulfills standardized requirements. The specific requirements for KKPR for business purposes include the Business Registration Number, the proposed Standard Classification of Indonesian Business Fields (KBLI), and a business activity plan proposal. The specific requirements mentioned above are not required for the issuance of non-business KKPR.

Stages of PTP issuance include:

1. Preparation Stage
2. Implementation Stages
3. Completion stages

The steps involve preparing assignment letters along with the required technical materials and equipment for the fieldwork. The materials prepared include working maps and supplementary thematic maps. The working maps are high-resolution satellite imagery maps that depict land parcels. Additional varieties of thematic maps consist of spatial planning maps, maps delineating administrative regions and significant landmarks, as well as land use maps. These maps are digitally formatted to be *overlayed* on the working maps. The purpose of the working map is to provide a space for plotting the results obtained from the field survey.

The execution phases consist of activities such as gathering data, processing the collected data, and making decisions based on the outcomes. The data collection process involves performing surveys at the site and observing the current conditions in the field. The gathered information is then documented on both the working map and the provided data entry format. Moreover, the staff members add notes regarding the information gathered about the planned activities. During the data processing stage, the tasks involve generating maps to display the survey results and conducting an analysis on the data and information obtained from both the field observations and the PTP application data. Before making a decision, a PTP team holds a meeting to evaluate the congruence between the application and the findings of the survey and land analysis. This evaluation helps determine whether the PTP application can be accepted or rejected. The minutes of the PTP team discussion meeting serve as evidence of the decisions and discussions that took place during the meeting.

In the final step, a draft of a rejection letter is prepared for the PTP application, outlining the reasons for the rejection if the minutes of the meeting confirm that the PTP application has been rejected. In contrast, when the PTP application is approved, the outcomes encompass a Technical Land Consideration report, maps as attachments, a draft PTP document, and an attached PTP Map. These materials will be presented to the Head of the Land Office. It is mandatory for applicants who have been granted PTP approval to report their land acquisition activities to the Land Office. The Land Office undertakes monitoring activities, regardless of whether reports have been provided or not.

The PTP activities outlined earlier serve as the fundamental framework for identifying the factors that determine how PTP influences land control. When these factors are put into action, they have an impact on the effectiveness of PTP in managing land, ensuring that land ownership and usage align with the intended purposes and other technical criteria specified in the decision letter. Moreover, the determining factors of PTP serve as benchmarks for the Land Office to effectively fulfill its duty of controlling land utilization.

The determining factors in Technical Land Considerations (PTP) are as follows:

1. Substance material Technical Land Considerations
2. Technical Land Consideration Decision
3. The Monitoring of Technical Land Considerations

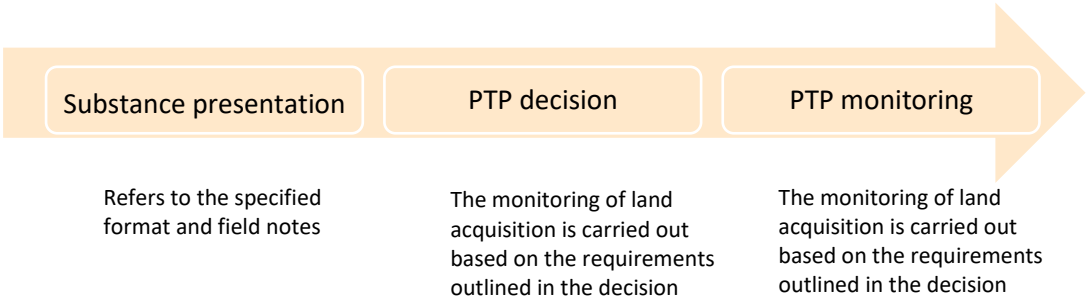

Figure 1. Determining Factors in Technical Land Considerations

The substance of the PTP consists of the necessary land data and information used for decision-making, presented in a predefined format. The substantive materials of the PTP encompass the topics of land possession, ownership, usage, and utilization. These factors are taken into account when deciding whether to approve or deny a PTP application. The key factor in PTP is the presentation of data and information that is based on field observations, data analysis, and the proper formatting of results as per the prescribed format. The indicators of data quality in PTP include the accuracy and completeness of the data. The substance of the materials also includes a descriptive portrayal of the applicant's performance in utilizing space, which is aided by their proficiency in land acquisition.

The substantive materials that serve as benchmarks for assessing the effectiveness of land control are as follows:

1. The compatibility of land use plan with spatial planning
2. Existing land tenure conditions
3. Existing land use conditions
4. Nearby land use conditions

The primary substantive material in this context is the conformity between land use and utilization plans and spatial planning since it constitutes a key requirement for the issuance of a Land Use Permit (KKPR). Conforming to spatial planning means that the proposed activities will not contravene the regulations concerning zoning in the RDTR or the prescribed spatial patterns defined in the RTRW. This indicates that the planned activities fall within the scope of land-related aspects and are subject to land control measures. Spatial analysis can be used to obtain data on the compatibility of land use with the prevailing spatial planning by comparing land use plans with the existing spatial framework. The results of the *overlay* analysis can indicate whether the land use is "conform," "partially conform," or "not conform" with the spatial planning. The "conform" option indicates that the land use plan fully complies with the spatial planning requirements. The "partially conform" option signifies that certain aspects of the land use plan are in line with the spatial planning, whereas other aspects do not meet the requirements. The "not conform" option implies that the entire land use plan does not adhere to the requirements of spatial planning.

The data regarding the existing land tenure condition provides information about the entities or individuals who currently possess and own the land, based on the factual alignment and the data provided in the application documents. The inclusion of this data as substantive material is crucial to

minimize the occurrence of disputes both during and after the land acquisition process. Regarding land control, the substantive material on land tenure provides clarity and certainty in terms of land ownership, which in turn simplifies the execution of land management initiatives.

The current state of land use helps determine whether any modifications in land use are needed due to the proposed planning mentioned in the PTP. The analysis of the PTP includes examining the compatibility between the current land use conditions and the desired land use as a crucial aspect of the evaluation. The modification of land use as a consequence of the proposed planning in the application must follow the established procedures. With regard to the effects of these alterations, it is crucial for the Land Office to deliver an appropriate analysis to ascertain whether the PTP application can be fully accepted, partially accepted, or rejected.

The land use conditions in the vicinity have a common objective, which is to analyze the data regarding the existing land use at the requested location. Nonetheless, the information on the land use in the vicinity is taken into account to evaluate the potential consequences if the proposed activities are authorized. Besides the physical consequences, the economic implications are also taken into consideration, evaluating whether they bring about positive economic value to the neighboring region or not.

The second key aspect in land control during the PTP process is the decision made regarding the PTP. When it comes to the PTP decision, there are only two possible outcomes: accepted or rejected. Before reaching a decision, the Head of the Land Office will take into account the PTP memorandum and the minutes of the PTP team's meeting. Once a determination has been made about whether to accept or reject the application, the subsequent step is to prepare a draft of the PTP decision. The draft decision outlines whether the application is approved for the entire area, conditionally approved with partial area acceptance, or rejected entirely. Even if the application is approved, the Head of the Land Office will still set conditions that must be complied with by the PTP applicant. In the context of land control, the PTP decision will play a significant role in determining the pattern of land use and utilization.

The decision of the Head of the Land Office to accept either a portion or the entirety of the application aims to harmonize the proposed activities with the spatial planning, enabling the optimal utilization of land. The idea of optimal involves refraining from uncontrolled exploitation of natural resources, ensuring the well-being of the community, and preserving the integrity of the surrounding environment. Considering land-related aspects, the decision to issue PTP will determine the allocation of land rights in accordance with the intended purpose of the land rights application.

The last important factor in the provision of PTP is monitoring and evaluation with the role in land control is as follows:

1. Consideration material in the application for land rights
2. Input material for evaluation of space utilization activities
3. Evaluation materials for the determination of abandoned land

Individuals who have been granted PTP and subsequently proceed with KKPR must submit periodic progress reports regarding their land acquisition to the Head of the Land Office. Following that, a team from the Land Office will perform monitoring activities based on the reports concerning the current status of the areas that have received permission for land acquisition through KKPR. If the land acquisition does not meet the predetermined target within a specific timeframe stated in the KKPR, the size of the requested land rights will be modified to match the actual land acquisition. Moreover, the Land Office has the authority to assess the proposed activities in relation to the type of land rights being sought.

The monitoring and evaluation of PTP can be utilized as input for spatial utilization activities. In this case, the Land Office works in coordination with relevant departments responsible for overseeing spatial planning to assess whether any violations have occurred in terms of spatial utilization. Even though it may not have a direct link to land management, the collaborative reporting between the Land Office and the relevant departments responsible for spatial planning oversight will contribute to creating a harmonious environment for spatial utilization and land use.

In the event that the applicant fails to apply for the rights to the acquired land and neglects to utilize it for its intended purpose, this circumstance serves as a basis for evaluating abandoned land. The provided input will be processed during the stage of identifying abandoned land and will be included as part of the abandoned land database. However, if there is effective communication with the PTP holder and the process follows the prescribed procedures, there is no need to report it as abandoned land.

C. Conclusion

The scope of technical land considerations (PTP) after the enactment of the Presidential Regulation in lieu of the Job Creation law is to provide technical input in the land sector, among other things in the context of issuing suitability for spatial use activities (KKPR). Basically, the data and information presented in the PTP revolve around aspects such as land ownership, possession, utilization, and land use. The role of technical land considerations in land use control is to offer input from a land perspective regarding land utilization activities. The evaluation of technical land considerations utilizes the Detailed Spatial Plan (RDTR) as a reference for areas within its scope, while the Regional Spatial Plan (RTRW) is used as a reference for areas beyond the RDTR.

The effectiveness of technical land considerations as a means of land control is reinforced by factors such as the provision of substantial technical land considerations, decision-making based on technical land considerations, and the monitoring of technical land considerations. The presentation of technical land considerations substance involves sharing material regarding the suitability of land use plans with spatial planning, the current land ownership status, existing land use conditions, and the surrounding land use conditions. The data and information presented must reflect the real conditions in the field. The decision-making regarding technical land considerations entails determining whether to approve the entire or partial area and whether to reject land utilization plans.

The monitoring of technical land considerations involves the continuous tracking of land acquisition processes.

D. Recommendation

The outcomes of the analysis on technical land considerations as a land control mechanism led to several suggested recommendations, which include the following:

1. It is essential for the officials to analyze data in a contextual manner, taking into account the socioeconomic conditions of the local community.
2. The decision-making process regarding technical land considerations is carried out by the Head of the Land Office, who relies on the minutes of discussions and overall technical input on land matters to ensure more accurate and comprehensive decisions.
3. The Land Inspection Committee is responsible for connecting technical land considerations with the results of land acquisition in relation to land rights applications.

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