

DETERMINATION & CONFISCATION OF ABANDONED LAND – GOVERNMENT VOWS TO GET TOUGH

INTRODUCTION

In mid-July, the Government announced that it will start confiscating land that has not been, for a period of at least 2 years, developed or used for any economic activities.

The regulatory regime, giving the Government the power to determine and confiscate “abandoned” land, has been in existence since 2021. However, the Government is only now signalling its clear intention to begin making use of this power on a large-scale basis.

It is very important to understand that, while the Government may well be primarily concerned with undeveloped and unused agricultural land, the Government’s power to confiscate undeveloped and unused land, which it determines to have been “abandoned”, extends far beyond the agricultural sector and includes mining concession land as well as all certificated land. There is also no minimum area requirement for “abandoned” land that may be confiscated.

Given the shortage of land in Indonesia and the legitimate economic needs of an already huge and growing population, the Government’s obvious concern about the failure to make proper use of land is a reasonable one. However, the potential for misuse of this “abandoned” land determination and confiscation power seems to be very considerable.

In this article, the writer will review the regulatory regime for determining and confiscating “abandoned” land before considering the potential implications of the same for both mining and other commercial/industrial users of land as well as for individual landowners.

BACKGROUND

Land management, ownership and utilization have long been highly political and sensitive issues in Indonesia. Local community disputes over land are frequent and sometimes violent.

At independence, Indonesia’s socialist leaning “founding fathers” made special provision for land management, ownership and utilization in the newly adopted 1945 Constitution of the State of the Republic of Indonesia (**1945 Constitution**). Article 33(3) of the 1945 Constitution (**CL Article 33(3)**) provides that:

“The land, the waters and the natural resources within shall be under the power /i.e., control/ of the State and shall be used to the greatest benefit of the people.”

The wording of CL Article 33(3) is substantially repeated in Article 2(1) of Law No. 5 of 1960 re the Basic Agrarian Regulations (**1960 Agrarian Law**) (**BAL Article 2(1)**). The 1960 Agrarian Law was and continues to be Indonesia’s principal law governing land and land-related rights.

CL Article 33(3) and BAL Article 2(1) reflect the idea that (i) land is the basic capital needed for development in order to improve the welfare of the Indonesian people, nation and state and (ii)

given (i), land must be properly developed, managed and utilized so as to ensure the greatest prosperity of the Indonesian people.

The idea of the “*land... being under the power/control of the State*” is understood as meaning **not** that the State owns all the land but, rather, that the State has the authority to determine everything in regard to the ownership as well as the development, management and utilization of land. This includes in what circumstances it is appropriate for existing “controllers”/“users” or “owners” of land to forfeit or lose their rights in respect of land and whether through confiscation or otherwise.

The 1960 Agrarian Law makes clear that, when the State grants land control/use rights or land ownership rights to a party, this grant involves the assumption of certain obligations by the recipients of those land control/use rights or land ownership rights, including an obligation to **not** “abandon” the relevant land. For the purposes of the 1960 Agrarian Law:

*“Land is **abandoned** when it is deliberately not used in line with its condition or with the nature and purpose of the right [granted in respect of the relevant land]”*

Articles 27, 34 and 40 of the 1960 Agrarian Law provide for the possible “abolishment” of certain types of control/use rights and land ownership rights in the case of land that has been “abandoned”.

Various implementing regulations, on the control and utilization of so-called “abandoned” land, were issued over the years following the coming into force of the 1960 Agrarian Law but these earlier regulations proved to be ineffective for one reason or another. As a consequence, Government Regulation No. 20 of 2021 re Control over Abandoned Areas and Lands (**Government Regulation 20/2021**) was issued.

Government Regulation 20/2021 makes express reference to the intended implementation of those provisions of the 1960 Agrarian Law dealing with the possible “abolishment” of certain types of control/use rights and land ownership rights in the case of abandoned land.

In mid-July 2025, the Minister of Agrarian Affairs & Spatial Planning (**Minister**) announced that the Government would soon start to take control of or “seize” land that has not been utilized or developed or otherwise not been the subject of economic activities for at least 2 years. The Minister was reported in the popular press, on or about 16 July 2025, as having made particular reference to the fact that:

“almost half of some 55.9 million hectares of certified land are in the hands of just 60 families, creating injustice which leads to structural poverty.”

Government Regulation 20/2021 and its implications are the focus of the rest of this article.

ANALYSIS & DISCUSSION

1. Overview of Government Regulation 20/2021

The **claimed** objectives of Government Regulation 20/2021 are stated in its Elucidation as being:

- (a) to undertake a “*realignment*” of land control and/or ownership in order to better realize the use of available land as “**a source of people’s welfare**”;

- (b) to realize a “more just life” for the people;
- (c) to ensure the “sustainability” of the “Indonesian social and national system” as well as “strengthen social harmony”; and
- (d) to optimize the cultivation, usage, utilization and maintenance of all lands within the territory of Indonesia as a necessary measure to “improve the quality of the environment, reduce poverty and create employment opportunities as well as improve food and energy security”.

The overtly populist and, indeed, socialist orientation of Government Regulation 20/2021, at least as stated in the Elucidation if perhaps not in practice, will surely not be overlooked by alert readers. The complete lack of any reference, in the Elucidation’s statement of the claimed objectives of Government Regulation 20/2021, to the importance of private property and recognizing or upholding the rights of controllers/users of land and landowners is also particularly noticeable.

Government Regulation 20/2021 deals separately with so-called **Abandoned Areas** and so-called **Abandoned Lands**. In general and in somewhat simplistic terms, the concept of **Abandoned Areas** references land that is the subject of granted control or usage rights but is **not** the subject of granted ownership or certain other rights (**i.e., uncertificated** land) while the concept of **Abandoned Lands** references land that is the subject of granted ownership rights (**i.e., certificated** land) as well as land that is the subject of certain other rights.

The focus of Government Regulation 20/2021 is Abandoned Areas and Abandoned Lands that have “intentionally” been left undeveloped/unused/unutilized or not maintained **for at least 2 years** (or, in the case of “freehold” land only, if various other circumstances exist).

Government Regulation 20/2021 sets out detailed procedural steps for determining, confiscating and otherwise returning to the State, for subsequent re-allocation or use, Abandoned Areas and Abandoned Lands.

As is almost always the case with Indonesian laws and regulations, many of the provisions of Government Regulation 20/2021 are **not** at all well drafted and are otherwise characterized by various internal inconsistencies. Accordingly, some “creativity” is required in trying to understand what the drafters of Government Regulation 20/2021 were intending to achieve and then giving a “sensible” meaning to the relevant provisions of Government Regulation 20/2021.

2. **Main Aspects of Government Regulation 20/2021**

- 2.1 **Recognition of Social Function of Land:** Government Regulation 20/2021 highlights and is premised upon the importance, in the Indonesian land law context, of the so-called **Social Function** of land which is explained in the Elucidation as being:

“the obligation of any person, legal entity or agency which has a legal relationship with land to utilize that land by maintaining the land, increasing its fertility and

*preventing its damage so that it is more efficient and effective **as well as beneficial for the welfare of the community** and environment.”*

The above explanation of the Social Function of land might lead the incautious reader to believe that Government Regulation 20/2021 is only concerned with agricultural/farming land and that, therefore, parties having control/use rights or ownership rights over land that is designated for non-agricultural/non-farming activities, such as **mining**, plantation, industrial or tourism related activities, are not impacted by Government Regulation 20/2021. However, this is most definitely **not** correct. The recognized Social Function of land and, hence, the potential relevance of Government Regulation 20/2021 unquestionably also extends to land that is designated for **non**-agricultural/**non**-farming activities, such as land designated for **mining**, plantation, industrial or tourism related activities. In fact, Government Regulation 20/2021 is so broadly worded that it is tolerably clear Abandoned Areas and Abandoned Lands may include land which is designated for general commercial purposes as well as land which is designated for housing/residential purposes, so long only as the requirement of no development, no use/utilization or no maintenance, for at least 2 years, is met (or, in the case of freehold land only, if various other circumstances exist).

In Indonesia, the Social Function of land is all encompassing, thereby potentially impacting **all** types of land and **regardless** of what the land may be used for. That said, it is most probably the case that the immediate focus of the Government is undeveloped and unused agricultural/farming land. That focus, however, could easily change over time. As such, **mining** companies, as well as companies carrying on plantation, industrial or tourism related activities, need to be very mindful of what is required by the Social Function applicable to the land they are using or should be using for **mining**, plantation, industrial or tourism related activities. This is equally true for persons (including individuals) having control/use rights or ownership rights over land designated for general commercial purposes as well as over land designated for housing/residential purposes.

- 2.2 **Permits/Concessions/Business Licenses and Land Rights+:** The existence or otherwise of (i) granted **non**-ownership rights to control or use particular land for the purpose of a particular business activity (**Permits/Concessions/Business Licenses**) or (ii) granted ownership or certain other rights over particular land (**Land Rights+**) is a key feature that distinguishes Abandoned Areas from Abandoned Lands.

Relevant Permits include (i) **Mining Business Licenses** (IUPs), (ii) **Special Mining Business Licenses** (IUPKs), (iii) Industrial Estate Business Licenses (IUKIs) and (iv) Tourism Registration Business Certificates/Permits (TDUPs).

Relevant Concessions include (i) **mining concessions**, (ii) palm oil plantation concessions, (iii) toll road concessions and (iv) port concessions.

Relevant Business Licenses include (i) space utilization confirmations, (ii) environmental approvals, (iii) building approvals and (iv) certificates of functional worthiness.

Relevant Land Rights+ are (i) freehold title (*hak milik*), (ii) right-to-build (*hak guna bangunan*), (iii) right-to-cultivate (*hak guna usaha*) and (iv) right-to-use (*hak pakai*) as well as (v) right-to-manage (*hak pengelolaan*) and (vi) “land acquired on the basis of control over land” (**i.e.**, land acquired, on the basis of contract, from the traditional adat/local

community owners of the land and the subject of a decree from a duly authorized official issued in preparation for certification of the land) (Articles 1 and 7(1) and the Elucidation of Articles 2 and 7(5) of Government Regulation 20/2021).

2.3 Obligations of Holders of Permits/Concessions/Business Licenses and Land Rights+: Government Regulation 20/2021 makes clear that:

- (a) every holder of a Permit/Concession/Business License has an obligation to (i) cultivate, use and utilize the relevant land in accordance with the terms of its Permit/Concession/Business License and (ii) periodically report to the relevant government authority on such cultivation, use and utilization; and
- (b) every holder of a Land Right+ has an obligation to (i) cultivate, use, utilize **and maintain** the relevant land in accordance with the terms of its Land Right+ and (ii) periodically report to the relevant government authority on such cultivation, use, utilization **and maintenance** (Articles 2 and 4 of Government Regulation 20/2021).

The additional obligation of holders of Land Rights+, to **maintain** their land, is to be understood as a reference to a higher order requirement to preserve or respect the Social Function of land, something which the Government considers it is appropriate to place special emphasis on in the case of land ownership (Elucidation of Article 4 of Government Regulation 20/2021).

It should be clear to readers from the above that, at least in theory, the 1960 Agrarian Law does **not** allow or permit “passive” investment in and/or “passive” holding/”warehousing” of land on a long-term basis and without any intention to actually cultivate, use, utilize and/or maintain the relevant land. This, of course, is very different from the widely understood and accepted “western” concepts of the right to control/use land and the right of land ownership, which concepts usually treat land as being just another asset class that, like any other asset class, the relevant rights holder or owner is free to develop, exploit, use and utilize or **not** to develop, exploit, use and utilize (as the case may be) and on the basis of what the relevant rights holder or owner determines, in its absolute discretion, to be most beneficial having regard to its interests and needs only.

2.4 Intentional Failure to Cultivate/Use/Utilize and/or Maintain: The “intentional**” failure to cultivate, use, utilize and/or maintain particular land is a key determinant of whether or not that land is determined to be an Abandoned Area/Abandoned Land.**

For the purposes of Government Regulation 20/2021, “intentionally” means that:

- (a) the holder of the relevant Permit/Concession/Business License does **not** cultivate, use and/or utilize the Permit/Concession/Business License and/or the relevant controlled land in accordance with the obligations set out in the relevant Permit/Concession/Business License and/or plans for the cultivation or utilization of the relevant controlled land; or
- (b) the holder of the relevant Land Right+ does **not** cultivate, use, utilize or maintain the relevant land in accordance with the Land Right+ or the plan for the cultivation, use or utilization of the relevant land.

The failure to “maintain” land means a failure to **implement the Social Function** of land that is the subject of a Land Right+ as a result of (i) evidencing no “concern” to manage or maintain the subject land, (ii) allowing third parties to control the relevant land or (iii) allowing the relevant land to cause environmental damage or natural disasters such as flooding or landslides.

The failure to cultivate, use, utilize and/or maintain land, however, will **not** be regarded as being “intentional” if that failure is due to the relevant Permit/Concession/Business License, the relevant Land Right + or the relevant land (i) becoming the object of a court case, (ii) being the subject of a relevant change in the applicable spatial planning designation, (iii) being designated as a conservation area or (iv) suffering the occurrence of a force majeure event such as wars, riots, natural disasters or other disasters, which must be declared to be such by authorized officials/agencies (Elucidation of Articles 3 and 5(1) of Government Regulation 20/2021).

2.5 **Abandoned Areas:** Abandoned Areas comprise **non**-forest areas that:

- (a) are the subject of Permits/Concessions/Business Licenses but are **not** the subject of Land Rights+; and
- (b) have been **intentionally not** cultivated, used and/or utilized, by the holder of the relevant Permit/Concession/Business License, **for a period of time which, although not expressly stated in** Government Regulation 20/2021, is understood (on the basis of the Minister’s recent statements) to be **at least 2 years from the date on which the relevant Permit/Concession/Business License was issued.**

It is expressly provided that Abandoned Areas may include (i) **mining areas (i.e.,** mining concessions/tenements), (ii) plantation areas, (iii) industrial areas, (iv) tourism areas, (v) large-scale/integrated housing/settlement areas and (vi) other areas in respect of which the right of cultivation, usage and/or utilization is based on/derived from Permits/Concessions/Business Licenses relating to the utilization of land and space (Article 6 of Government Regulation 20/2021).

2.6 **Abandoned Lands:** Abandoned Lands comprise land that:

- (a) is the subject of Land Rights+ but is **not** the subject of Permits/Concessions/Business Licenses; and
- (b) has been **intentionally not** cultivated, used, utilized and/or maintained, by the holder of the relevant Land Right+, **for a period of at least 2 years from the date on which the relevant Land Right+ was granted** (or, in the case of freehold land only, if various other circumstances exist).

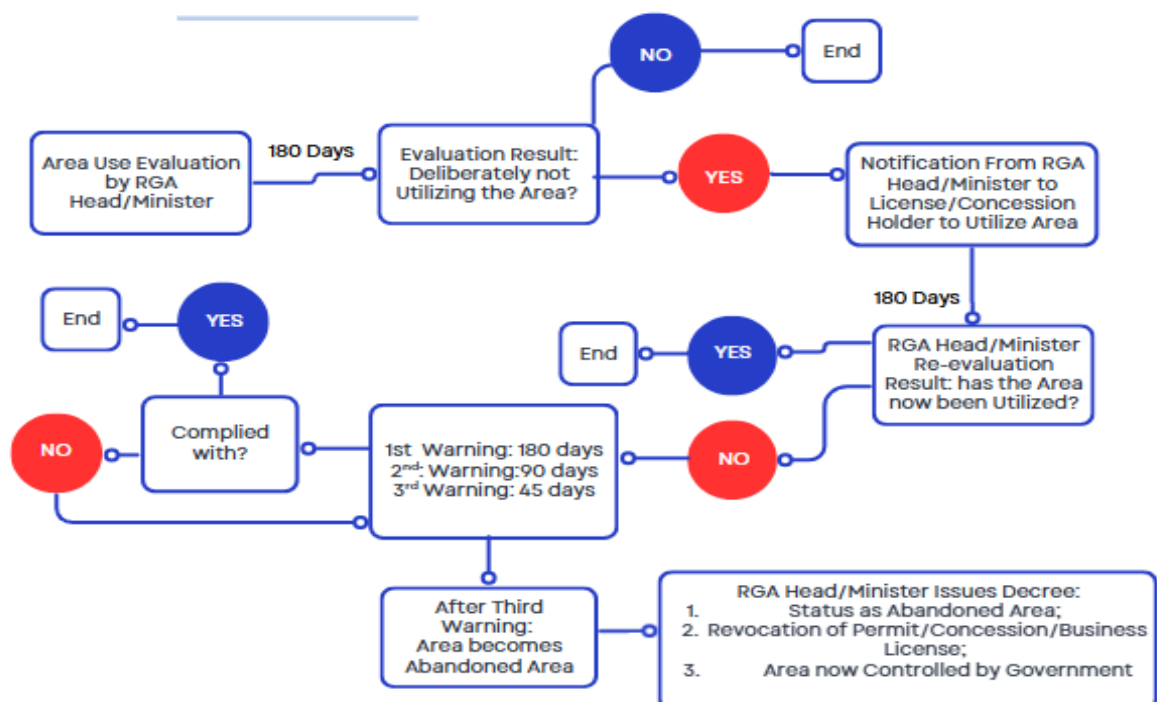
In the case of freehold land only, the relevant land may be regarded as being Abandoned Land if (i) it becomes controlled by the local community and becomes a “village area”, (ii) it is continuously occupied by another party (who or which has no relationship with the holder of the relevant Land Right +) for at least 20 years or (iii) the holder of the relevant Land Right+ fails to “fulfil” the Social Function of the relevant land (Article 7(2) of Government Regulation 20/2021). It is notable that, in the case of the first and third of these special circumstances, applicable to freehold land only, there is **no** minimum time requirement at all.

2.7 **Abandoned Area Evaluation and Determination:** The evaluation of whether or not the holder of a Permit/Concession/Business License has intentionally **not** cultivated, used and/or utilized the relevant area for the minimum 2-year period (**i.e.**, whether or not the area has been **Abandoned**) (**Abandoned Area Evaluation**) is:

- (a) carried out by the head of the government agency which issued the relevant Permit/Concession/Business License (**RGA Head**) or, in the event that he fails to do so, by the Minister;
- (b) over a period not exceeding 180 days;
- (c) if the result of the Abandoned Area Evaluation is “positive”, then the holder of the relevant Permit/Concession/Business License is **meant to be** given a total of 495 days, from notification of the Abandoned Areas Evaluation result, in which to begin cultivating, using and utilizing the relevant area, which 495 days is spread over (i) a notification period of 180 days and (ii) 3 warning letter periods totalling 315 days; and
- (d) if the holder of the relevant Permit/Concession/Business License has still not begun cultivating, using and utilizing the relevant area at the end of 495 days, then the RGA Head/Minister will (i) formally declare/determine the relevant area to be an Abandoned Area and (ii) revoke the relevant Permit/Concession/Business License in respect of the Abandoned Area (**Abandoned Area Determination**) (Articles 14 to 21 of Government Regulation 20/2021).

The process of Abandoned Area Evaluation and Abandoned Area Determination may be summarized in diagrammatic form as follows:

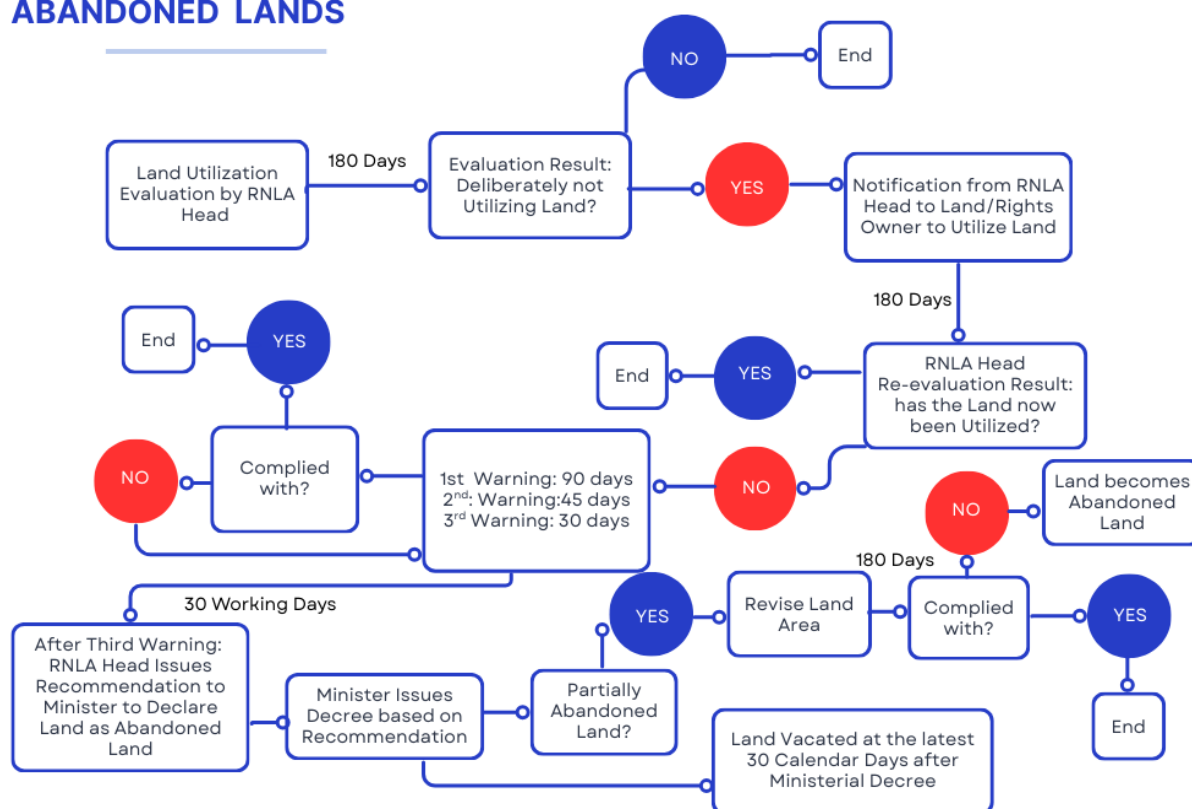
EVALUATION & DETERMINATION OF ABANDONED AREAS



- 2.8 **Abandoned Land Evaluation and Determination:** The evaluation of whether or not the holder of a Land Right+ has intentionally **not** cultivated, used, utilized and/or maintained the relevant land for the minimum 2-year period (**i.e.**, whether or not the land has been **Abandoned**) (**Abandoned Land Evaluation**) is:
- carried out by the head of the National Land Agency office in the region where the relevant land is located (**RNLA Head**);
 - over a period not exceeding 180 days;
 - if the result of the Abandoned Land Evaluation is “positive”, then the holder of the relevant Land Right+ is meant to be given a total of 345 days, from notification of the Abandoned Land Evaluation result, in which to begin cultivating, using, utilizing and maintaining the relevant land, which 345 days is spread over (i) a notification period of 180 days and (ii) 3 warning letter periods totalling 165 days; and
 - if the holder of the relevant Land Right+ has still not begun cultivating, using, utilizing and maintaining the relevant land at the end of 345 days, then (i) based on a recommendation from the RNLA Head, the Minister will (W) formally declare/determine the relevant land or part thereof to be Abandoned Land, (X) revoke the relevant Land Right+ in respect of the Abandoned Land, (Y) terminate the legal relationship between the former Land Right+ holder and the Abandoned Land and (Z) declare the Abandoned Land to now be State-owned land and (ii) the former holder of the relevant Land Right+ must vacate the Abandoned Land within 30 days (**Abandoned Land Determination**) (Articles 22 to 30 of Government Regulation 20/2021).

The process of Abandoned Land Evaluation and Abandoned Land Determination may be summarized in diagrammatic form as follows:

EVALUATIONS & DETERMINATION OF ABANDONED LANDS



- 2.9 **No Compensation:** No compensation is payable to (i) former holders of Permits/Concessions/Business Licenses in respect of Abandoned Areas or to (ii) former holders of Land Rights+ in respect of Abandoned Lands. Although Government Regulation 20/2021 itself is silent on the question of compensation, enquiries made by a journalist with the Minister’s office apparently elicited the following verbal response (as reported by on-line news portal Detik.com on 17 July 2025):

“There is no compensation for abandonment of lands. Why give people compensation for violating the law?”

Justifying the refusal to pay compensation for Abandoned Areas and Abandoned Lands, on the basis that the relevant area or land has only become “abandoned” due to “violation of the law” of course completely overlooks the fact that the former holders of Permits/Concessions/Business Licenses and the former holders of Land Rights+ will surely have invested substantial amounts of scarce capital in originally acquiring the now revoked Permits/Concessions/Business Licenses and the now revoked Land Rights+. Accordingly, not providing any compensation to the former holders of revoked Permits/Concessions/Business Licenses or to the former holders of revoked Land Rights+ would seem to be of questionable fairness.

- 2.10 **Utilization of Abandoned Areas/Abandoned Lands After Determination:** Following completion of Abandoned Area Determination/Abandoned Land Determination:

- (a) the revoked Permits/Concessions/Business Licenses, in respect of Abandoned Areas, may be subsequently “transferred” (in practice, presumably, reissued) to other parties *“through a transparent and competitive mechanism”*; and
- (b) the Abandoned Lands become (i) part of a “land bank” established by the Government or (ii) State General Reserve Land, to be utilized for agricultural and non-agricultural purposes *“in the interests of the community and the State”* (Articles 20 and 33 of Government Regulation 20/2021).

3. **Implications for Mining Companies and Other Industrial Controllers of Abandoned Areas**

Investors in the local mining industry may be particularly concerned about the possibility that their mining concessions can be determined to be Abandoned Areas and, as a consequence, their IUPs/IUPKs revoked by the Minister of Energy & Mineral Resources (**MoEMR**). This comes on top of MoEMR’s 2022 use of Article 119 of Law No. 3 of 2020 re Amendment to Law No. 4 of 2009 re Coal and Mineral Mining to revoke some 2,078 IUPs due to the relevant IUP holders’ supposed failure to comply with the terms of their IUPs (**2022 IUP Revocations**). The widely reported “lack of transparency”, surrounding the 2022 IUP Revocations and their aftermath as former IUP holders sought to get their IUPs reinstated, is hardly likely to fill local mining industry investors with much confidence that a greater level of transparency will characterize any subsequent use, by MoEMR, of Government Regulation 20/2021 to determine mining concessions as Abandoned Areas and then revoke the IUPs/IUPK in respect of those Abandoned Areas.

If properly advised, the holders of Permits/Concessions/Business Licenses in respect of controlled areas, used for the purpose of carrying on business activities related to plantations, heavy industry, ports and tourism, may well share the likely concerns of local mining industry investors.

It is, of course, reasonable to expect and require that holders of Permits/Concessions/Business Licenses make use of the areas they have been given control over and otherwise develop, use and utilize those areas for the purpose of the business activities allowed to be carried out in reliance upon the Permits/Concessions/Business Licenses that have been granted to them. However, the fundamental problem with the use of Government Regulation 20/2021, to determine controlled areas of land to be Abandoned Areas and then revoke the related Permits/Concessions/Business Licenses, is that 2 years is surely too short a period of non-development, non-use and non-utilization to justify an Abandoned Area determination. The cyclical nature of markets means that there may well be very good business/commercial reasons why it would make no business/commercial sense at all to invest large amounts of scarce capital in developing, using and utilizing a particular controlled area of land, on the basis of an existing Permit/Concession/Business License, for an extended period of time and while so long as a market downturn, for the resulting products or services of the relevant approved business activities, persists.

4. **Implications for Corporate and Individual Owners of Abandoned Lands**

Many corporate and individual holders of Land Rights+ will undoubtedly be very much surprised to learn that their Land Rights+ are significantly less permanent and far less certain of continuation than they may well otherwise have previously assumed to be the case. Further, the fact that there is **no** minimum area of land, the subject of Land Rights+, that may be determined to be Abandoned Lands means that, at least in theory, even holders of Land Rights+ in respect of individual plots of residential land and business premises (including shop houses etc.) are, potentially, at risk of having the underlying land determined to be Abandoned Land and their Land Rights+ revoked. It may **not** necessarily be a source of great “comfort”, to corporate and individual holders of Land Rights+ over small plots of land, for the Government to say (as it no doubt would say if asked) that it has “*absolutely no intention at this time*” of utilizing Government Regulation 20/2021 for the purpose of determining small scale individual plots of residential land and business premises to be Abandoned Land and thereby revoking the related Land Rights+. Government “intentions” have a disconcerting tendency to change unpredictably and with little or no prior notice as political issues and Government priorities change. While the Social Function of land is undoubtedly important in Indonesia, the 2-year minimum no development, use, utilization and maintenance requirement is, again, far too short. It is also very concerning that, in the case of freehold land only, there is **no** minimum period at all if the relevant land becomes community land/a “village area” or if the Social Function of the relevant land is **not** fulfilled.

5. **Opportunities for Abuse**

The requirements for (i) a formal evaluation, by the RGA Head/RNLA Head, of whether or not certain land has intentionally not been developed, used, utilized and/or maintained for a minimum of 2 years and (ii) the subsequent giving/issuance of 3 separate warning letters to

the relevant holder of a Permit/Concession/Business License or a Land Right+ (**Evaluation & Warnings Requirements**) are clearly intended to address the entirely understandable concerns of holders of Permits/Concessions/Business Licenses and Land Rights+ that Government Regulation 20/2021 may be exploited by opportunistic and unscrupulous government officials for the purpose of having valuable controlled areas/land declared to be Abandoned Areas/Abandoned Lands and with the intention of subsequently procuring the revoked Permits/Concessions/Business Licenses or the revoked Land Rights+ to be reissued/regranted to them or to related entities/individuals.

Unfortunately, the effectiveness of the Evaluation & Warnings Requirements, in eliminating the risk of abuse of Government Regulation 20/2021, is largely dependent upon the integrity and professionalism of the government officials charged with responsibility for administering the Evaluation & Warnings Requirements. As any informed reader will surely understand, this is a perennial weakness of regulatory controls and safeguards in Indonesia – the problem is **not** with the “suitability” of the regulatory controls and safeguards as such but, rather, with the “suitability” of the government officials charged with responsibility for administering those regulatory controls and safeguards.

It is also important to understand that, while the RGA Head/RNLA Head is meant to give notice of the Abandoned Areas Evaluation/Abandoned Lands Evaluation and, if the evaluation result is “positive”, issue 3 separate warning letters to the relevant Permit/Concession/Business License holder or the relevant Land Right+ holder, there is **no** requirement that the notice and the warning letters are actually received by the relevant Permit/Concession/Business License holder or the relevant Land Right+ holder. **Non**-receipt of the notice and/or the warning letters would seem to be a distinct possibility if the only address the RGA Head/RNLA Head has or can subsequently identify for the relevant Permit/Concession/Business License holder or the relevant Land Right+ holder is the address of the relevant controlled area/land itself that is found to have been not been developed, used, utilized and/or maintained for a minimum of 2 years. It is also not clear what happens if, for whatever reason, fewer than 3 separate warning letters are given/issued and/or the RGA Head/Minister makes a determination that certain land is an Abandoned Area/Abandoned Land before the expiry of the full 495 days/345 days. While it might be thought that any procedural irregularities or non-compliance, in connection with carrying out the Evaluation & Warnings Requirements, must mean that the subsequent revocation of Permits/Concessions/Business Licenses or Land Rights+ is invalid and can be easily set aside, the experience of mining companies, during the 2022 IUP Revocations and their aftermath, is **not** at all encouraging in this regard.

SUMMARY & CONCLUSIONS

The “right to control/use areas of land” and “land ownership” mean something very different in Indonesia compared to what these concepts typically mean in most western countries. The overriding importance of the Social Function of land, in the Indonesian context, should never be lost sight of.

Large-scale reallocations of the right to control/use areas of land and ownership of land have been a recurring feature of Indonesia’s post-independence history. The recent announcement of the Minister, that the Government now intends to rigorously enforce the requirement that holders of Permits/Concessions/Business Licenses and holders of Land Rights+ develop, use/utilize and maintain their land, could possibly indicate that Indonesia is on the cusp of yet another period of

large-scale reallocation of the right to control/use areas of land and of ownership of land. This would certainly be consistent with the populist policies of the current Government as well as with the current President's highlighting of the importance of reverting to the original wording of the 1945 Constitution and, more particularly, strictly enforcing CL Article 33(3). Both these points were forcefully made by the President in his 2023 book "*Strategic Ideas – Prabowo Subianto – National Transformation Strategy towards a Golden Indonesia 2045 – Indonesia is Becoming a Developed and Prosperous Country*".

At this time, the focus of the Government is, apparently, on the undesirability of there being large tracts of undeveloped, unused and utilized agricultural/farming land that have been "warehoused" by a small number of families and individuals. While this may well be an entirely legitimate concern, it is very important to understand that the applicability of Government Regulation 20/2021 is most definitely **not** confined to large tracts of agricultural/farming land but, rather, extends to (i) **all** controlled areas of land that are the subject of Permits/Concessions/Business Licenses including IUPs/IUPKs and (ii) **all** land that is the subject of Land Rights+, regardless of the size of the relevant land.

Government Regulation 20/2021 includes significant Evaluation & Warnings Requirements that are intended to ensure that the power to declare controlled areas/land to be Abandoned Areas/Abandoned Land is not exploited or misused for the wrong purpose. However, the effectiveness of these Evaluation & Warnings Requirements, in achieving their intended purpose, is very largely dependent on how these Evaluation & Warnings Requirements are administered/implemented in practice.

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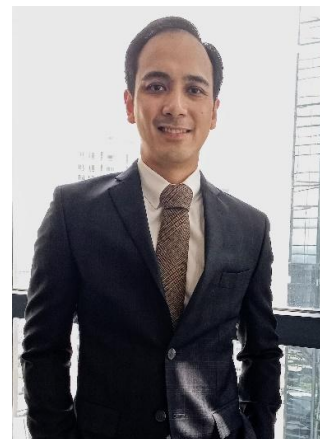
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