

4-4-3 Variation of Implementation Systems and Implementing Agencies of L/R

(1) Variation of L/C in Indonesia

In order to solve this situation for constructing infrastructure, which is vital to L/R, there are two (2) ways, following the direction of either association L/R or government L/R as set before. Participation of Perum Perumnas into L/R is proposed based on the 2 systems.

a. Association type in cooperation with the BPN

In the process of implementation of the existing L/C, BPN shall organize the landowners into an association of landowners. The association shall be empowered (by new law) to obtain the reserved lands, dispose them and make contract with construction firms for infrastructure construction as a legal entity.

However the following matters, among other things, must be cleared.

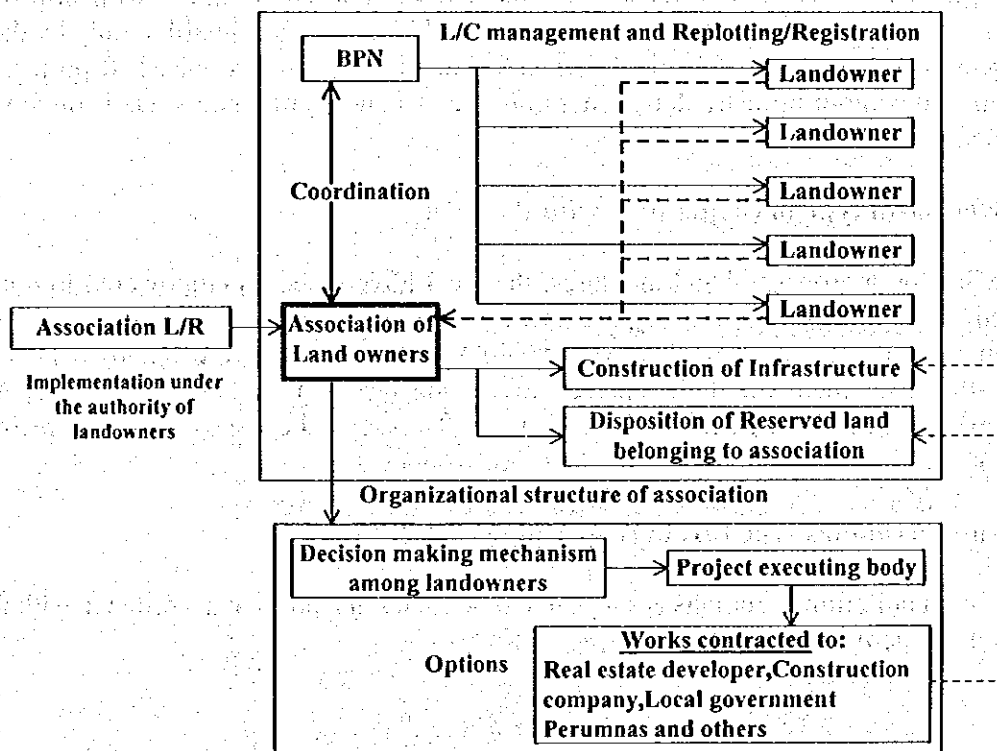


Figure 4-4-2 Association Type in Cooperation with BPN

The association is designed to make a collective decision of all landowners concerned, regarding ownership of reserved lands, disposition, infrastructure construction, etc. In the existing legal framework, the reserved lands may be defined as common ownership lands, which can be legally sold on the contract basis between the individual landowners and buyers, based on the civil and commercial law in force, in their individual legal capacity. One of the important conditions for this transaction is agreement of all the landowners without even one opponent on infrastructure construction, cost of it, disposition of the reserved land. This process is time-consuming because all landowners must be persuaded one by one to consent, and the work for contracting becomes voluminous. In this respect it is recommendable that an

organization, like an association, which represent all the landowners and is legally entrusted to construct infrastructure and dispose the reserved land for the cost recovery on behalf of the all landowners, be established so that the lengthy and troublesome works for the landowners can be cut down considerably, leading to the short-time and efficient implementation of infrastructure construction in L/C.

The basic requirements of the association, among other things, are that the association's legal status be a legal entity which is allowed to do such transactions as stated above, and that the association be managed and controlled by the rules and regulations on decision-making of the association, as an intention of landowners on infrastructure improvement, cost and disposition of reserved land, and so on.

It may be advisable to install into the articles of the association a rule and system to make a decision of association if/when all the landowners fail to reach 100% unanimous agreement of all the landowners, otherwise the project is destined to come to a standstill. Without such a decision-making mechanism, the project area will be left without infrastructure long due to one or two opponents even though most landowners wish good environment with infrastructure services. It must be stressed that land contribution of landowners is justified only by the value increase of their land accrued from infrastructure construction. In this sense L/R project cannot be completed without infrastructure. Therefore the association of landowners is quite vital for implementing L/C.

b. Government type in cooperation with the BPN

By new law or appropriate legal measures, the local government is empowered to obtain the reserved lands created by L/C, dispose them and construct the infrastructure, just like the government L/R exercise. In this system without consent of all the landowners but with consultation with them (or their representatives) the reserved land, which is transferred to government upon enforcement of re-plotting by the BPN, shall be disposed for cost recovery of government.

c. Perum Perumnas type L/R in cooperation with BPN

Participation of Perum Perumnas is supposed to be found in 2 areas in accordance with the L/R types defined above.

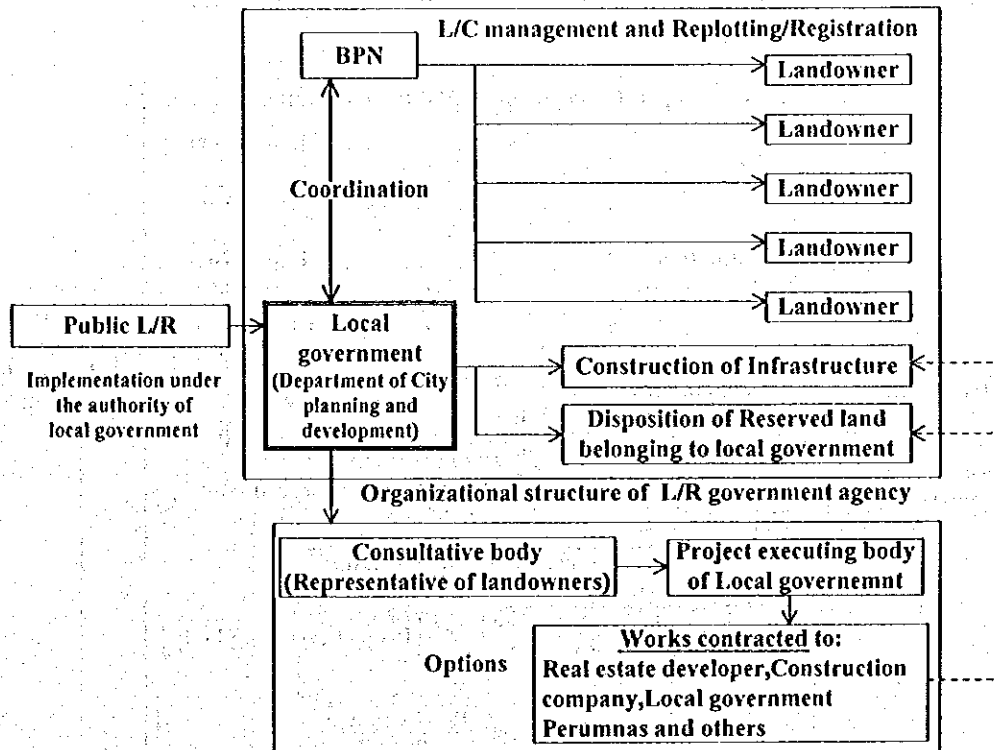


Figure 4-4-3 Government Type in Coordination with BPN

c-1. Participation of Perum Perumnas as one member of landowners' L/R association

Perumnas plans to develop housing complex and purchase land necessary for it. When/where Perumnas is supposed not to acquire all the lands for the project, it is to request the BPN to execute L/R projects. With the assistance of the BPN, Perumnas promotes the L/R association, inviting all the landowners who are reluctant to sell their lands. The BPN and Perumnas request the landowners to establish the association of landowners and participate in it. Perumnas is to be a member of the association. After the L/C completion, Perumnas is to develop housing on the lands re-plotted by L/C.

In another case, Perumnas is to buy lands where the BPN initiated L/R projects so that it becomes one of association members for the purpose of building houses.

In both cases, implementing works including construction works and disposition of reserved land are to be contracted to Perumnas by the association.

c-2. Participation of Perum Perumnas as implementing agency as well as one of landowner

Perumnas is supposed to participate in public type L/R as an implementing agency, mandated by the government. As this kind of project is defined as public oriented urban project, it is to be implemented compulsorily. Therefore it does not need landowners' consent for the project, but only consultation with them.

A typical case of Perumnas involvement in public L/R is shown as follows:

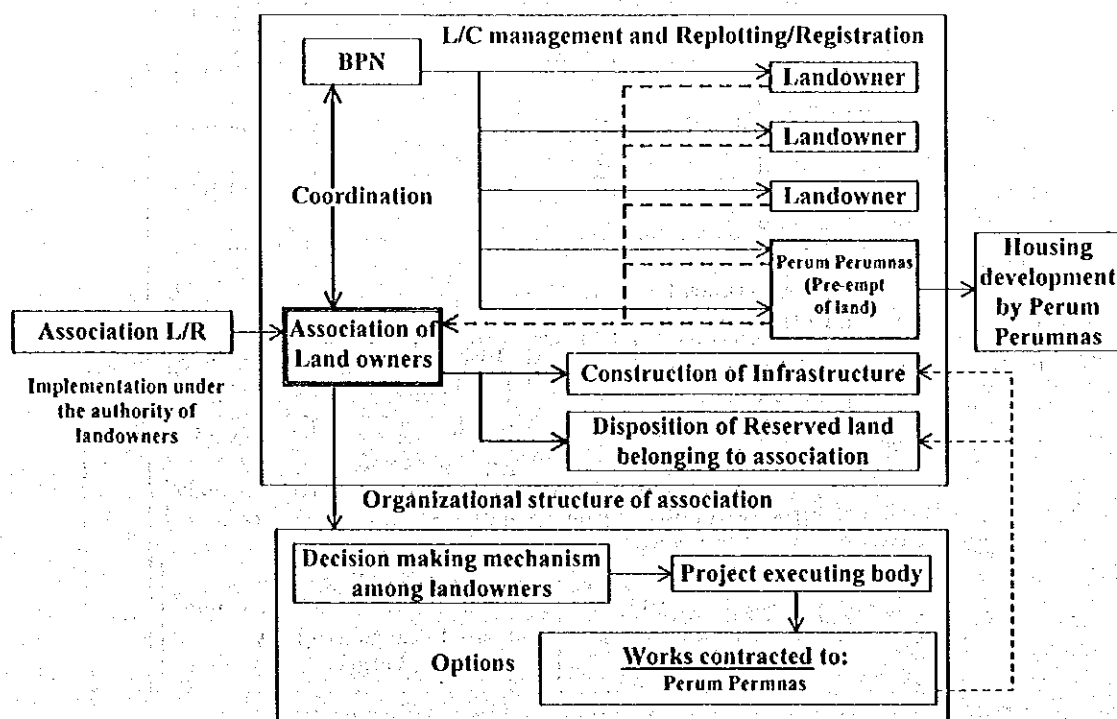


Figure 4-4-4 Perum Perumnas Association in Coordination with BPN (Perumnas as one of landowners)

Perumnas housing complexes are usually developed like islands isolated from the other urban areas and the built-up areas. However it sometimes becomes necessary that the areas and lands adjoining to the Perumnas project site should be developed in the urban area integrated with the Perumnas development area from the view point of optimization of land use of the cities -- city planning view. This integrated urban development becomes great concern of city planning of the local government beyond the capability of Perumnas. This development infrastructure must be constructed beyond the territory of Perumnas for integrating the adjoining areas.

Under the authority of local government who is in charge of city planning, the government entrusts Perumnas to be an implementing agency of public L/R covering Perumnas project area and adjoining area for integrated urban and infrastructure development.

(2) Direction of L/R System Improvement in Indonesia

Based on the above-discussion, it is concluded that the existing L/C system should be improved in line with *the association L/R type generally applied in Indonesia as well as the government L/R type applied in KASIBA*, taking into consideration the following factors;

1. It seems possible, less difficult and favorable to promote landowners' organizations in the existing system and practices of L/C. The organization can be supported by the BPN, which has the L/C implementation capability and experience.
2. There seems to be higher possibilities/rationale of justification of government/public type of L/R in KASIBA, which is to be developed by the authority and initiative of the

government than at large in the urban areas in Indonesia.

3. One of two variations selected for KASIBA system is Land acquisition by Perumnas and Land Readjustment by either KASIBA management body or Perumnas, which has the project implementation capability and experience.

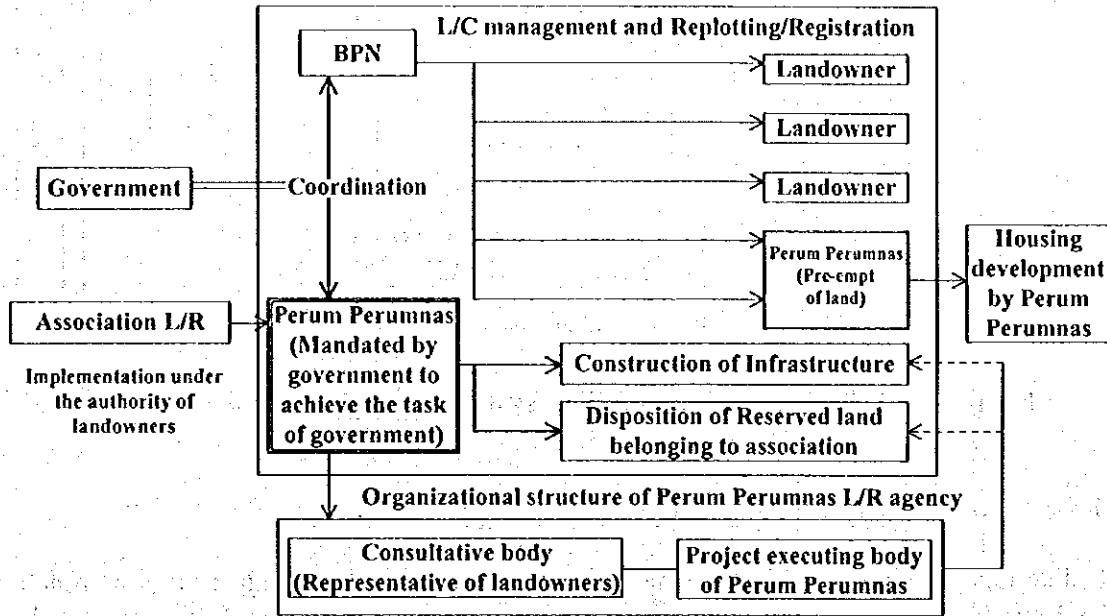


Figure 4-4-5 Perum Perumnas Government Type in Coordination with BPN (Perumnas as implementing agency as well as one of landowners)

4-5 L/C System Improvement Plan

4-5-1 Basic Structure and Sub-systems of L/C System

As concluded above, the targeted system for L/C improvement is:

Association type L/C which is to include infrastructure construction through cost recovery by disposition of reserve land.

The improvement system is proposed based on this targeted L/C system in this section.

Physical components of L/C project simply consist of designation of the L/C area, infrastructure construction, and land re-plotting. In order to carry out these physical components, L/C system needs the following sub-systems as outlined in Figure 4-5-1.

1. Government approval and agreement of landowners
2. Land management (Re-plotting)
3. Financial system (Land Contribution)
4. Organizational system (Decision making system)
5. Legal arrangement (L/C law)

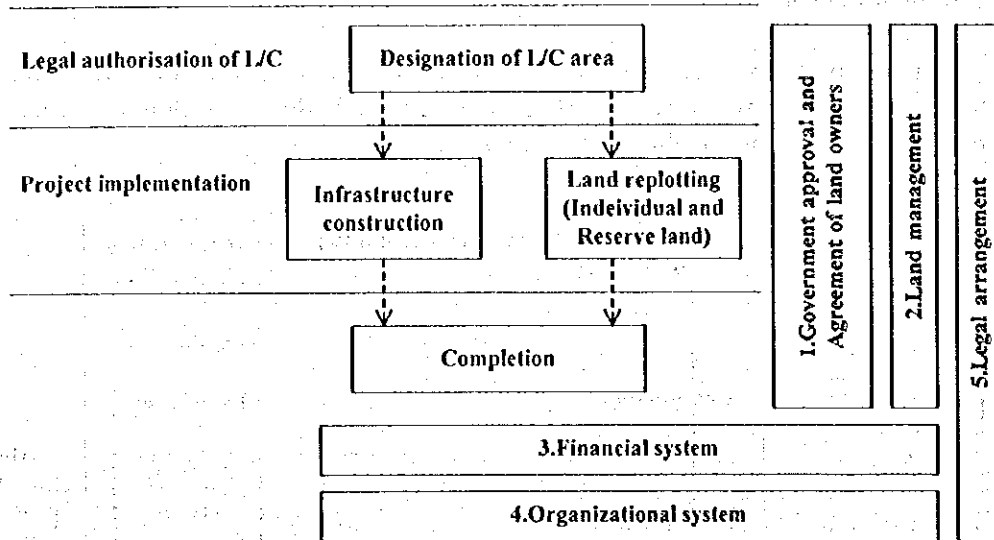


Figure 4-5-1 Basic Structure and Sub-systems of L/C Implementation System

4-5-2 Government Approval and Agreement of Landowners

Unlike land subdivision projects which are to terminate land issues just upon completion of land purchase, L/C land issues continue until completion of project. In this regard the L/C implementation process is viewed as a social co-ordination process of landowners. As illustrated in Figure 4-5-2, L/C area, L/C development plan, L/C implementation plan and re-plotting plan, which are all to affect the rights of landowners, must be agreed by them in time sequence.

On the other hand, the government is tasked to examine the project from the viewpoint of city planning: public interest, social welfare, social/natural environment, legality and fairness of re-plotting, and etc. In some cases landowners' approval is one of conditions of government approval on the L/C areas and plans.

The landowners' association, which is discussed in a following section, is a legal mechanism for decision-making on approval through its general meeting.

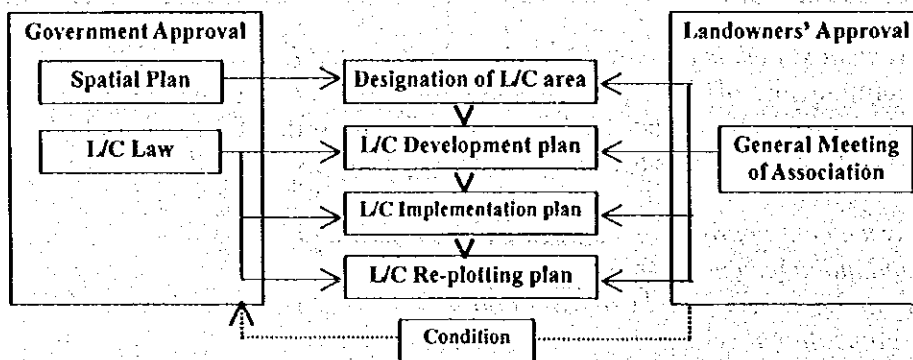


Figure 4-5-2 Government Approval and Landowners' Agreement in Time Sequence

Government Approval

The same systems of government approval as those proposed in the KASIBA system (3-4-2) are recommended to L/C: Approval of L/C area and L/C development plan in Spatial Plan, L/C implementation plan and re-plotting plan in L/C law.

Landowners' Agreement

In the existing L/C system the BPN is tasked to individually obtain agreement of landowners. Agreement of more than 80% of landowners is a condition of L/C project implementation.

Proposed association is to institutionalize and facilitate landowners' democratic decision-making for approval through general meetings.

4-5-3 Land Management

Land management is a pivotal part of the L/C system, the performance of which largely relies on the degree of its improvement. Land management in L/C is to increase efficiency and utility of land through infrastructure construction and re-plotting.

Land is to be basically managed by landowners through association, while government is to support the landowners' self-help of land management.

Tools and systems of land management in L/C must be provided to the association. They are discussed below.

(1) Land Management and Practice based on the Principles of L/C Re-plotting

Preservation and continuation of land right, utility and value is a principle of re-plotting of L/C.

To secure the principle in implementation, the following 3 measures are needed.

1. Application of objective technical method of re-plotting designing and planning

Re-plotting must be objectively and fairly designed so as to form the base for obtaining all of the landowners' consent for the re-plotting plan. (The re-plotting plan is approved by the majority in the association).

To this end, the BPN should establish an objective re-plotting technical system, which is accountable and persuasive to the landowners for the re-plotting plan, based on the principle of correspondence and land evaluation before and after the project.

Correspondence and land evaluation are necessary technical factors in re-plotting in order to secure preservation and continuation of land right as follows.

1. Principle of correspondence in re-plotting

This is a principle dictating that land should be re-plotted as close as possible to the location of the original land. This aims at creating a correspondence between the original and re-plotted land in terms of location, utility and value. However divergence should be allowed at the request of landowners who may under special request have their re-plotted land in agriculture and commercial area apart from the location of their original land.

2. Re-plotting based on land value evaluation

In addition to the re-plotting principle, re-plotting must be based on land value evaluation. The economic value of re-plotted land as compared to those of the original land and other re-plotted lands is one of the important factors for landowners to decide whether or not to accept the re-plotting design and plan.

As stressed in 4-3-2 Issues for improvement of L/C, the technique of re-plotting based on land value evaluation becomes applicable only when infrastructure improvement which is determinant of land value is implemented in L/C project.

2. Provisional re-plotting

Provisional re-plotting is a unique and indispensable system of L/C that is to keep continuation of land utilization meaning no disturbance/interruptions of daily social/economic activities on the owners' land-utility during the period of infrastructure construction.

3. Legal interpretation that the original land is perfectly same as the original land in terms of land right.

In spite of the difference of physical feature of land between the original land and the re-plotted land, the law is due to stipulate that the land right vested to the original land would never change through and after L/C project implementation, thus ensuring the continuation of land rights vested. This idea is supported by the re-plotting design keeping the physical and economic value as similar as possible to the initial project stage through the principle of correspondence and land evaluation stated above.

The continuation of land right is guaranteed by this legal interpretation of the L/C land right. This is essential to convince landowners to participate in L/C projects in terms of their property security as well as the creditors who have mortgages or collateral on the original land.

(2) Executing Mechanism of Re-plotting

Re-plotting is due to be executed in accordance with a plan objectively and fairly formulated. The executing mechanism of re-plotting in association L/C is outlined as follows:

1. Basic policy and principles in L/C implementation plan

The basic policy, principles and method of re-plotting adopted in each L/C project must be included in the L/C implementation plan which is approved by the government as well as the association of landowners through the general meeting. Re-plotting is to be designed strictly in compliance with the implementation plan.

2. Model re-plotting plan in L/C implementation plan

The re-plotting plan is subject to an agreement of landowners and government approval (BPN or local government). In Japanese L/R, a re-plotting plan is formulated and presented to the landowners for agreement in the latter part of the implementation period. This implies that the landowners have to make decisions on agreement of L/C implementation plan without knowing their re-plotted land in advance. In the existing practice of L/C, the BPN presents the development plan, including the re-plotting plan, for the landowners' agreement on the L/C

project itself, or participation in the project.

The re-plotting plan can be made on the base of development plan (land use and infrastructure) because land value of individual land relies on the development plan. If/when the development plan changes, accordingly the re-plotting plan must change. Therefore the L/C development plan must be firstly approved by the government to be legally fixed, being followed by the re-plotting plan.

As the re-plotting plan affects seriously the right and value of peoples' property, it is not until completion of the infrastructure, which is changeable depending on the natural and social condition of the project site in the course of implementation, that the re-plotting plan can be finalized. In this regard the re-plotting plan cannot be presented prior to completion of infrastructure construction. If the re-plotting plan is a condition for landowners to approve L/C project, any inevitable change in the re-plotting plan is claimed as a violation of the landowners' agreement with the association.

However, the basic policy and principle of re-plotting design and plan in the L/C implementation plan would be not enough for landowners to be convinced to approve L/C projects especially in developing countries.

Taking into consideration the contradictory situations of re-plotting, (to be presented before project for landowners' approval and to be presented after infrastructure construction for accuracy of re-plotting), a model re-plotting plan is proposed to be included in L/C implementation plan for landowners' approval on the condition that it will be revised in accordance with the actual infrastructure constructed.

4-5-4 Financial System

(1) Cash flow in L/C Scheme

Landowners to be affected by land consolidation are expected to contribute part of their land to be used as the land for infrastructure and also for the financing of infrastructure construction costs. Since infrastructure construction starts before the completion of the sale of the reserved land, the land consolidation management body needs to raise funds through a bank. For this purpose, it is necessary that the management body take the form of a legal entity, such as a cooperative. The repayment schedule of the bank loan should correspond to the expected schedule of the reserved land's sale. The Figure 4-5-3 shows the cash flow for land consolidation.

(2) Financing Schemes Necessary for Land Consolidation

It is expected that landowners' associations undertake land consolidation. In order to raise funds to implement land consolidation, the landowners' associations must have a legal entity, namely a cooperative. In Indonesia, the Ministry of Cooperatives has the authority to determine the qualifications for the establishment of cooperatives¹. According to the Ministry of Cooperatives, the primary objective of cooperatives is to enhance the members' welfare. Thus a landowners' association for land consolidation can be given a cooperative status if more than 20 landowners join the cooperative. The following financial schemes would be needed for landowners' cooperatives to undertake land consolidation.

¹ Legal procedures for the establishment of cooperatives are managed by the Ministry of Legal Affairs.

a. Government Credits for Cooperatives

The Ministry of Cooperatives is currently managing 17 credit schemes for cooperatives, which are provided through commercial banks. These schemes are rather small-scaled, and aimed at supporting cooperatives' business activities that are deemed to continue for a long period of time. In this sense, landowners' associations are not eligible for any of these credit schemes since the associations will be liquidated after the land consolidation. A new credit scheme must be developed by the Government in order to promote land consolidation by landowners' associations. There are currently several types of land consolidation implemented by, or with a support of, the National Land Agency (BPN). One of the types to be closely watched is the land consolidation initiated by a housing developer or a group of people who purchased the land from original landowners. Their activities are nothing but an ordinary practice of real estate development. The newly developed government credit scheme should not be applied to this type of activities that do not lead to the improvement of welfare of the existing community.

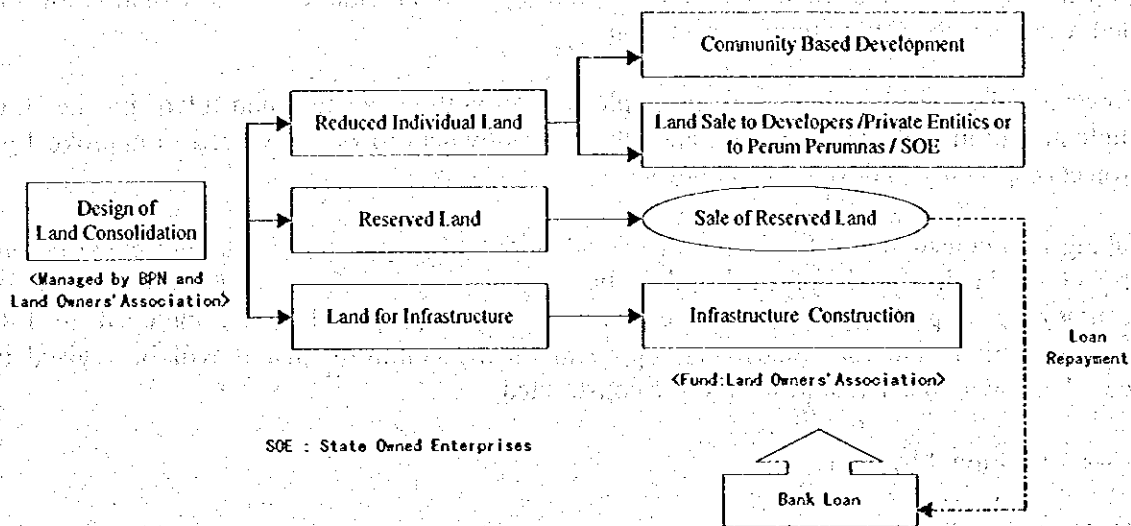


Figure 4-5-3 Cash Flow

b. Commercial Bank Loans

It is anticipated that government credits to be created as mentioned above would not be large enough to satisfy all financial needs in land consolidation. Once a landowners' association obtains a cooperative status, it is considered, by commercial banks, as the same type of business unit as a private housing developer, and thus ordinary commercial bank loans could be extended to the association. However, landowners' associations will face the same problem as private developers do: unavailability of long-term loans. Although rolling-over of short-term loans has been the conventional financing method in housing development, it is possible that commercial banks suddenly change their rolling-over policy once they find themselves in severe financial difficulties. A long-term financing scheme, such as a secondary mortgage facility (see Section 3-4-5), must be developed and applied to land consolidation.

4-5-5 Organizational System

(1) Overall Organization for L/C Project

In general terms main players of L/C type association are only local the government which has the right and responsibility of urban and infrastructure development and the association of

landowners who has right and responsibility on its land properties.

However, special attention must be paid to the BPN's right/responsibilities and capability for implementing and expanding L/C projects as follows:

1. *BPN's right and responsibility of land right registration*
2. *BPN's right of land management*
3. *BPN's technical and practical knowledge of L/C*
4. *BPN's mobilization capacity*

1) BPN's right of land management

In addition to the land right registration, the BPN is tasked with land management including land use, throughout the country. Although land use is generally controlled by the spatial plan, the utilization of individual land is to be examined from the viewpoint of social/natural environment, legality and etc. by the BPN.

2) BPN's right and responsibility of land right registration

Unlike in Japan where land rights have been completely registered and administered by the government, land rights in Indonesia have been based on the custom law and not been registered in most of communities. This greatly necessitates the involvement of the BPN in L/C projects where land right registrations are managed by the virtue of the BPN.

3) BPN's technical and practical knowledge of L/C

The BPN has experienced more than 200 L/C projects over the last 17 years. It is the single agency with L/C technical and practical knowledge accumulated during such long period of time in Indonesia. Best utilization must be made of this accumulated technical/practical knowledge of the BPN with its progressive improvement in order to expand L/C projects to urban and environment development.

4) BPN's mobilization capacity

The success of L/C projects depends mainly on 2 factors: the legal base strengthening implementation measures and mobilization capacity. In fact there were a large number of human resources officially and unofficially mobilized in talking and persuading landowners to accept and participate in L/C projects in Japan, without resorting to compulsory measures in force.

The BPN has developed large human resources with technical and practical knowledge in land management as well as L/C. They have been equipped with skills in public relations with landowners. The BPN also has a local organization and networks with the experienced and skilled staff throughout the country.

In contrast to the advantages of BPN as stated above, local governments responsible for urban development are poorly prepared in land management, land tenure issues as well as L/C implementation. Associations, as L/C implementing agencies, cannot be expected too much in operational/technical and financial capability for L/C projects since they are still at an infant stage. Taking into the current situations as stated above, it is quite apparent that the BPN has to play a great role in expanding L/C to the whole country.

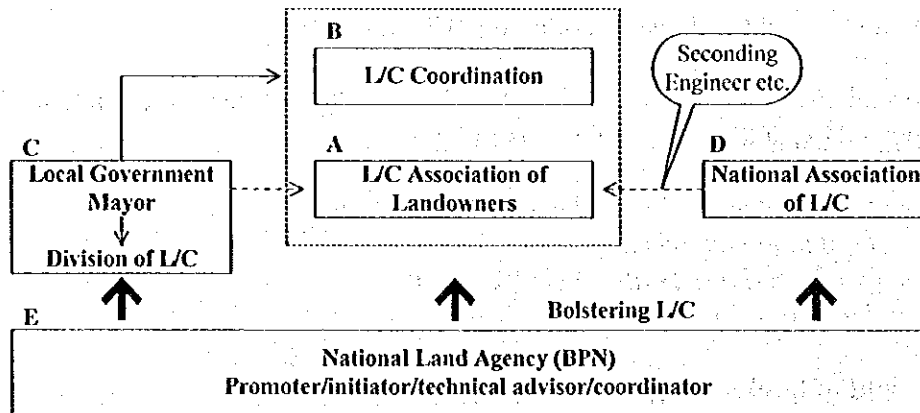


Figure 4-5-4 Overall Organization of Association L/C Implementation

The BPN should gear its efforts toward the establishment of an overall implementing organization of association L/C under local government as shown in Figure 4-5-4. For this end the BPN should work as a promoter, initiator, technical advisor, coordinator for association L/C. The overall organization proposed above is viewed as the BPN's procedure of promoting L/C projects throughout the country, including strengthening organization of local government and association, transfer technology and financial support. The overall organization of L/C is outlined as follows:

1. *L/C project coordination team* is proposed to make coordination work among the concerned agencies on such items as development plan, land use, infrastructure, land tenure, taxation, financial scheme and etc. This team is tasked to assist the association in implementing the projects. This coordination is due to be made by the association itself in future. The organizational structure of the team is envisioned as shown in Figure 4-5-5.

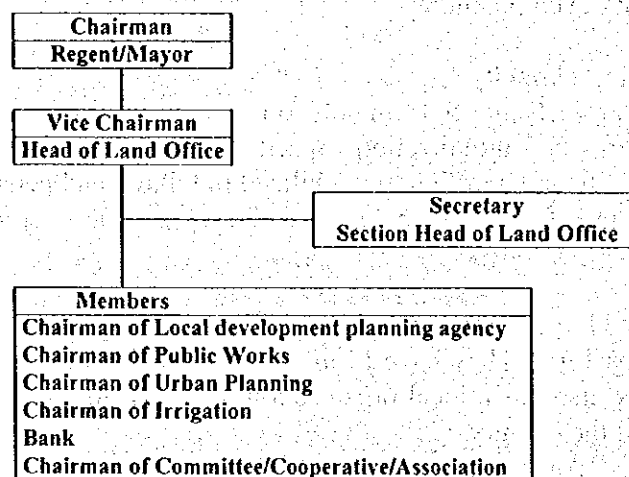


Figure 4-5-5 Organization of L/C Coordination Team

2. The *Division of L/C in local government (C)* is proposed to be established as a task force to carry out the public administrative works in association with L/C implementation. This division shall be developed so as to be an implementing agency of government L/C. Therefore, the BPN shall target at this division for transfer technology from the central to the local government.

3. The *National association of L/C in Indonesia* is proposed to be established as a national center of L/C to disseminate technical/practical information on L/C as well as assist L/C projects throughout the country. This center is to second the experts/engineer to the L/C association.
4. The *BPN (B)* needs to strengthen the organizational function for promotion, technical/practical advice and co-ordination to effectively assist L/C association and local government.
5. The *Landowners' association (A)* is to make decision on L/C development plan, implementation plan and re-plotting plan as well as implementation activities of L/C project. It may be necessary that the BPN personnel shall take charge of the implementing activities under and for the association due to the lack of its implementation capacity.

(2) Organization of L/C Association

1) Structure of organization

L/C association consists of decision making body and executing office as shown in Figure 4-5-6. The basic features of the association are outlined as follows:

1. All the landowners are obliged to be members of the association with the decision-making mechanism on the items listed in the figure through general meeting of landowners.
2. The board of directors is to implement L/C project using the executing office in conformity with the decision made by the general meeting.

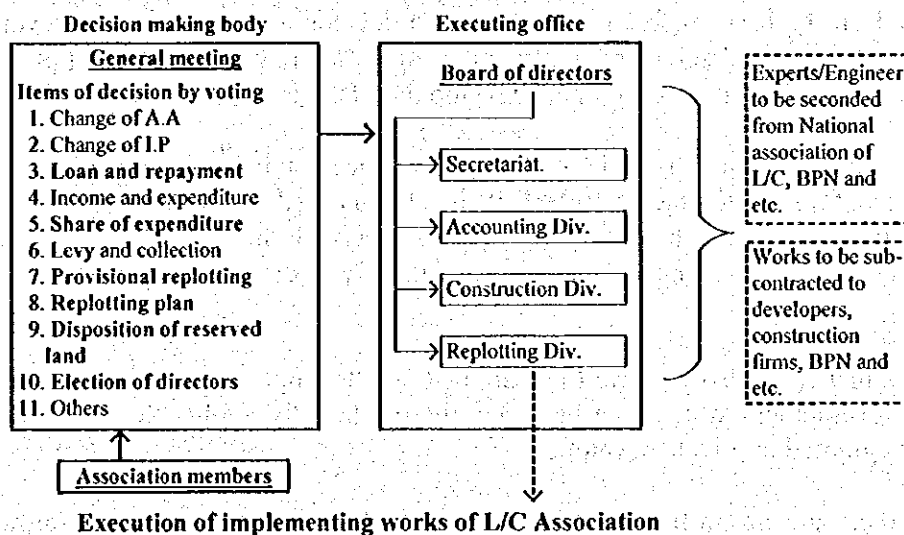


Figure 4-5-6 Organization of L/C Association

3. In order to lessen the burden on the association the following measures should be considered:
 - a. Experts/Engineers to be seconded from National association of L/C, and the BPN, etc.
 - b. Works to be sub-contracted to developers, construction firms, and the BPN, etc.

2) Examination of Implementing Organization

1. Landowners' Panitia (Committee)

Panitia is set up on landowners' consensus and not by regulation. The current L/C practices rely on Panitia with the following strength and weakness. Project implementation becomes precarious depending on personal initiatives of the chairman. As it is not a legal entity, it cannot do business of infrastructure construction. It may be advisable that L/C association will be established through developing and legally strengthening Panitia.

Strength

- Easy to establish without bureaucratic procedure
- Flexible on need bases
- Strong chairman' initiative
(Specific superiority on strong influential capacity rather than on knowledge and skill)

Weakness

- Not legal entity
- Plenary agreement to get consensus
- Right and obligation not permanently stipulated
(Insecure when dispute arises)
- Not based on knowledge and skill

2. Co-operative

This is a legal entity based on Law no. 25 of 1992. In terms of land and infrastructure development activities this co-operative is supposed to be an L/C implementing body because of its status as a legal entity. However L/C defies some requirement of co-operative, e.g. purpose and length of organization life.

3. Private developers

Private developers are candidates of the L/C implementing body as far as L/C project can be implemented on the basis of free contract on land development between the developers and landowners. They would agree and contract on infrastructure plan, re-plotting plan including land contribution. The private developers develop their land in accordance with the agreement.

However it cannot be generally and broadly applied since obtaining the agreement of 100% of the landowners for such contract in project site is seldom possible, thus failing to be an effective implementation system of urban development. To cope with this situation compulsory power applied to few opponents to make an agreement with private developers is necessary, but out of question.

This implies that compulsory power to be applied on a few opponents is indispensable so that any urban development system can be generally and broadly applicable. Such compulsory power is not granted to private developers.

Moreover, there are no profit-generating sources in L/C, which interest and attract private developers because L/C excludes land transaction. However private developers can be invited as buyers or developers of reserve lands.

4. Landowners' Association as a legal entity

The 3 essential factors as listed in Figure 4-5-7 must be taken into consideration for setting up L/C implementing agencies: public interest-compulsory, land owners' membership and legal entity. Panitia/co-operative/private developers cannot be qualified judging from these 3 factors. Consequently, an innovative organization needs to be developed so as to meet these landowners' associations' requirements, as a legal entity.

L/C projects are uniquely defined as one public urban development entrusted to landowners. Landowners' associations are empowered to carry out public works (infrastructure and rearrangement of land) on behalf of government. Law on L/C is to create this new type of organization as discussed in the following section.

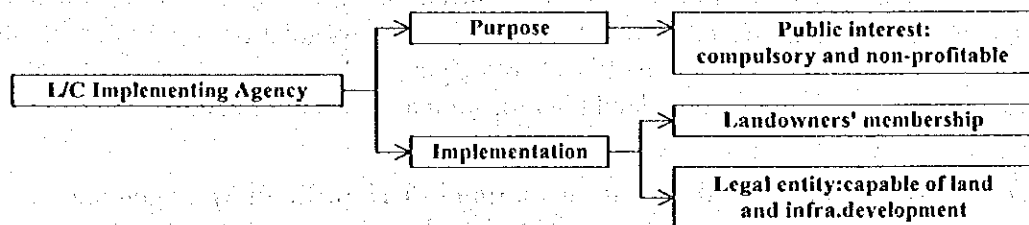


Figure 4-5-7 Three (3) Requirement of L/C Implementing Agency

4-5-6 Legal Arrangement for Institutionalizing Association L/C

It must be noted that among the 2 main components of L/C implementation, that is land re-plotting and infrastructure construction, the former has been carried out in the existing practices of L/C in Indonesia. The re-plotting practice is possible in the existing law and regulation in spite of need of improvement. Therefore, as stated in the previous chapter, this study aims at the latter of infrastructure construction in L/C projects, which necessitates the improvement of the former (re-plotting system) based on infrastructure improvement.

A legal arrangement is imperative in order to institutionalize infrastructure construction by L/C association.

In order to secure establishment, continuation, workability and the capability of the association, the measures to make the following items legal are necessary.

Establishment

L/C association based on majority rule Landowners can establish L/C association based on majority rule among them in project site.

Membership

All landowners are member of L/C association Once the association is established, all landowners become its member (cannot drop out and even if landowner is changed).

Management

Decision is made on majority rule among members of association The association' decision is made on majority rule among the members (General meeting).
Decision has legal effect The association' decision has legal effect for enforcement.

Legal capacity

L/C association is a legal entity The association has right and obligation as a legal entity to implement land and infrastructure development. (Capable of making contracts for borrowing fund, construction, disposing reserve land etc.)

Ownership

L/C association has ownership of reserve land to dispose Ownership of reserve land in re-plotting plan belongs to the association for disposition.

4-6 L/C System in Government Reformation

4-6-1 On-going Government Reformation and Improvement in Urban and Land Management

As shown in the KASIBA study, the government reformation and improvement in urban and land management have been proceeding (Table 3-5-2). Land consolidation is not free from this reformation movement, rather it should participate more positively so as to support and enhance the government reformation, especially land liberalization and decentralization.

**Table 4-6-1 Major Government Reformation in Urban/Land Management
(same as Table 3-5-2)**

Ministry	Law	Major Issues in Current Government Reformation
State Ministry for Agrarian Affairs/National Land Agency	Law No. 5/1960 on Basic Agrarian Law	1. Re-interpretation of "Location Permit", and Transferred to Local government 2. Amendment (Draft) on "urban land management" and clear-cut classification of land rights
		1. Land Consolidation Law (preparation)
State Ministry of Housing/Human Settlement	Law No. 4/1992 on Housing and Settlement	1. Government regulation (Draft) on "KASIBA and Stand-alone LISIBA"
Ministry of Home Affairs	Law No. 24/1992 on Spatial Use Management	1. Government regulation (1996-97) on National spatial plan & Right and obligation of people participation 2. Government regulation (Drafting) on Spatial plan in urban/rural area-"Spatial Utilization Permit" Government regulation (Preparation) on Land use, Map scale and Certain area
	Law No. 22/1999 on Regional Administration	1. Government regulation (Draft) on "Urban Area Administration and Management" Government regulation (Draft) on "Authority area"-Local government authority effective
Ministry of Finance	Law No. 25/1999 on Financial Proportion between Central/Regional Government	

The following four issues in government reformation are quite important for L/C development.

1. More respect on property right of people—Land liberalization

As discussed in section 3-5-3, the KASIBA study, "no any right on land, such as land purchase right on others' property is granted to location permit holder" is viewed as a sign of deregulation or liberalization of government power on landowners. It certainly is geared toward more respect on the property rights of landowners, on the other hand, it makes land purchase for urban and environment improvement more and more difficult, either by the government or private sector. It is the very first time in the midst of government reformation for L/C, *in lieu of land purchase*, to be introduced for urban and environment improvement. L/C would not violate the property rights of landowners, even by compulsion, because of continuation/preservation of land rights guaranteed by the replotting system.

2. Empowering community---Community participation based on the right and responsibility of landowners

One of the essential targets of Law No. 22/1999 on Regional Administration, and more specifically Urban Area Administration and Management is "empowering the community" in order to substantiate decentralization policy. L/C is to promote self-help of landowners for improving their environment by empowering the community through community participation. L/C can establish a technical and practical base/mechanism for the urban area administration and management.

3. Urban Area Development Approach

The integrated urban-area development approach represented by the urban area management concept is one of the focuses of the decentralization policy with Law No. 22/1999 on Regional Administration. L/C can be an effective development system of urban infrastructure for supporting that concept through self-financing, which relatively lessens the local government financial burden on infrastructure improvement.

4. City planning improvement

One of the basic conditions for substantiating the decentralization policy is increasing the capability of local government, especially in city planning, which is a mainstay of local administration. L/C can be utilized to increase the implementation capability of the local government's city planning of as more than 60% of the urban area that was developed through L/C in Japan.

In conclusion, the decentralization policy is to be headed for strengthening and improving city planning and the development system of the local government (improvement proposals by the Public Works and Ministry of Home Affairs for instance), which necessitates the introduction of the L/C system.

4-6-2 L/C System in Systematization of City Planning and Development in Indonesia

As shown, L/C cannot only be along the stream of the government reformation movement, but also instrumental and responsive to the goals and purposes, which the decentralization policies targeted.

The way and means must be pursued so that L/C can be more positively and effectively utilized for urban and environment improvement in the regions.

As stated in the KASIBA chapter, it should be inter-linked with the improvement of the Spatial planning system, more strategically with the urban development management system as proposed in Figure 4-6-1.

L/C can be a development/implementation apparatus for the urban management system, providing infrastructure. It was also recommended that L/C be a basic implementation system for the KASIBA development. In addition to the new urban area development as discussed above, attention must be paid to other serious urban problems, which the local government may face: disorderly urban expansion featured with self-building with poor infrastructure and environment on the fringe of the existing built-up areas. L/C is the best development system applied to such urbanization-starting areas with high development potentials; otherwise urban slum areas may spread.

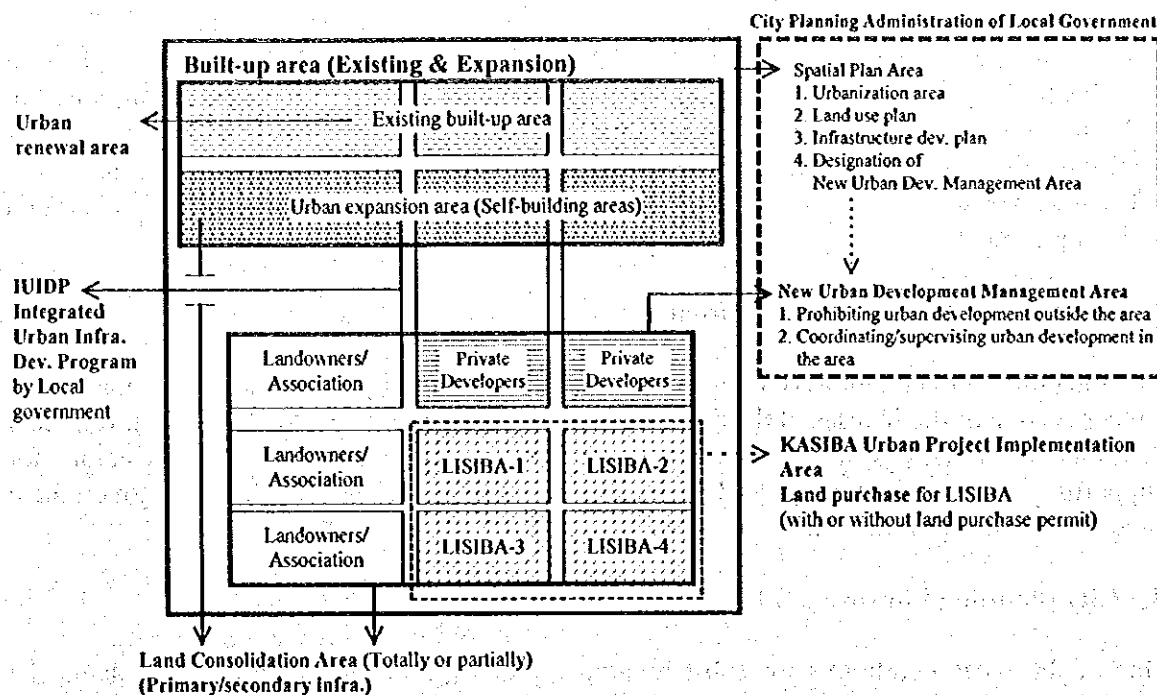


Figure 4-6-1 L/C in Integrated City Planning and Development of Indonesia

4-7 Guidelines for L/C Projects and Manuals for Practical Procedures

The scope of work for this study (page 5) stipulates the followings:

C. Transfer of Technology

1. Preparation of guidelines for L/C projects
2. Preparation of manuals for practical procedures
3. Transfer of technology through workshops/seminars

It must be stressed that the purpose of the preparation of guidelines and manuals is the transfer of technology in the field of L/C as an urban and infrastructure development system.

Guidelines and Manuals are designed to provide materials for transfer technology answering:

In order to *achieve the highly expected roles and tasks of L/C* as proposed in the government reformation process,

Guidelines for the KASIBA project: *What the L/C project should be?*

Manuals for practical procedures: *What L/C implementation procedures should take place?*

The Indonesian Government must endeavor to developing and institutionalizing the L/C system so that it can achieve the goals expected in urban and environment improvement of the regions. As discussed in the preceding sections, L/C featured with "respect of property rights", "community participation and empowering", "self-financing", and others is the best response to the urban and community development envisioned along with the government reformation thrust: decentralization, liberalization and democratization. It is certain that a great

improvement and innovation of L/C is vital to live up with those high expectations and hopes on L/C in Indonesia. This dictates that the existing L/C and practices must be drastically improved to step up to the new stage of Indonesian L/C, requiring a new legal system (L/C Law) and a new practical system as well.

In this situation the guidelines and manuals are prepared so as to be made use of as reference for the Indonesian government in improving and advancing the legal and practical system of L/C. For this reason it must be noted that the guidelines and manuals presented in this study are not those being used immediately for project implementation based on the existing L/C system (legally and practically). It is hoped that a new L/C system will be established where those guidelines and manuals become operational and useful.

4-7-1 Guidelines for L/C Projects

(1) Introduction

(Background)

Land consolidation (L/C) projects in Indonesia have been broadly implemented all over the country since 1980. These L/C projects were implemented mainly for the purpose of land tenure arrangement and land use management rather than infrastructure improvement.

Though most of the urban L/C projects already implemented haven't yet contributed to the urban environment improvement through infrastructure development, it is supposed that the essential elements necessary for the advanced urban area development system are already installed. Moreover, L/C projects in Indonesia will be progressively improved toward more effective measures for urban development and strengthened by stage.

For further progress of L/C projects and better contribution to the society in the future, the nature of L/C projects is necessary to be modified into due aspects from a comprehensive city planning and an integrated urban development achievements, like land readjustment projects in Japan.

In this regard, It is indispensable for all the personnel concerned to keep the following viewpoints on L/C projects as a principle policy. They are summarized and proposed as basic guidelines for L/C projects.

(Outline)

The basic guidelines indicate the essential directions for project implementation in accordance with the basic concepts of L/C projects themselves, following legal articles such as in L/C Law and Regulations to be prepared in the coming stage.

The basic guidelines are used for improving the Indonesian L/C system including the legal system, promoting and supporting ideas to local governments, as well as formulating, planning and implementing L/C projects in experimental stages.

Since these guidelines can provide only a skeleton/example, it is necessary to improve this in the course of practical field of the L/C project implementation.

Meanwhile, the practical procedures for L/C planning and project implementation in concrete are explained, separately from these guidelines, in the 'L/C Project Implementation Manuals'.

(2) Basic Concepts of L/C Projects for Urban Development

L/C projects, by nature, should have the distinctive features as the most effective measures to realize comprehensive urban area development in an integrated manner, different from other development methods such as the land acquisition system. Therefore, all participants concerning L/C projects should always keep these inherent characteristics in mind.

They are:

- (1) Comprehensive and extensive urban development
- (2) Replotting method without land acquisition
- (3) Fair distribution of development benefits and costs
- (4) Preservation of land tenures
- (5) Impartial procedure
- (6) Participation by landowners

Since land consolidations have the following distinctive features as most effective measures to realize comprehensive area developments, all the L/C projects should be planned and implemented in accordance with their principle concepts as summarized in the follows:

1) Comprehensive and extensive urban development

Different from the individual development of infrastructures such as roads and parks, L/C projects aim at developing public facilities and building lots in an integrated manner in accordance with planned land use and design. Comprehensive area development can bring about significant improvements in the urban environment.

Moreover L/C projects can be applied not only to the development of urban residential areas but to the development of industrial complexes and goods-distribution centers and redevelopment of downtown areas.

2) Replotting method without land acquisition

The replotting system is an inherent technique in L/C projects. It is a method to rearrange the original land right in a new location within the project area in accordance with the replotting plan, while land tenures are preserved throughout the project period.

3) Fair distribution of development benefits and costs

When infrastructures are developed through L/C projects, the land use value will rise, thereby boosting land prices and increasing property value for the landowners.

An L/C project is basically a self-financing project. Costs for L/C projects are borne fairly by all the landowners within the development benefits derived from increases in their property value. The land contributed by landowners is used both for public facilities and reserve land (cost equivalent land).

4) Preservation of land tenures

The landowners' land tenures are preserved and guaranteed throughout the L/C project

implementation. Therefore, L/C has the significant advantage of preserving an existing community and economic/social activity, in comparison with the usual land acquisition method.

5) Impartial procedure

A principle of L/C projects is to be implemented with fair and just procedures both for governments and landowners from preparation to completion. It is necessary to establish a system in which landowners have opportunities to express their opinions at every stage of the project.

6) Participation by landowners

L/C projects are carried out by implementing bodies through landowners' participation. In case of the association type, L/C landowners participate in the project implementation through general meeting by stage, while the projects are discussed by the local government in a council.

The L/C projects that are implemented based on the above-mentioned concepts can provide various effects and advantages as follows:

Effects on landowners:

1. Improvement in living environment,
2. Increase in land value,
3. Certification/preservation of land titles.

Effects for administrative organization:

1. Development of public facilities,
2. Reduction in public investment,
3. Confirmation of land titles,
4. Increase in tax revenue of land and building tax.

Advantages compared with the ordinary land acquisition method:

1. A local community remains as before, without whole land purchase,
2. Landowners can share development costs and benefits impartially,
3. Efficient land use is achieved by orderly-shaped building lots with appropriate access roads,
4. Public utilities such as roads, parks, water supply and sewerage are provided in an integrated manner.

(3) Guidelines for L/C Projects

Guidelines for L/C projects are compiled in a separate volume, and the outlines are presented as follows:

Although the present execution of L/C projects in Indonesia is in a developing stage with an inadequate legal system specific to the project implementation, these guidelines can be used for improving the existing L/C system, including the legal and promotion systems and providing ideas to the local government as well as the various stages of project implementation.

1. Planning Guidelines (What is the basic policy of L/C projects?)

1. An L/C project is defined as an essential one for urban and environment development projects.
2. An L/C project is implemented based on the city planning system and approach, which clearly specifies concept, purpose and plan in the context of spatial plan authorized by local governments.

2. Organization Guidelines (What organization is necessary for L/C implementation?)

1. An L/C project is implemented by public oriented and none-profit organizations being controlled by the administration guidelines for protecting public interest as well as landowners' interest.
2. There are two types of L/C projects: Government type and landowners' association type. The government type emphasizes more public interest for urban and infrastructure improvement as a whole of local government, while the association type stresses more on the collective interest of landowners for environmental improvement in their localities.
3. An L/C project is implemented through coordination and cooperation among local government and landowners based on their respective rights and responsibilities: An overall organization for implementing L/C works as a mechanism of coordination among them, an L/C association is established for responding to landowners that empower it to implement L/C projects in the case of the association type.

3. Land Management Guidelines (How to manage land tenures?)

1. Land is managed physically, legally and financially through the replotting system in L/C projects.
2. Replotting is to convert the original land lot before the L/C project to new parcels of land developed after the L/C project, in accordance with three principles: continuation of land right/utility/value, fair sharing of cost and benefit among landowners, and cost recovery by development benefit.
3. Replotting is designed and executed, applying a physical and legal replotting technique established/agreed by L/C association.

4. Administration Guidelines

1. The L/C project implementation is controlled for protecting public interest as well as landowners' interests so as to attain a balance among them.
2. To this end, the government and L/C association respectively approve the project for legal authorization being followed by subsequent legal execution by stage of the project implementation: 1) at the initiation stage, 2) at the execution stage, 3) at the termination stage.
3. Approval is made through due administrative procedures established in response to the different conditions.

5. Financial Guidelines

1. Land consolidation must be implemented under a self-financing system, which is supported by Government subsidies.
2. The local government should assist the L/C association in mobilizing initial capital.

6. Environmental Guidelines

1. Environmental improvement is the essential purpose of the L/C project.
2. Even L/C projects should be examined in accordance with authorized procedures of environmental impact assessment.

4-7-2 Practical Procedures and Manuals

(1) Implementation Procedures

Though the L/C project has different alternative flows in its implementation procedures in response to conditions of project site and time, basic procedures of association type L/C project including essential activities, are proposed as shown in Figure 4-7-1.

(2) Practical Procedures and Manuals

Along with implementation procedures, manuals on how to prepare and implement L/C projects are proposed and compiled in a separate volume.

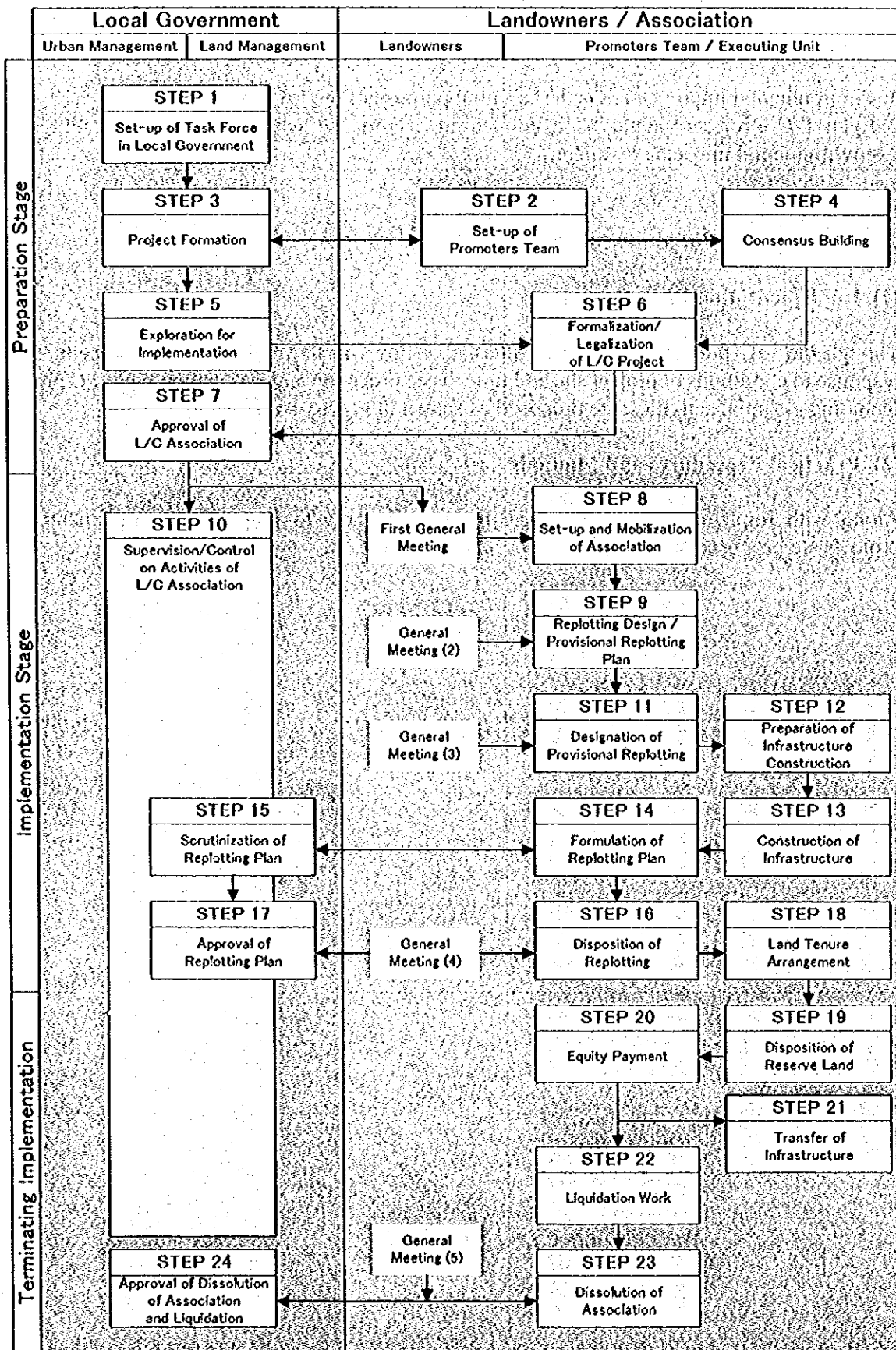


Figure 4-7-1 Basic Procedures of Association Type L/C

4-8 Action Plan for L/C Promotion

The terminology of L/C is relatively well known in the society of Indonesia because a considerably large number of L/C projects have already been executed throughout the country. Therefore when people mention L/C, in practical and technical terms they are mostly referring to *traditional L/C*, which has already been developed and utilized, and *not innovative L/C*, which the BPN is seeking as an urban and infrastructure development system. Therefore promotional activities are required until the innovative L/C takes root in Indonesia. For instance KASIBA stipulates L/C as land procurement measures only, but is silent about the implementing mechanism and systems: whether it is a traditional or innovative one?.

In order for that Indonesian L/C to grow to such an extent that it is generally used as an effective urban and infrastructure development system throughout the county, continuous promotional activities must be carried out. An action plan is proposed, including the necessary activities as follows:

Table 4-8-1 Action Plan for Innovative L/C Promotion

Activities for legal arrangement (legislation)	
Draft of L/C Law	L/C Law must be drafted for legislation based on the proposed association type L/C. (in preparation)
Promotional activities for legislation	Campaign for acquiring public/political acceptance/support for legislation
Activities for pilot project implementation	
Organizing landowners for community involvement	Presentation/education and negotiation for consensus building.
Transitional system	Traditional L/C system must be elaborated for application in the pilot project. The system shall enable infrastructure construction through dev. benefit capturing, based on the maximum utilization of the existing legal frameworks.
Government task force	Task force for promotional activities of pilot project (Central/local government)
L/C implementation	L/C implementation plan for pilot project must be formulated based on the results of the above-listed activities.
Activities for L/C project development/expansion	
Capacity building of local government	Dissemination, education, and training to local government on innovative L/C (Seminar, work shop, school)
	Establishment of division of urban development in local administration.
	Assignment of staff and engineers to the division
Capacity building of central organization	Establishment of financial budgetary system
	Strengthening/expansion of division of L/C in the BPN (Administration, guidance, promotion, project monitoring)
Capacity building of L/C consultants	Establishment of division of urban dev. project in department of Public works
	Establishment of National L/C association
Strengthening research/dev. function on L/C and urban development	Strengthen the consulting firms working in L/C
	Activities for research and development
Strengthening research/dev. function on L/C and urban development	The research and development center for land management (BPN)
	The institute for housing and urban settlement (P.W.)

Among the activities, priorities should be placed on "*activities for legal arrangement for innovative L/C and pilot project implementation*". The most crucial task for innovative L/C promotion is the *legal arrangement* for realizing the L/C system implementation plan proposed in this study. It is repeatedly stated that it cannot effectively and efficiently work without the legal arrangement: L/C Law must be drafted for the legalization of the association type L/C. The BPN has already started drafting the law. Legalization usually requires campaign activities

for acquiring public/political acceptance and support.

Pilot project implementation is also important in terms of *system testing*, through which the lessons are obtained to be used for technical and legal improvement of the L/C system, and *show case*, through which the advantages of L/C projects can become visible. The public awareness of and support for the innovative L/C may thus be gained. It is most desirable that the pilot project will be implemented by the virtue of the newly legislated innovative L/C Law. However, it is anticipated that the legislation would take time, and in drafting the law it will be necessary to learn from the experimental practice in the pilot project. In this respect some *transitional L/C system* must be elaborated to bridge the existing system and the proposed innovative system. The BPN has been proposing some devices such as landowners' Panitia (committee) for association and letter of attorney for preservation of land right as the second best alternatives.

Activities for L/C project development, including capacity building of local/central government and consultants, and for research and development on L/C and urban development must be enhanced and continued in the long term. Major activities are outlined as follows:

(1) Promotional Activities for the Model/Pilot Project

Thanks to the upper most efforts of the counter part agency of the BPN, which has been fomenting and fostering a favorable atmosphere for the L/C project implementation in Jatiasih, even during the course of this study, promotional activities for the pilot project have been started in Jatiasih. Whether based on the new legal arrangement for the innovative L/C or the maximum utilization of the existing legal framework and practical devices, the pilot project has been prepared to implement an L/C project including the infrastructure construction through the development benefit capturing system as suggested in this study. The success of the pilot project in Jatiasih is very much crucial for demonstrating the effectiveness of L/C for improving urban and environment/infrastructure in Indonesia. Taking into consideration the effectiveness and efficiency of L/C respecting the peoples rights, especially the property rights of landowners and also the public interest, which the landowners must respect, the success of the pilot project in Jatiasih is crucial for the improvement of city planning and the development of Indonesia. In this respect the JICA study team would like to request the central government and political groups to give maximum support to the pilot project in Jatiasih.

(2) Dissemination and Educational Activities and Technical Training

This activity is quite important in order to let the people, even including the staff of the BPN, renew their perception of L/C so as to enhance the consensus on the need and importance of the innovative L/C in the Indonesian society. It is also vital to pave the way for the necessary legal arrangements for L/C projects. Activities for disseminating the knowledge on the innovative L/C to local government including local land offices, must be intensively made periodically and as the opportunity presents itself. It is advisable to strengthen the division of L/C in the BPN for taking charge of these activities in addition to the administrative works for L/C in cooperation with the Research and Development Center for Land Management (BPN).

(3) Capacity Building of Local Government

Capacity building of local government is an essential condition to develop and expand L/C projects throughout the country. With the support of the central government represented by the

BPN, Ministry of Public Works and Ministry of Home Affairs, it is requested that local governments establish a *division of L/C and urban development, and/or KASIBA also*, if needed, in their administration apparatus. As an ultimate goal of either L/C or KASIBA is to increase local government's implementing capacity of urban and housing development. The transfer of technology of L/C should be targeted at this newly established organization of L/C in the local government. In addition, the establishment of a *National L/C association* is proposed to execute technical support/services directly to L/C implementing agencies in cooperation with the government agencies stated above.

(4) Continuous Research Activities for System and Technological Improvement of L/C

In addition, to the association type L/C mainly discussed in this study, *many other variations of L/C plans* should be examined so as to respond to the different situations and purposes of L/C projects in different localities, including such as those of *central/local governments, Perum Permmas, KASIBA and others*. Innovative L/C must overcome many technical/legal problems (especially on replotting) that appear in the course of the actual implementation to ease the project implementation. And also, an important item for consideration is the *L/C design in systematization of city planning* and the development system of Indonesia. Thus, continuous research and development activities are needed for system and technological improvement. *The existing Research and Development Center for Land Management (BPN)* should be more activated for this purpose in coordination with other institutes like the Institute for housing and urban settlement, including the training function stated as follows.

4-9 Conclusion and Recommendation on the L/C System Improvement

(1) System Improvement of Indonesian L/C

Urgent needs for establishing a development mechanism for L/C

Indonesian L/C projects have been long executed based on land policy under Law No. 5/1960 (Basic Agrarian Law). L/C based on land policy has advantages and disadvantages. The biggest bottleneck of this system is that the infrastructure is not constructed through a *development mechanism of L/C*: Cost recovery by development benefit – as infrastructure construction yields development benefit, cost of infrastructure is recovered through development benefit captured - reserve land. *Thus lack of infrastructure construction resulted in failure of establishing an L/C development mechanism as well as less-appreciation/popularity of landowners for L/C because they cannot effectively use their land without infrastructure after replotting by L/C. And more over, there is no substantial value increase of their land.*

Necessary measures for creating development mechanism of L/C

It may be said that the past L/C projects have been implemented, leaving all the legal and financial responsibilities of infrastructure construction to the local government. Therefore, the system improvement of Indonesian L/C must be, first, geared toward L/C, which can take *the legal and financial responsibilities of constructing infrastructure*, which is a primary condition for establishing L/C development mechanism, in this sense, a legitimate organization for implementing L/C is to be established either as an *association of landowners* based on their *property rights* for improving their living environment, or as *government* based on the *public right* delegated by the people to improve urban infrastructure and environment. Based on the establishment of an infrastructure construction system in L/C, secondly, a *cost recovery system*

by beneficiaries for infrastructure construction must be institutionalized/systematized so as to create an L/C development mechanism. *The replotting system* for fair and equitable sharing of cost and benefit among landowners is essential to establish the cost recovery system for infrastructure construction.

L/C system improvement plan with Guidelines for L/C projects and Manuals for Practical procedures

In line with the direction of improvement of the Indonesian L/C set above, the L/C system improvement plan is based on the 3 principles (1) *Fair and equitable sharing of cost and benefit among landowners* (2) *Cost recovery by development benefit* (3) *Preservation and continuation of land right, value and utility* was presented, including necessary measures in such sub-sectors as government approval and agreement of landowners, land management, financial system, organizational system and legal arrangement. The implementation system and procedures of L/C were shown in the form of Guidelines for L/C project and Manuals for Practical procedures. The guidelines and manuals presented in this study are based on the assumption that the proposed L/C implementation plan, especially that a legal arrangement (new L/C Law) is put in practice.

(2) Legal Arrangement for System Improvement

A legal arrangement is imperative for materializing the proposed L/C improvement plan with Guidelines for L/C projects and Manuals for Practical procedures. The legal arrangement should be pursued, emphasizing *the importance of L/C in terms of the respect of property rights of landowners, empowering communities and the area-wise urban development approach for urban and environment improvement*, which have been institutionalized in decentralization policy under Law No. 22/1999 on Regional Administration.

Increasing importance of L/C in government reformation

1. Land purchase permit has been an effective measure for urban and housing development by either private developers or the government in Indonesia. However, it has become more and more difficult to apply such government power to acquire land due to the increasing consciousness of people's property right, especially in the social reformation movement. *In lieu of land purchase, L/C is becoming more and more needed for urban and environment improvement, because L/C would not violate landowners' property rights, even by compulsion, due to continuation/preservation of the land right guaranteed by the replotting system. The importance of L/C is also shown in the KASIBA system, which included L/C as one of land procurement measures.*
2. Law No. 22/1999 on Regional Administration under the decentralization policy of the government institutionalized "*Urban Area Administration and Management*", which aims at empowering the community and *urban area development approach* in place of the past sectors approach by the central government. L/C is to promote self-help of landowners for improving their environment by empowering community through community participation, as well as to promote urban area-wise development with infrastructure improvement through self-financing, which lessens the financial burden on the local government with a weak financial base. In these respects, it may be safely said that *L/C will become indispensable for the urban area administration and management system, which is one of focuses of the ongoing decentralization policy.*

(3) L/C System in Systematization of City Planning and Development in Indonesia

L/C goes along with the stream of government reformation movement, but more importantly is instrumental and responsive to the goals and purposes, which the decentralization policies targeted. One of the basic conditions for substantiating the decentralization policy is the increasing capability of the local government, especially in city planning, which is a mainstay of local administration concerns. *L/C can be utilized to increase the implementation capability of city planning of the local government. To this end, it should be inter-linked with the Spatial planning system, more strategically with the urban area administration and management system institutionalized by the Ministry of Home Affairs, and the KASIBA development sponsored by the State Ministry of Housing and Urban Settlement, which eventually leads the systematization of city planning and development of the local government.*

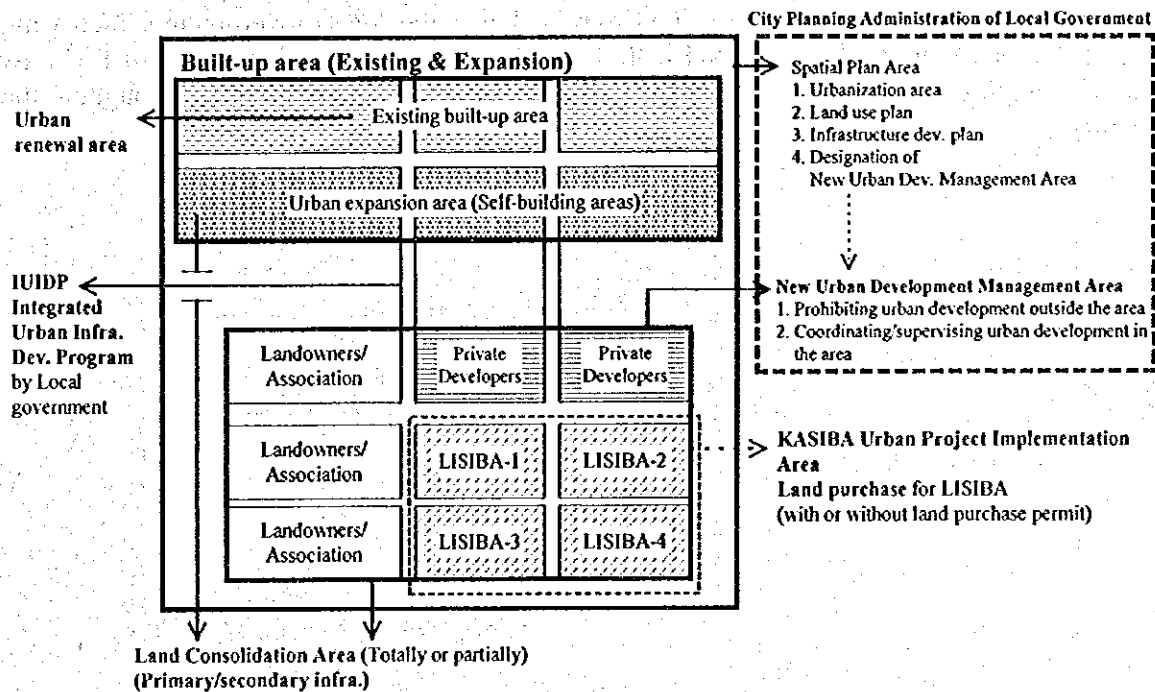


Figure 4-9-1 Integration of L/C into Systematization of City Planning and Development in Indonesia

(4) Promotional Activities

The terminology of L/C is relatively well known in the society of Indonesia since a considerably large number of L/C projects have already been executed throughout the country. However, it mostly means practically and technically that *traditional L/C*, which has already been developed and utilized, *not innovative L/C* with the BPN, is seeking for an urban and infrastructure development system. Therefore promotional activities are requested until the innovative L/C takes root in Indonesia.

The action plan is proposed, highlighting the following 3 priority activities:

Among the activities, priorities should be placed on "*activities for legal arrangement for innovative L/C and pilot project implementations*". L/C Law must be drafted for legalization of

the association type L/C. The BPN has already started drafting the law. Legalization usually requires campaign activities for acquiring public/political acceptance and support. Pilot project implementation is also important in terms of *system testing* and *showcase* of the innovative L/C plan. It is most desirable that the pilot project will be implemented by the virtue of the newly legislated innovative L/C Law. *However, a transitional L/C system* must be elaborated to bridge the existing system and the proposed innovative system.

Activities for L/C project development, including capacity building of the local/central government and consultants, and activities for research and development on L/C and urban development must be enhanced and continued in the long-term. Among those activities, dissemination/education and training activities on the innovative L/C system to local government, including land office, should be advanced in parallel with the 2 top priority activities-L/C Law and pilot project. In Indonesia, L/C has been disseminated and practiced throughout the country. Therefore, it is expected that the local government's increasing knowledge on the innovative L/C lead will gather fast support for the legislation of L/C Law and a variety of L/C system development to meet local needs and conditions throughout the country.